

**LOCAL AGENCY FORMATION COMMISSION
OF
ORANGE COUNTY**

REGULAR MEETING AGENDA

**Wednesday, June 8, 2022
8:15 a.m.**

**Planning Commission Hearing Room
Hall of Administration
333 W. Santa Ana Blvd.
10 Civic Center Plaza, Santa Ana, CA 92701**

Any member of the public may request to speak on any agenda item at the time the Commission is considering the item.

- 1. CALL THE MEETING TO ORDER**
- 2. PLEDGE OF ALLEGIANCE**
- 3. ROLL CALL**
- 4. ANNOUNCEMENT OF SUPPLEMENTAL COMMUNICATION
(Communication received after agenda distribution for agendized items.)**
- 5. PUBLIC COMMENT**

This is an opportunity for members of the public to address the Commission on items not on the agenda, provided that the subject matter is within the jurisdiction of the Commission and that no action may be taken by the Commission on off-agenda items unless authorized by law.

6. CONSENT CALENDAR

a.) May 11, 2022 – Regular Commission Meeting Minutes

The Commission will consider approval of the May 11, 2022 meeting minutes.

b.) Proposed “Pomeroy Property Detachment from the City of Tustin (CD 20-13)”

The Commission will consider the proposed detachment of approximately .18 acres from the City of Tustin and, as the responsible agency, review the Notice of Exemption in accordance with the California Environmental Quality Act (CEQA) for the proposed detachment.

c.) Six-Month Strategic Objectives Update

The Commission will receive an update on the six-month strategic objectives.

7. PUBLIC HEARING

a.) Proposed “Hamer Island Annexation to the City of Placentia (IA 22-02)”

The Commission will consider the annexation of approximately 76 acres of unincorporated territory to the City of Placentia and, as the responsible agency, review the Notice of Exemption in accordance with the California Environmental Quality Act (CEQA) for the proposed annexation.

8. COMMISSION DISCUSSION AND ACTION

a.) Legislative Report (June 2022)

The Commission will receive the quarterly legislative report and consider adopting positions on proposed legislation of LAFCO interest.

9. COMMISSIONER COMMENTS

This is an opportunity for Commissioners to comment on issues not listed on the agenda, provided that the subject matter is within the jurisdiction of the Commission. No discussion or action may occur or be taken except to place the item on a future agenda if approved by the Commission majority.

10. EXECUTIVE OFFICER’S REPORT

Executive Officer’s announcement of upcoming events and brief report on activities of the Executive Officer since the last meeting.

11. INFORMATIONAL ITEMS & ANNOUNCEMENTS

a.) 2022 Strategic Planning Workshop

The Commission will hold its Annual Strategic Planning Workshop on Wednesday, July 13, 2022, 8:30 a.m. to 12:00 p.m., at the County Administration South (CSA) Multipurpose Room, 601 North Ross Street, Santa Ana, CA 92701. **There will be no regular meeting of the Commission during the month of July.**

12. CLOSED SESSION

No closed session items scheduled.

13. ADJOURNMENT OF REGULAR COMMISSION MEETING

PUBLIC PARTICIPATION:

The Local Agency Formation Commission of Orange County welcomes your participation. The public may share general comments or comments on agenda items through the following options:

- 1) **In-person** comments may be provided during the general comment period on off-agenda items and during the hearing of a specific agenda item. In accordance with the OC LAFCO guidelines, each speaker's comments may not exceed three (3) minutes for the respective item. If you have documents for the Commission, please bring 15 copies and submit to the Commission Clerk for distribution.
- 2) **Written** general comments or comments on specific agenda items may be submitted by email to the Commission Clerk at ccarter-benjamin@oclafco.org. Comments received no less than twenty-four (24) hours prior to the regular meeting will be distributed to the Commission and included in the record.

Pursuant to Government Code Section 54957.5, public records that relate to open session agenda items that are distributed to a majority of the Commission less than seventy-two (72) hours prior to the meeting will be made available to the public on the OC LAFCO website at www.oclafco.org.

State law requires that a participant in an OC LAFCO proceeding who has a financial interest in a decision and who has made a campaign contribution of more than \$250 to any commissioner in the past year must disclose the contribution. If you are affected, please notify the Commission's staff before the hearing.

AMERICANS WITH DISABILITIES ACT (ADA)

All regular meeting agendas and associated reports are available at www.oclafco.org. Any person with a disability under the Americans with Disabilities Act (ADA) may receive a copy of the agenda or associated reports upon request. Any person with a disability covered under the ADA may also request a disability-related modification or accommodation, including auxiliary aids or services, to participate in a public meeting. Requests for copies of meeting documents and accommodations shall be made with OC LAFCO staff at (714) 640-5100 at least three business days prior to the respective meeting.

2022 MEETING AND EVENTS CALENDAR

Approved February 9, 2022

2022



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OC LAFCO Regular Meeting (*begins at 8:15 a.m.*)

Location: Hall of Administration, Planning Commission Hearing Room, 10 Civic Center Plaza, Santa Ana, CA 92701.



Strategic Planning Workshop (*8:30 a.m. to 12:00 p.m.*)

Location: County Administration South (CSA) Multipurpose Room, 601 North Ross Street, Santa Ana, CA 92701.



Office closure due to legal holidays and flexible work schedule.



CALAFCO Annual Conference - October 19 - 21, 2022 at Hyatt Regency Newport Beach John Wayne Airport.

DRAFT MINUTES

OC LAFCO REGULAR MEETING

Wednesday, May 11, 2022
8:15 a.m.

Planning Commission Hearing Room
Hall of Administration
333 W. Santa Ana Blvd.
10 Civic Center Plaza, Santa Ana, CA. 92701

1. CALL TO ORDER

Chair Davert called the meeting of the Local Agency Formation Commission of Orange County (OC LAFCO) to order at 8:15 a.m.

2. PLEDGE OF ALLEGIANCE

Commissioner Bucknum led the Pledge of Allegiance.

3. ROLL CALL

The following Commissioners were present:

- **Chair Douglass Davert**
- **Vice Chair Donald Wagner**
- **Commissioner Wendy Bucknum**
- **Commissioner James Fisler**
- **Commissioner Derek J. McGregor**
- **Commissioner Mike Posey**
- **Alternate Commissioner Peggy Huang**
- **Alternate Commissioner Lou Penrose**

The following Commissioners were absent:

- **Commissioner Lisa Bartlett**
- **Alternate Commissioner Andrew Do**
- **Alternate Commissioner Kathryn Freshley**

The following OC LAFCO staff members were present:

- Executive Officer Carolyn Emery
- Policy Analyst Luis Tapia
- Policy Analyst Gavin Centeno
- Commission Clerk Cheryl Carter-Benjamin
- General Counsel Scott Smith

4. ANNOUNCEMENT OF SUPPLEMENTAL COMMUNICATION (Received After Agenda Distribution)

Executive Officer Carolyn Emery noted that supplemental communication for Agenda Item 10a was distributed to Commissioners and copies were made available to the public.

5. PUBLIC COMMENT

Chair Davert requested public comments on any non-agenda items. Commission Clerk Cheryl Carter-Benjamin noted that there were no requests to speak from the public.

Chair Davert closed the hearing of public comments.

6. CONSENT CALENDAR

Chair Davert called for a motion on the consent calendar. There was no discussion from Commissioners and the Commission Clerk noted no requests from the public to speak on the item.

Chair Davert called for a motion on the consent calendar. **Commissioner Fisler** motioned for approval of the consent calendar and **Commissioner Posey** seconded the motion.

6a. – Approval of Minutes – May 11, 2022, Regular Commission Meeting

6b. – Amendments to the Local Guidelines for Implementing the California Environmental Quality Act (CEQA)

6c. – Local Agency Investment Fund (LAIF) Account Update

MOTION:	Approve the Consent Calendar. (James Fisler)
SECOND:	Mike Posey
FOR:	James Fisler, Mike Posey, Donald Wagner, Wendy Bucknum, Derek J. McGregor, Douglass Davert
AGAINST:	None
ABSTAIN:	None

MOTION PASSED: 6-0.

7. PUBLIC HEARING

7a. – Final OC LAFCO Fiscal Year 2022-23 Budget

Executive Officer Carolyn Emery presented the staff report on the final budget for fiscal year 2022-23 and noted the recommended actions.

Chair Davert called for Commission discussion and opened the public hearing. **Chair Davert** made general comments, and the Commission Clerk noted that there were no requests from the public to speak on the item. **Chair Davert** closed the public hearing and called for a motion on the recommended actions. **Commissioner Bucknum** motioned to approve the staff recommended actions and **Commissioner Posey** seconded the motion.

MOTION: Adopt the final OC LAFCO FY 2022-23 Budget; Direct the Executive Officer to transmit the final budget to the Board of Supervisors, cities, special districts, and the County Auditor-Controller. (Wendy Bucknum)

SECOND: Mike Posey

FOR: Wendy Bucknum, Mike Posey, Donald Wagner, James Fisler, Derek J. McGregor, Douglass Davert

AGAINST: None

ABSTAIN: None

MOTION PASSED: 6-0.

8. COMMISSION DISCUSSION AND ACTION

8a. – Professional Consultant Services Agreement with Rosenow Specavek Group

Executive Officer Carolyn Emery gave the staff presentation and noted the recommended actions. The Executive Officer also noted a correction to the draft agreement by indicating the official name change of the Consultant from Rosenow Specavek Group to RSG, Inc.

Chair Davert called for Commission discussion and public comments. Commissioners made general comments and inquiries, and the Executive Officer provided responses accordingly. The Commission Clerk noted that there were no requests from the public to speak on the item.

Chair Davert called for a motion on the recommended actions. **Commissioner Posey** motioned to approve the staff recommended actions and **Commissioner Wagner** seconded the motion.

MOTION: Approve the Professional Services Agreement with RSG, Inc. to conduct the MSRs for the Southwest and West Regions; authorize the Executive Officer to execute the agreement. (Mike Posey)

SECOND: Donald Wagner

FOR: Mike Posey, Donald Wagner, Wendy Bucknum, James Fisler, Derek J. McGregor, Douglass Davert

AGAINST: None

ABSTAIN: None

MOTION PASSED: 6-0.

8b. – Selection Process and Appointment of OC LAFCO Regular Public Member

Chair Davert gave a summary of the selection process and recommendation of the Ad Hoc Committee to reappoint Commissioner McGregor.

Chair Davert called for Commission discussion and public comments. Ad hoc Committee members, **Commissioners Wagner** and **Bucknum** made brief comments. Commissioner McGregor gave a brief statement. There were no other comments from Commissioners, and the Commission Clerk noted that there were no requests from the public to speak on the item.

Chair Davert called for a motion on the recommended action of the Ad hoc Committee. **Vice Chair Wagner** motioned to approve the recommendation of the Ad hoc Committee and **Commissioner Bucknum** seconded the motion.

MOTION: Reappoint Derek J. McGregor to the Regular Public Member seat for the term to commence July 1, 2022. (Donald Wagner)

SECOND: Wendy Bucknum

FOR: Donald Wagner, Wendy Bucknum, James Fisler, Lou Penrose, Mike Posey, Douglass Davert

AGAINST: None

ABSTAIN: None

MOTION PASSED: 6-0.

9. COMMISSIONER COMMENTS

Commissioners made general comments.

10. EXECUTIVE OFFICER'S REPORT

The Executive Officer provided the following updates:

- Special District Selection process for two expiring terms concluded on April 22. Douglass Davert and Kathryn Freshley were reappointed to seats for respective terms commencing July 1.
- Staff has completed general exploration involving video recording and live streaming of the Commission's regular meetings. As meetings will be moved to new location due to County renovations and based on Commissioner feedback, staff will postpone this effort until new meeting location is identified.
- Handout on six-month strategic objectives with one adjustment to the MSR objectives provided to the Commission.

11. INFORMATIONAL ITEMS & ANNOUNCEMENTS

11a. – 2022 LAFCO Strategic Planning Workshop

Executive Officer Carolyn Emery noted the rescheduling of the 2022 Strategic Planning Workshop to Wednesday, July 13, 2022.

12. CLOSED SESSION

No closed session items scheduled.

13. ADJOURNMENT OF THE REGULAR COMMISSION MEETING

Chair Davert adjourned the Regular Commission Meeting at 8:38 a.m. to June 8, 2022.

Douglass Davert, Chair
Orange County Local Agency Formation Commission

By: _____
Cheryl Carter-Benjamin
Commission Clerk

June 8, 2022

6b | Consent
Calendar**REGULAR MEMBERS****CHAIR**
Douglass Davert
Special District Member**VICE CHAIR**
Donald P. Wagner
County Member**IMMEDIATE PAST CHAIR**
Derek J. McGregor
Public Member**Lisa Bartlett**
County Member**Wendy Bucknum**
City Member**James Fisler**
Special District Member**Mike Posey**
City Member**ALTERNATES****Andrew Do**
County Member**Kathryn Freshley**
Special District Member**Peggy Huang**
City Member**Lou Penrose**
Public Member**STAFF****Carolyn Emery**
Executive Officer**Scott Smith**
General Counsel**TO:** Local Agency Formation Commission
of Orange County**FROM:** Executive Officer
Policy Analyst**SUBJECT:** Proposed "Pomeroy Property Detachment from the City of
Tustin (CD 20-13)"**BACKGROUND**

The Local Agency Formation Commission of Orange County (OC LAFCO) will consider a change of organization application and petition filed by a private landowner to detach approximately .18 acre from the City of Tustin. The purpose is to align the boundaries of the subject territory through placement of the entire property within a single jurisdiction to support the efficient delivery of municipal services. As OC LAFCO has received the consent of all landowners within the subject territory, the proposal has been agendized as a consent calendar item for Commission consideration.

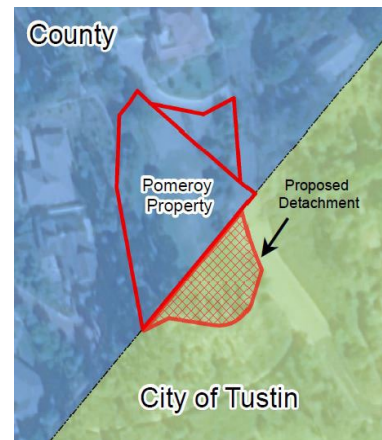
Staff recommends approval of the detachment from Tustin's jurisdictional boundary and no change to the City's current sphere of influence (SOI). The following sections of this staff report provide additional background on the application and staff's analysis of the proposal.

PROJECT APPLICATION

A private landowner has filed an application and petition with OC LAFCO initiating the detachment of approximately .18 acre of a larger property from the City of Tustin. The larger portion of the property currently includes a vacant lot proposed for the development of a single-family home. If approved, the landowner will continue efforts to complete the planning process requirements with the County of Orange and begin construction of the residence. If the subject territory is detached from the City of Tustin, the new jurisdictional boundary will support the effective and efficient delivery of municipal services to the property.

Location and Land Use

Located in the northeast portion of the City of Tustin's jurisdictional boundary, the subject territory is situated on Foothill Boulevard and north of Padias Lane. The subject area is currently designated as "Suburban Residential" in the City of Tustin's General Plan. The County of Orange has adopted a similar general plan land use designation of "Suburban Residential" and has prezoned the area as "Small Estates."



DISCUSSION

The primary purpose of the proposed detachment is to facilitate the placement of the landowner's entire property (Pomeroy Property) under a single jurisdictional boundary. As shown on the map above, currently, the geographic location of the Pomeroy Property is split between the City of Tustin and the County of Orange, and the landowner must seek land use approvals and improvements from two jurisdictions. As the landowner intends to construct a single-family home, he is requesting realignment of the boundary in order to process land use and other approvals and receive municipal service provision to the property from the County of Orange. Placement of the entire property under the County's jurisdiction will facilitate the delivery of municipal services in a more effective and efficient manner.

ANALYSIS

Over the past two years, representatives of the County, City, OC LAFCO, and landowner have engaged in discussions on the proposed detachment. Through those discussions, it was determined that the .18 acre of the Pomeroy property currently situated in the City of Tustin should be detached as the majority of the property is located in the North Tustin unincorporated area. Due to its topography and location, the Pomeroy Property has no right-of-way access to the property through the City of Tustin. The property is substantially surrounded by the County's jurisdictional boundary, and the portion of the property's boundary that is adjacent to the City of Tustin includes a hill slope with no access.

The current jurisdictional boundary creates inefficiencies for the land use planning process and potentially for emergency services to the property once developed. Under the current location, construction of a single-family home requires approvals from the City and County. However, if the smaller portion of the property is detached from Tustin, the entire property would be located within the County, allowing the landowner to work solely with the County Planning Department on the necessary approvals required to begin the construction of the proposed home. Additionally, the detachment would facilitate removing the potential for the duplication of municipal services to the future home and provide clarity for the delivery of key municipal services to the area. To ensure effective service delivery for local wastewater, one of the many key services, upon detachment, staff met with the East Orange County Water District's staff to

discuss the provision of service to the future home. Subsequently, the District provided a will-serve letter for the Pomeroy property to clarify that EOCWD will serve the future residence.

Table 1 depicts the existing and future municipal service providers if the detachment is approved by the Commission.

Table 1- Current and Proposed Service Provision for the Pomeroy Property		
Service	Provider (current)	Provider (upon annexation)
Animal Control	County of Orange	County of Orange
Fire Protection	Orange County Fire Authority	Orange County Fire Authority
Library Service	County of Orange	County of Orange
Parks & Recreation	City of Tustin	County of Orange
Planning	City of Tustin	County of Orange
Police Service	City of Tustin	Orange County Sheriff
Retail Water	Golden State Water Company	Golden State Water Company
Local Wastewater	East Orange County Water District	East Orange County Water District
<u>Regional Providers (No Change)</u> Municipal Water District of Orange County Orange County Cemetery District Orange County Mosquito and Vector Control Orange County Sanitation District Orange County Water District		

As well, State Law requires the Commission to review and consider several factors for the application. The details of those factors are presented in **Attachment 1**.

Other Statutory Requirements

Exchange of Property Tax Revenues

California Revenue and Taxation Code Section 99 (Tax Code) requires the City and County to adopt property tax resolutions for proposed changes of organization and reorganization. On June 7, 2022, the City of Tustin and the County of Orange will consider property tax exchange resolutions for the proposed detachment. The City and County agree that the property taxes involving the detachment area are minimal, and the amount to be directed to the County is zero. The property tax agreements approved by the City and County must be received by OC LAFCO prior to the recordation of the OC LAFCO Certificate of Completion for the proposed detachment.

Environmental Review

On February 15, 2022, the County of Orange, as the lead agency under the California Environment Quality Act (CEQA) for the proposal, filed a Notice of Exemption with the Orange County Clerk-Recorder. As a responsible agency, OC LAFCO will review the environmental documentation prepared by the County in its consideration of the proposed detachment. A Notice of Exemption is included within this report for the Commission's review.

Protest Proceedings

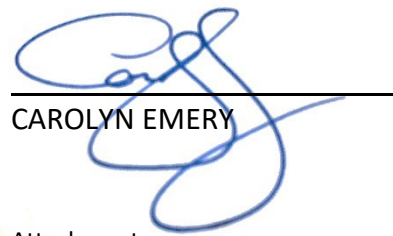
In accordance with Government Code Section 56662, the Commission may waive the protest proceedings for the proposed detachment. The waiver of protest proceedings appropriately applies under this statute as the subject territory is uninhabited, the subject agencies have not filed objections to the waiver of proceedings, and all landowners have consented to the proposed detachment.

RECOMMENDED ACTIONS

As the proposed detachment would facilitate a more logical boundary and the effective and efficient delivery of municipal services to the future single-family home, staff recommends the Commission take the following actions:

1. Confirm that OC LAFCO has reviewed the information contained within the Notice of Exemption prepared by the County of Orange and filed with the Orange County Clerk-Recorder.
2. As a responsible agency, direct the Executive Officer to file the Notice of Exemption for the "Pomeroy Property Detachment from the City of Tustin (CD 20-13)" with the Orange County Clerk-Recorder. (Exhibit A)
3. Adopt OC LAFCO Resolution No. CD 20-13 approving the "Pomeroy Property Detachment from the City of Tustin." (Attachment 2)
4. Waive protest proceedings for the "Pomeroy Property Detachment from the City of Tustin (CD 20-13)" in accordance with Government Code Section 56662.

Respectfully submitted,


CAROLYN EMERY
GAVIN CENTENO

Attachments:

1. 56668 Factors Considered by the Commission
2. OC LAFCO Resolution No. CD 20-13

Factors Considered in Review of the
"Pomeroy Property Detachment from the City of Tustin (CD 20-13)"

I. Population and population density, land area and land use, and assessed valuation.

- The subject territory is currently uninhabited.
- The land use designation for the proposed .18 acre detachment is currently identified as R4-Suburban Residential in the City of Tustin's General Plan.
- The County of Orange has designated the subject territory as 1B Suburban Residential in the County's General Plan and prezoned the subject territory as E4-1 (SR)(E) Small Estates.
- The subject territory is within Tax Rate Area 13-077. Upon detachment, the territory will be consolidated within Tax Rate Area 89-095, which is the existing tax rate area of the larger property.
- The City and the County will consider approval of property tax exchange agreements for the proposed detachment on June 7, 2022. During the agencies' preliminary discussions, it was determined that the amount of property taxes to be directed to the County is zero.

II. Organized community services, present cost and adequacy, and future needs of governmental services, and probable effect of the proposed detachment.

- The subject territory is currently located within the City of Tustin, and the City provides key municipal services to the territory.
- The County of Orange provides municipal services to a larger portion of the parcel which is adjacent to the subject territory.
- If the Commission approves the proposed detachment, the entire property will be placed under the County of Orange's jurisdiction and the County is capable of providing adequate municipal services to the parcel. The table below depicts the current and future service providers to the subject territory.

Table 1- Current and Proposed Service Providers

Service	Current Provider	Proposed Provider
Animal Control	County of Orange	County of Orange
Fire Protection	Orange County Fire Authority	Orange County Fire Authority
Library Service	County of Orange	County of Orange
Parks & Recreation	City of Tustin	County of Orange
Planning	City of Tustin	County of Orange
Police Service	City of Tustin	Orange County Sheriff
Retail Water	Golden State Water Company	Golden State Water Company
Local Wastewater	East Orange County Water District	East Orange County Water District
<p style="text-align: center;"><u>Regional Providers (No Change)</u> Municipal Water District of Orange County (<i>wholesale water</i>) Orange County Cemetery District (<i>countywide public cemetery</i>) Orange County Sanitation District (<i>regional wastewater</i>) Orange County Mosquito and Vector Control District (<i>countywide vector control</i>) Orange County Water District (<i>regional groundwater</i>)</p>		

III. **Effect on adjacent areas, mutual social and economic interests, local government structure.**

- Approval of the proposed detachment will not have an effect on adjacent areas, mutual social and economic interests, and local government structure. The proposed detachment will result in a more logical boundary and efficient delivery of municipal services.

IV. **The conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities set forth in Government Code Section 56377.**

- The area has been designated by the County of Orange as 1B Suburban Residential and E4-1 (SR) (E) Small Estates, which is consistent with the existing land use within the subject territory.
- The proposed detachment was processed in accordance with Commission policies and procedures and is consistent with the priorities set forth in Government Code Section 56377.

V. **Effect on maintaining the physical and economic integrity of agricultural lands.**

- No agricultural lands are contained within or adjacent to the subject territory.

VI. **The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.**

- The proposed boundary has been reviewed by staff and does not create any islands or corridors of unincorporated territory.

VII. **Regional Transportation Plan (RTP) adopted and Consistency with city or county general and specific plans.**

- The proposed detachment of territory is consistent with the County's General Plan and will not impact the Regional Transportation Plan and Sustainable Communities Strategy that were adopted for the region by the Southern California Association of Governments.

VIII. **The proposal's consistency with city or county general and specific plans.**

- The subject territory is consistent with the County of Orange's General Plan.

IX. **Comments from affected agencies and/or other public agency.**

- In accordance with Government Code Section 56658(b), on January 10, 2022, all affected agencies were notified of the proposal. The period for affected agencies to submit comments ended on January 31, 2022, and no comments on the proposed detachment were received.

X. **Ability of newly formed or receiving entity to provide services to proposal area and sufficiency of revenues for those services.**

- The County of Orange has sufficient revenues and can provide adequate municipal services to the proposed territory.

- XI. Timely availability of water supplies adequate for projected needs as specified in Government Code Section 65352.5.**
- The detachment of the subject territory from the City of Tustin will not interrupt or alter the current service provision and the availability of water supplies as specified in Government Code Section 65352.5. Upon detachment, Golden State Water Company will continue to provide retail water to the property and can adequately provide the service to the proposed single-family home within the affected territory. Wholesale water will continue to be provided by the Municipal Water District of Orange County.
- XII. Extent to which the proposal will affect a City(ies) and the county in achieving their respective fair shares of the regional housing needs.**
- There were no comments received from the City of Tustin or the County of Orange regarding the extent to which the proposal will affect their respective allocation of the regional housing needs.
- XIII. Information or comments from landowners, voters, or residents within affected territory.**
- OC LAFCO staff has received consent for the proposed detachment from all landowners within the affected territory.
- XIV. Information relating to existing land use designations.**
- The land use designation for the subject territory is currently designated in the City's General Plan as R4-Suburban Residential.
 - The County of Orange has designated the subject territory as 1B Suburban Residential within the County's General Plan and rezoned the subject territory as E4-1 (SR) (E) Small Estates, consistent with the County's General Plan.
- XV. The extent to which the proposal will promote environmental justice. As used in this subdivision, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services.**
- Upon detachment of the subject territory from the City of Tustin, the residents of the area will receive the same municipal services currently provided to all County residents.
- XVI. Information contained in a local hazard mitigation plan, information contained in safety element of a general plan, and any maps that identify land as very high fire hazard zone pursuant to Section 51178 or maps that identify land determined to be in a state responsibility area pursuant to 4102 of the Public Resources Code.**
- Government Code Section 51178 requires the California Department of Forestry and Fire Protection (CAL FIRE) to identify "very high fire hazard severity zones" using consistent statewide criteria. The Orange County Board of Supervisors has adopted the very high fire hazard Severity Zones Map for unincorporated Orange County and does not identify the subject territory to be within a very high fire hazard severity zone.

CD 20-13

**RESOLUTION OF THE LOCAL AGENCY
FORMATION COMMISSION OF ORANGE COUNTY, CALIFORNIA
MAKING RESPONSIBLE AGENCY FINDINGS UNDER THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT AND APPROVING THE “POMEROY
PROPERTY DETACHMENT FROM THE CITY OF TUSTIN (CD 20-13)”**

JUNE 8, 2022

On motion of Commissioner _____, duly seconded and carried, the following resolution was adopted:

WHEREAS, the proposed change of organization, designated as “Pomeroy Property Detachment from the City of Tustin (CD 20-13),” was hereto filed with and accepted for filing on June 1, 2022, by the Executive Officer of the Local Agency Formation Commission of Orange County (“LAFCO”) pursuant to Title 5, Division 3, commencing with Section 56000 et seq. of the Government Code; and

WHEREAS, the Executive Officer, pursuant to Government Code Section 56658 set June 8, 2022, as the hearing date of this proposal; and

WHEREAS, as the Executive Officer, pursuant to Government Code Section 56665 has reviewed this proposal and prepared a report including her recommendation therein and has furnished a copy of this report to each person entitled to a copy; and

WHEREAS, the proposed detachment, consists of the detachment of approximately .18 acre of uninhabited territory from the City of Tustin; and

WHEREAS, the County of Orange served as the lead agency for the environmental review, analysis, and approval of the Pomeroy Residence Single Family Residential Construction (“Project”) pursuant to the requirements of the California Environmental Quality Act (Public Resources Code section 21000 et seq.) and the State CEQA Guidelines (14 Cal. Code Regs., § 15000 et seq.) (“CEQA”); and

Resolution (CD 20-13)

WHEREAS, pursuant to CEQA, on February 15, 2022, the County of Orange adopted a Notice of Exemption (“NOE”) for the Project; and

WHEREAS, the LAFCO has been asked to approve the proposed “Pomeroy Property Detachment from the City of Tustin (CD 20-13)”; and

WHEREAS, LAFCO is thus a “responsible agency” for the Project under CEQA because it has limited approval and implementing authority over the Project; and

WHEREAS, LAFCO, at its agendized public meeting on June 8, 2022, independently reviewed and considered the NOE and other related documents in the record before it; and

WHEREAS, as contained herein, LAFCO has endeavored in good faith to set forth the basis for its decision on the Project; and

WHEREAS, this Commission called for and held a public meeting on the proposal on June 8, 2022, and at the meeting, this Commission heard and received all oral and written protests, objections and evidence which were made, presented or filed, and all persons present were given an opportunity to hear and be heard with respect to this proposal and the report of the Executive Officer; and

WHEREAS, all of the findings and conclusions made by LAFCO pursuant to this Resolution are based upon the oral and written evidence presented to it as a whole and not based solely on the information provided in this Resolution; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, the LAFCO does hereby resolve as follows:

Section 1. LAFCO Findings.

The subject territory is found to be uninhabited, is currently within the City of Tustin’s jurisdictional boundary and sphere of influence and is assigned the following distinctive short-form designation, “Pomeroy Property Detachment from the City of Tustin (CD 20-13).” The proposal consists of the detachment of

approximately .18 acre generally located on Foothill Boulevard and north of Padias Lane from the City of Tustin. (Exhibit B)

Section 2. Compliance with the Environmental Quality Act.

As the decision-making body for LAFCO, and in LAFCO's limited role as a responsible agency under CEQA, the Commission has reviewed and considered the information contained in the NOE, and all supporting documentation, copies of which are on file at LAFCO's office and are incorporated by reference as though set forth fully herein. Based on this review, the Commission concurs with the County of Orange's conclusion that the Project is exempt from CEQA, as set forth in greater detail in the County's NOE, which was filed with the Orange County Clerk-Recorder on February 15, 2022. Specifically, the Commission finds that the Project is categorically exempt from CEQA under the Class 3 exemption set forth in State CEQA Guidelines section 15303 concerning new construction or conversion of small structures. The Commission additionally finds that the Project is exempt from CEQA under the common sense exemption set forth in State CEQA Guidelines section 15061, subdivision (b)(3) as it can be seen with certainty that there is no possibility that the Project may have a significant effect on the environment. Rather, the Project is comprised of administrative action (i.e., government reorganization and administrative boundary changes) that would not result in either a direct, or reasonably foreseeable indirect, physical change in the environment.

Section 3. The proposal is approved subject to the following terms and conditions.

- a) Payment by the applicant of County Clerk-Recorder and State Board of Equalization fees.
- b) The applicant (landowners of the Pomeroy property) agrees to defend, hold harmless and indemnify LAFCO and/or its agents, officers, and employees from any claim, action or proceeding against LAFCO and/or its agents,

officers and employees to attack, set aside, void or annul the approval of LAFCO concerning this Proposal or any action relating to or arising out of such approval.

- c) The effective date shall be the date of recordation of the OC LAFCO Certificate of Completion.

Section 4. Notice of Exemption.

The Commission directs staff to file a Notice of Exemption with the Orange County Clerk-Recorder within five working days of the adoption of this Resolution.

Section 5. Conducting Authority Proceedings.

The Commission shall waive conducting authority proceedings in accordance with Government Code Section 56662.

Section 6. Custodian of Records.

The documents and materials that constitute the record of proceedings on which this Resolution and the above findings have been based are located at the offices of LAFCO. The custodian for these records is the Local Agency Formation Commission of Orange County, 2677 North Main Street, Suite 1050, Santa Ana, California 92705.

AYES:

NOES:

STATE OF CALIFORNIA)
) SS.
COUNTY OF ORANGE)

I, Douglass Davert, Chair of the Local Agency Formation Commission of Orange County, California, hereby certify that the above and foregoing resolution was duly and regularly adopted by said Commission at a regular meeting thereof, held on the 8th day of June 2022.

IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of June 2022.

DOUGLASS DAVERT
Chair of the Local Agency Formation
of Orange County

By: _____
DOUGLASS DAVERT

NOTICE OF EXEMPTION

TO:	FROM:
<input type="checkbox"/> Office of Planning and Research P. O. Box 3044, Room 113 Sacramento, CA 95812-3044	Local Agency Formation Commission of Orange County (Responsible Agency)
<input checked="" type="checkbox"/> Clerk of the Board of Supervisors or County Clerk County of: Orange Address: 211 W. Santa Ana Blvd. Santa Ana, CA 92701	Address 2677 North Main Street Suite 1050 Santa Ana, CA 92705

1.	Project Title:	"Pomeroy Property Detachment from the City of Tustin (CD 20-13)"
2.	Project Applicant:	Mr. and Mrs. Pomeroy (landowners)
3.	Project Location – Identify street address and cross streets or attach a map showing project site (preferably a USGS 15' or 7 1/2' topographical map identified by quadrangle name):	The project is generally located on Foothill Boulevard and north of Padias Lane within the City of Tustin. (Vicinity map attached.)
4.	(a) Project Location – District	
	(b) Project Location – County	Orange
5.	Description of nature, purpose, and beneficiaries of Project:	The project involves the detachment of approximately .18 acre of uninhabited territory from the City of Tustin. The purpose of the proposal is to facilitate the effective and efficient delivery of municipal services to the subject territory.
6.	Name of Public Agency approving project:	Orange County Local Agency Formation Commission
7.	Name of Person or Agency undertaking the project, including any person undertaking an activity that receives financial assistance from the Public Agency as part of the activity or the person receiving a lease, permit, license, certificate, or other entitlement of use from the Public Agency as part of the activity:	County of Orange
8.	Exempt status: (check one)	
	(a) <input type="checkbox"/> Ministerial project.	(Pub. Res. Code § 21080(b)(1); State CEQA Guidelines § 15268)

(b)	<input type="checkbox"/>	Not a project.	
(c)	<input type="checkbox"/>	Emergency Project.	(Pub. Res. Code § 21080(b)(4); State CEQA Guidelines § 15269(b),(c))
(d)	<input checked="" type="checkbox"/>	Categorical Exemption. State type and section number:	One single-family residence, or second dwelling unit in residential zone. Class 3 § 15303(a)
(e)	<input type="checkbox"/>	Declared Emergency.	(Pub. Res. Code § 21080(b)(3); State CEQA Guidelines § 15269(a))
(f)	<input checked="" type="checkbox"/>	Statutory Exemption. State Code section number:	(Common Sense) CEQA Guidelines §15061(b)(3)
(g)	<input type="checkbox"/>	Other. Explanation:	
9.	Reason why project was exempt:		The change in the organization of a local governmental agency does not change the geographical area.
10.	Lead Agency Contact Person:		Cindy Salazar, Senior Planner
	Telephone:		(714) 667-8870
11.	If filed by applicant: Attach Preliminary Exemption Assessment (Form "A") before filing.		
12.	Has a Notice of Exemption been filed by the public agency approving the project? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		
13.	Was a public hearing held by the Lead Agency to consider the exemption? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If yes, the date of the public hearing was: February 15, 2022		

Signature: _____ Date: _____ Title: Executive Officer

Name:

☒ Signed by Responsible Agency ☐ Signed by Applicant

Date Received for Filing: _____

(Clerk Stamp Here)





Authority cited: Sections 21083 and 21110, Public Resources Code.
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.



Unincorporated Orange County

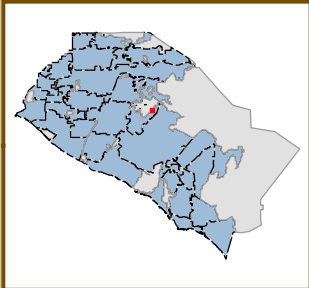
City of Tustin

Legend

-  Pomeroy Property
-  Proposed Detachment
-  Unincorporated
-  TUSTIN

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Proposed "Pomeroy Property Detachment from the City of Tustin (CD 20-13)"



Vicinity Map



June 8, 2022

6c | Consent
Calendar

REGULAR MEMBERS

CHAIR

Douglass Davert
Special District Member

VICE CHAIR

Donald P. Wagner
County Member

IMMEDIATE PAST CHAIR

Derek J. McGregor
Public Member

Lisa Bartlett
County Member

Wendy Bucknum
City Member

James Fisler
Special District Member

Mike Posey
City Member

ALTERNATES

Andrew Do
County Member

Kathryn Freshley
Special District Member

Peggy Huang
City Member

Lou Penrose
Public Member

STAFF

Carolyn Emery
Executive Officer

Scott Smith
General Counsel

TO: Local Agency Formation Commission
of Orange County

FROM: Executive Officer

SUBJECT: Six-Month Strategic Objectives Update

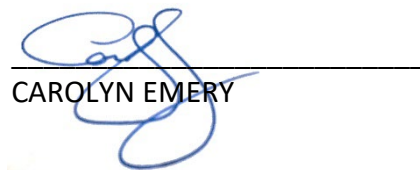
SUMMARY

At the 2021 Strategic Planning Workshop, the Commission established objectives with respective deadlines spanning throughout the current fiscal year. As we near the completion of yet another work plan cycle, the majority of the objectives have been accomplished with only two being noted for potential inclusion within the FY 22-23 work plan (see Attachment 1).

RECOMMENDED ACTION

No Commission action required for this item.

Respectfully Submitted,



CAROLYN EMERY

Attachment 1: Six-Month Strategic Objectives

Orange County LAFCO

SIX-MONTH

STRATEGIC OBJECTIVES

September 8, 2021 – March 8, 2022



THREE-YEAR GOAL: Optimize External Communication

WHEN	WHO	WHAT	STATUS			COMMENTS
			DONE	ON TARGET	REVISED	
1. Oct. 15, 2021	Ray Barragan – lead, working with Carolyn Emery and Gavin Centeno	Make the updated website available to the public and implement Google Analytics.	X			
2. At the Feb. 9, 2022 Commission meeting	Ray Barragan and Gavin Centeno	Report to Commissioners on increased public engagement from stakeholders (public comments, attendance at public meetings, and sign-ups for bi-annual news).	X			

THREE-YEAR GOAL: Facilitate A Continuing Dialogue Of South County Governance Options

WHEN	WHO	WHAT	STATUS			COMMENTS
			DONE	ON TARGET	REVISED	
1. By Nov. 1, 2021	Lisa Bartlett	Present to the OC LAFCO Commissioners an update on the establishment of the South Orange County Connected Communities (SOCCC).	X			Update provided on 11/10/21. The SOCCC will not be established due to lack of interest.
2. By Feb. 1, 2022	Carolyn Emery and Ray Barragan	Prepare a document that outlines the processes for potential governance options for SOCCC.	X			Completion date revised from 1/1/22.
3. March 1, 2022	Carolyn Emery, Lisa Bartlett, Don Wagner	Present the governance options document to the SOCCC, upon request.	X			No requests as of 5-2022.

THREE-YEAR GOAL: **Refine And Enhance The MSR Process***

WHEN	WHO	WHAT	STATUS			COMMENTS
			DONE	ON TARGET	REVISED	
1. By Feb. 1, 2022	Luis Tapia and Gavin Centeno, co-leads, with input from Carolyn Emery, Cheryl Carter-Benjamin and Ray Barragan	Survey other LAFCOs to examine the types of MSRs they use and report results to the Commission.	X			
2. FUTURE OBJECTIVE By July 2022	Carolyn Emery, working with the Staff (Luis Tapia, Gavin Centeno, and Cheryl Carter-Benjamin)	Develop and present to the Commission a template that describes each type of MSR and identifies what would be required under each type.			X	
3. FUTURE OBJECTIVE By Dec. 2022	Carolyn Emery, working with the Staff (Luis Tapia, Gavin Centeno, and Cheryl Carter-Benjamin)	Develop a matrix using the above template to assign each agency to a particular type of MSR that could range from a simple reaffirmation of the prior MSR to a more comprehensive review.		X		

* Excludes Application-Based/Focused MSRs

Next Steps/Follow-Up Process

WHEN	WHO	WHAT
By Sept. 9, 2021	Carolyn Emery	Distribute the retreat record to all invitees.
Within 48 hours of receipt	All recipients	Read the retreat record.
By Sept. 14, 2021	Cheryl Carter-Benjamin	Post the proposed Strategic Plan on the OC LAFCO website.
By Sept. 22, 2021	LAFCO Team Carolyn Emery - lead	Review the “Current Internal Weaknesses/Challenges” list for possible action items.
At the Oct. 13, 2021 Commission meeting	Carolyn Emery	Present the proposed Strategic Plan to the Board of Commissioners for action and for public input.
Monthly By the 22nd of the month	Ray Barragan and Gavin Centeno Objective “Leads”	Monitor progress on the goals and objectives and revise objectives (add, amend and/or delete), as needed. Report directly to Cheryl the status of the Objective.
Monthly	Cheryl Carter-Benjamin	Prepare and distribute the updated Strategic Plan Monitoring Matrix to OC LAFCO Commissioners.
July 13, 2022 (Wednesday) 8:30 am – 12:00 pm	OC LAFCO Commissioners OC LAFCO Staff	Strategic Planning Workshop to: <ul style="list-style-type: none"> ● Assess progress on strategic objectives. ● Refine three-year goals (FYs 21-24), as needed. ● Identify objectives for FY 2022-23 Work Plan.

June 8, 2022

7a | Public
Hearing**REGULAR MEMBERS****CHAIR**
Douglass Davert
Special District Member**VICE CHAIR**
Donald P. Wagner
County Member**IMMEDIATE PAST CHAIR**
Derek J. McGregor
Public Member**Lisa Bartlett**
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City Member**ALTERNATES****Andrew Do**
County Member**Kathryn Freshley**
Special District Member**Peggy Huang**
City Member**Lou Penrose**
Public Member**STAFF****Carolyn Emery**
Executive Officer**Scott Smith**
General Counsel**TO:** Local Agency Formation Commission
of Orange County**FROM:** Executive Officer
Policy Analyst**SUBJECT:** Proposed "Hamer Island Annexation to the City of Placentia
(IA 22-02)"**BACKGROUND**

The Local Agency Formation Commission of Orange County (OC LAFCO) will consider an application filed by the City of Placentia to annex approximately 76 acres of unincorporated territory. The purpose of the annexation is to facilitate the delivery of municipal services more effectively and efficiently.

For over 20 years, OC LAFCO has worked collaboratively with multiple cities and the County to transition unincorporated areas to cities. The Commission's Unincorporated Areas Program represents OC LAFCO's continued commitment and leadership on this effort and contributed to bringing the Hamer Island annexation forward. If approved, annexation of the island would enhance the delivery of public services to the island residents and bring the inventory of the unincorporated areas to a remaining total of twenty-three areas.

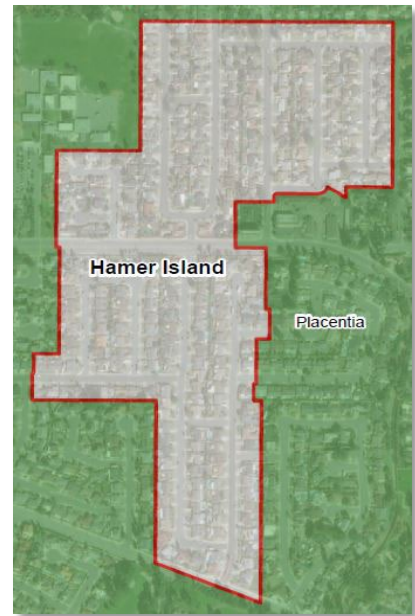
Staff recommends approval of the Hamer Island annexation to the City of Placentia. The following sections of this staff report provide additional background on the application and staff's analysis of the proposal.

PROPOSAL

The City of Placentia has filed an application with OC LAFCO for the annexation of an area located within the City's sphere of influence and commonly known as the "Hamer Island." In accordance with State law, the proposed annexation area is defined as a small island (less than 150 acres) and includes 326 single-family homes and approximately 1,045 residents. To complement State law, the Commission has implemented a fee waiver policy for small island annexations, which includes waiving of the OC LAFCO application fee (\$4,600) for the proposed annexation. The City remains responsible for all other fees that include charges assessed by the Orange County Clerk-Recorder and the State Board of Equalization.

Location and Land Use

Located in the northeast portion of the City's sphere of influence, the Hamer Island is completely surrounded by Placentia and is generally located north of East Palm Drive and west of Rose Drive. The subject territory includes a built out residential community. The City has indicated that the land use designation within its general plan of Single-Family Residential will remain the same, and rezoning of the area has been identified as Low Density Residential.



STAFF ANALYSIS

In 1973, the Commission established the SOI for the City of Placentia, which included the Hamer Unincorporated Island. During subsequent SOI reviews and updates, the City's SOI was reaffirmed to include this area. Additionally, service delivery within the City's SOI was reviewed in municipal service reviews prepared in 2007, 2008, and 2013. Each MSR and SOI review noted the City of Placentia as the most logical provider of municipal services to the Hamer Island. Currently, the City provides fire protection and emergency medical services through an out-of-area service agreement to the island. Additional details on that agreement, along with staff's analysis of the City's proposal, are provided in the next section of this report.

Authorization of Fire and Emergency Services

On June 29, 2020, the Commission authorized an out-of-area service agreement (OASA) for the City of Placentia to provide fire protection and emergency medical services to the Hamer Island. The OASA between the County of Orange and the City, which officially began on July 1, 2020, ensures that the island residents will be served by the closest emergency medical units available through the City's Fire Station No. 2, approximately a quarter of a mile away from the center of the island. The transition of this key service to the City has resulted in providing the residents with a much faster response time than being served by Fire Authority Station No. 10, approximately 2.25 miles from the island.

In accordance with State law, the OASA was authorized contingent upon the City subsequently filing an application to annex the Hamer Island. Annexation of the island would allow the City of Placentia to continue providing fire protection and emergency services and begin providing other key municipal services that include planning, police protection, and parks and recreation. Upon annexation, the OASA would sunset accordingly.

Hamer Island Annexation

In 2021, OC LAFCO, City, and County staff began discussions on the annexation process and related matters for the Hamer Island. On August 18 and 25 of last year, the City, joined by OC LAFCO and the County, conducted community workshops to provide information on the

annexation process, address questions and receive comments from the residents. With the attendance of approximately 25 residents at each workshop, this community outreach was effective in assisting residents with a better understanding of the services that the City would provide upon annexation and the timeline for the process.

Following additional discussions and negotiations involving the County and City, on April 4, 2022, the City officially filed an application with OC LAFCO. The City's application proposes to annex the Hamer Island to its jurisdictional boundary and assume responsibility for most services to the residents of the island as outlined in Table 1 within this report. As the island is completely surrounded by Placentia, access to the area is through City right-of-ways that include Yorba Linda Boulevard, which borders the northern portion of the island and East Palm Drive, which provides access at the southern portion of the area. Because of the proximity of the Hamer Island to the City's limits, staff's analysis concludes that the annexation would facilitate more efficient and effective delivery of municipal services and would avoid duplication of service delivery within the area. As the City has demonstrated, within the application and other efforts, its interest and capability of adequately providing services to the residents of the Hamer Island, staff is recommending approval of the proposed annexation.

Table 1- Current and Proposed Service Provision for the Hamer Island		
Service	Provider (current)	Provider (upon annexation)
Animal Control	County of Orange	County of Orange
Fire Protection	City of Placentia	City of Placentia
Library Service	Placentia Library District	Placentia Library District
Parks & Recreation	County of Orange	City of Placentia
Planning	County of Orange	City of Placentia
Police Service	Orange County Sheriff	City of Placentia
Retail Water/ Wastewater	Yorba Linda Water District	Yorba Linda Water District
<u>Regional Providers (No Change)</u> Municipal Water District of Orange County Orange County Cemetery District Orange County Sanitation District Orange County Mosquito and Vector Control Orange County Water District		

Additionally, State Law requires the Commission to review and consider several factors for the application. The details of those factors are presented in **Attachment 1**.

Other Statutory Requirements

Exchange of Property Tax Revenues

California Revenue and Taxation Code Section 99 (Tax Code) requires the City and County to adopt property tax resolutions for proposed changes of organization and reorganization. On March 15 and April 26, 2022, the City of Placentia and the County of Orange adopted property tax exchange resolutions, respectively, for the proposed annexation. In accordance with the Master Property Tax Agreement (Resolution No. 80-1975), the County shall receive 47.34 percent and the City shall receive 52.66 percent of the County's share of the one percent basic levy of property tax generated within the annexation area. Additionally, as the City provides its own fire protection services and has been providing fire protection and EMS services to the annexation area since July 1, 2020, it shall receive 100% of the Structural Fire Fund generated in the annexation area.

Environmental Review

On February 17, 2022, the City of Placentia, as the lead agency under the California Environment Quality Act (CEQA) for the proposal, filed a Notice of Exemption with Orange County Clerk-Recorder. As a responsible agency, OC LAFCO is required to review the environmental documentation prepared by the City in its consideration of the proposed annexation. A Notice of Exemption is included within this report for the Commission's review.

Protest Proceedings

In accordance with Government Code Section 56375.3 (a), the Commission shall approve, after notice and hearing, the annexation of the Hamer Island to the City of Placentia and waive protest proceedings. The waiver of the protest proceedings applies under this statute as the subject territory is under 150 acres and qualifies as a small island.

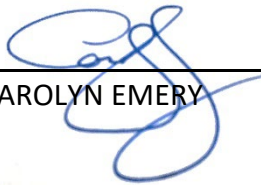
RECOMMENDED ACTIONS

As the proposed annexation would facilitate a more logical boundary and the effective and efficient delivery of municipal services to the residents of the island, staff recommends the Commission take the following actions:

1. Confirm that OC LAFCO has reviewed the information contained within the Notice of Exemption prepared by the City of Placentia as the lead agency and filed with the Orange County Clerk-Recorder.
2. As a responsible agency, direct the Executive Officer to file the Notice of Exemption for the "Hamer Island Annexation to the City of Placentia (IA 22-02)" with the Orange County Clerk-Recorder. (Exhibit A)
3. Adopt OC LAFCO Resolution No. IA 22-02 approving the "Hamer Island Annexation to the City of Placentia." (Attachment 2)

4. Waive protest proceedings for the "Hamer Island Annexation to the City of Placentia (IA 22-03)" in accordance with Government Code Section 56375.3.

Respectfully submitted,



CAROLYN EMERY

GAVIN CENTENO

Attachments:

1. 56668 Factors Considered by the Commission
2. OC LAFCO Resolution No. IA 22-02

**Factors Considered in Review of the
“Hamer Island Annexation to the City of Placentia (IA 22-02)”**

I. Population and population density, land area and land use, and assessed valuation.

- The subject territory includes approximately 1,045 residents.
- The land use designation for the proposed 76-acre annexation is currently identified as Single-Family Residential in the City of Placentia's General Plan.
- The subject territory includes a built out residential community, and in accordance with Government Code Section 56375, the City has indicated that the land use designation will remain the same as identified currently within the City’s General Plan and rezoning of the area has been identified as Low Density Residential, consistent with the General Plan.
- The subject territory is within Tax Rate Areas 80-003 and 80-020.
- The total assessed valuation for the proposed annexation territory is \$128,037,124.

II. Organized community services, present cost and adequacy, and future needs of governmental services, and probable effect of the proposed annexation.

- The City of Placentia provides fire protection and emergency medical services to the area through an out-of-area service agreement (OASA). Upon annexation, the City of Placentia will be responsible for key municipal services, except local water and wastewater services, to the area, and the OASA will sunset accordingly. The Yorba Linda Water District will continue to provide local water and wastewater services to the subject territory.
- If the Commission approves the proposed annexation, it will not affect the City of Placentia's ability to adequately provide services to the residents of the City. The table below depicts the current and future service providers to the subject territory.

Table 1- Current and Proposed Service Provision for the Hamer Island

Service	Provider (current)	Provider (upon annexation)
Animal Control	County of Orange	County of Orange
Fire Protection	City of Placentia	City of Placentia
Library Service	Placentia Library District	Placentia Library District
Parks & Recreation	County of Orange	City of Placentia
Planning	County of Orange	City of Placentia
Police Service	Orange County Sheriff	City of Placentia
Retail Water/ Wastewater	Yorba Linda Water District	Yorba Linda Water District
<u>Regional Providers (No Change)</u>		
Municipal Water District of Orange County		
Orange County Cemetery District		
Orange County Sanitation District		
Orange County Mosquito and Vector Control		
Orange County Water District		

III. Effect on adjacent areas, mutual social and economic interests, local government structure.

- Upon annexation the City of Placentia would be the local governing body for the subject territory. The annexation will not have an effect on adjacent areas and mutual social and economic interests.

- IV. **The conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities set forth in Government Code Section 56377.**
- The proposed annexation does not include any open space lands.
 - The subject territory's land use is consistent with the City of Placentia's General Plan land use designation and zoning.
 - The proposed annexation was processed in accordance with Commission policies and procedures and is consistent with the priorities set forth in Government Code Section 56377.
- V. **Effect on maintaining the physical and economic integrity of agricultural lands.**
- No agricultural lands are contained within or adjacent to the subject territory.
- VI. **The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.**
- The proposed annexation has been reviewed by staff and does not create any islands or corridors of unincorporated territory.
- VII. **Regional Transportation Plan (RTP) adopted and Consistency with city or county general and specific plans.**
- The proposed annexation is consistent with the City of Placentia's General Plan and will not impact the Regional Transportation Plan and Sustainable Communities Strategy that were adopted for the region by the Southern California Association of Governments.
- VIII. **Sphere of Influence of Local Agencies.**
- The subject territory is within the City of Placentia's sphere of influence and is completely surrounded by the City.
 - The unincorporated island is also within the spheres of influence of the following agencies: Municipal Water District of Orange County, Orange County Cemetery District, Orange County Mosquito and Vector Control District, Orange County Sanitation District, Orange County Water District, and Yorba Linda Water District.
- IX. **The proposal's consistency with city or county general and specific plans.**
- Land use for the subject territory is designated within the City of Placentia's General Plan as Single-Family Residential.
- X. **Comments from affected agencies and/or other public agency.**
- In accordance with Government Code Section 56658(b), on May 3, 2022, all affected agencies were notified of the proposal. During the comment period, no comments on the proposed annexation were received.
- XI. **Ability of newly formed or receiving entity to provide services to proposal area and sufficiency of revenues for those services.**
- The City of Placentia has sufficient revenues and can provide adequate municipal services to the proposed territory.

- XII. Timely availability of water supplies adequate for projected needs as specified in Government Code Section 65352.5.**
- The annexation of the subject territory to the City of Placentia will not interrupt or alter the current service provision and the availability of water supplies as specified in Government Code Section 65352.5. Yorba Linda Water District currently provides retail water and wastewater services to the affected territory. Wholesale water and groundwater is currently provided by the Municipal Water District of Orange County and Orange County Water District, respectively. Upon annexation, the local water and wastewater service providers will remain the same and can adequately provide these services to the affected territory.
- XIII. Extent to which the proposal will affect a City(ies) and the county in achieving their respective fair shares of the regional housing needs.**
- There were no comments received from the City of Placentia or the County of Orange regarding the extent to which the proposal will affect their respective allocation of the regional housing needs.
- XIV. Information or comments from landowners, voters, or residents within affected territory.**
- In accordance with Government Code Section 56157, a notice of the public hearing was mailed to all landowners within the subject territory and 300 feet of the exterior boundary of the subject territory. At the date of the agenda distribution on June 1, 2022, no written comments had been received.
- XV. Information relating to existing land use designations.**
- The existing land use designation for the subject territory in the City's General Plan as Single-Family Residential.
- XVI. The extent to which the proposal will promote environmental justice. As used in this subdivision, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services.**
- Upon annexation of the subject territory to the City of Placentia, the residents of the area will receive the same municipal services currently provided to all City residents.
- XVII. Information contained in a local hazard mitigation plan, information contained in safety element of a general plan, and any maps that identify land as very high fire hazard zone pursuant to Section 51178 or maps that identify land determined to be in a state responsibility area pursuant to 4102 of the Public Resources Code.**
- Government Code Section 51178 requires the California Department of Forestry and Fire Protection (CAL FIRE) to identify "very high fire hazard severity zones" using consistent statewide criteria. The Orange County Board of Supervisors has adopted the very high fire hazard Severity Zones Map for unincorporated Orange County and the Hamer Island is not located within a very high fire hazard severity zone.

IA 22-02

**RESOLUTION OF THE LOCAL AGENCY
FORMATION COMMISSION OF ORANGE COUNTY, CALIFORNIA
MAKING RESPONSIBLE AGENCY FINDINGS UNDER THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT AND APPROVING THE “HAMER ISLAND
ANNEXATION TO THE CITY OF PLACENTIA (IA 22-02)”**

JUNE 8, 2022

On motion of Commissioner _____, duly seconded and carried, the following resolution was adopted:

WHEREAS, the proposed annexation, designated as “Hamer Island Annexation to the City of Placentia (IA 22-02),” was hereto filed with and accepted for filing on May 17, 2022 by the Executive Officer of the Local Agency Formation Commission of Orange County (“LAFCO”) pursuant to Title 5, Division 3, commencing with Section 56000 et seq. of the Government Code; and

WHEREAS, the Executive Officer, pursuant to Government Code Section 56658 set June 8, 2022 as the hearing date of this proposal; and

WHEREAS, the Executive Officer, pursuant to Government Code Section 56665 has reviewed this proposal and prepared a report including her recommendation therein and has furnished a copy of this report to each person entitled to a copy; and

WHEREAS, the proposed annexation, consists of the annexation of approximately 76 acres of inhabited territory to the City of Placentia; and

WHEREAS, the City of Placentia served as the lead agency for the environmental review and analysis for the proposal, pursuant to the requirements of the California Environmental Quality Act (Public Resources Code section 21000 et seq.) and the State CEQA Guidelines (14 Cal. Code Regs., § 15000 et seq.) (“CEQA”); and

WHEREAS, pursuant to CEQA, on February 17, 2022, the City of Placentia adopted a Notice of Exemption (“NOE”) for the proposal; and

WHEREAS, LAFCO has been asked to approve the proposed “Hamer Island Annexation to the City of Placentia (IA 22-02)”; and

WHEREAS, LAFCO is thus a “responsible agency” for the proposal under CEQA because it has limited approval and implementing authority over the proposal; and

WHEREAS, LAFCO, at its agendized public hearing on June 8, 2022, independently reviewed and considered the NOE and other related documents in the record before it; and

WHEREAS, as contained herein, LAFCO has endeavored in good faith to set forth the basis for its decision on the proposal; and

WHEREAS, this Commission called for and held a public hearing on the proposal on June 8, 2022, and at the public hearing, this Commission heard and received all oral and written protests, objections and evidence which were made, presented or filed, and all persons present were given an opportunity to hear and be heard with respect to this proposal and the report of the Executive Officer; and

WHEREAS, all of the findings and conclusions made by LAFCO pursuant to this Resolution are based upon the oral and written evidence presented to it as a whole and not based solely on the information provided in this Resolution; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, LAFCO does hereby resolve as follows:

Section 1. LAFCO Findings.

The subject territory is found to be inhabited, is within the City of Placentia’s Sphere of Influence, and is assigned the following distinctive short-form designation, “Hamer Island Annexation to the City of Placentia (IA 22-02).” The Resolution (IA 22-02)

proposal consists of the annexation of approximately 76 acres generally located north of east Palm Drive and west of Rose Drive (Exhibit B).

Section 2. Compliance with the Environmental Quality Act.

As the decision-making body for LAFCO, and in LAFCO's limited role as a responsible agency under CEQA, the Commission has reviewed and considered the information contained in the NOE, and all supporting documentation, copies of which are on file at LAFCO's office and are incorporated by reference as though set forth fully herein. Based on this review, the Commission concurs with the City of Placentia's conclusion that the proposal is exempt from CEQA, as set forth in greater detail in the City's NOE, which was filed with the Orange County Clerk-Recorder on February 17, 2022. Specifically, the Commission finds that the proposal is categorically exempt from CEQA under the Class 19 exemption set forth in State CEQA Guidelines section 15319 (a) concerning the annexations of existing facilities and lots for exempt facilities. The proposal is comprised of administrative action (i.e., government reorganization and administrative boundary changes) that would not result in either a direct, or reasonably foreseeable indirect, physical change in the environment.

Section 3. The proposal is approved subject to the following terms and conditions.

- a) Upon annexation of the territory to the City of Placentia, all right, title, and interest of the County, including easements and/or the underlying fee title where owned by the County in any and all sidewalks, trails, landscaped areas, street lights, open space, public roads, adjacent slopes, traffic signals, storm drains and culverts, appurtenant facilities and site drainage that are within the annexation area shall vest in the City of Placentia, except for those properties to be retained by the County and specifically listed by these conditions.
- b) The "Pre-Annexation Agreement" entered into and executed by and

between the City of Placentia and the County of Orange, dated as of April 26, 2022 is incorporated herein and adopted by the Commission by this reference as though fully set forth in this Section 4, and is attached hereto as Exhibit C.

- c) Upon the effective date of this annexation, the owners, tenants, occupants of the territory, as applicable, shall be subject to any and all charges, fees, assessments, and taxes previously adopted and authorized by the City of Placentia that are generally applicable to other properties within the City of Placentia's territory.
- d) Payment by the City of Placentia of County Clerk-Recorder and State Board of Equalization fees is a condition of approval.
- e) The effective date shall be the date of recordation of the LAFCO Certificate of Completion.

Section 4. Notice of Exemption.

The Commission directs staff to file a Notice of Exemption with the Orange County Clerk-Recorder within five working days of the adoption of this Resolution.

Section 5. Conducting Authority Proceedings.

The Commission shall waive conducting authority proceedings in accordance with Government Code Section 56375.3.

Section 6. Custodian of Records.

The documents and materials that constitute the record of proceedings on which this Resolution and the above findings have been based are located at the offices of LAFCO. The custodian for these records is the Local Agency Formation Commission of Orange County, 2677 North Main Street, Suite 1050, Santa Ana, California 92705.

AYES:

NOES:

STATE OF CALIFORNIA)
) SS.
COUNTY OF ORANGE)

I, Douglass Davert, Chair of the Local Agency Formation Commission of Orange County, California, hereby certify that the above and foregoing resolution was duly and regularly adopted by said Commission at a regular meeting thereof, held on the 8th day of June 2022.

IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of June 2022.

DOUGLASS DAVERT
Chair of the Local Agency Formation
of Orange County

By: _____
DOUGLASS DAVERT

NOTICE OF EXEMPTION

TO:	FROM:	Orange County Local Agency Formation Commission (Responsible Agency)
<input type="checkbox"/> Office of Planning and Research P. O. Box 3044, Room 113 Sacramento, CA 95812-3044	(Public Agency)	
<input checked="" type="checkbox"/> Clerk of the Board of Supervisors or County Clerk County of: Orange Address: 211 W. Santa Ana Blvd. Santa Ana, CA 92701	Address	2677 North Main Street Suite 1050 Santa Ana, CA 92705

1.	Project Title:	“Hamer Island Annexation to the City of Placentia (IA 22-02)”
2.	Project Applicant:	City of Placentia 401 East Chapman Avenue Placentia, CA 92870
3.	Project Location – Identify street address and cross streets or attach a map showing project site (preferably a USGS 15’ or 7 1/2’ topographical map identified by quadrangle name):	The project is generally located north of East Palm Drive and west of Rose Drive and within the City of Placentia’s sphere of influence. (Vicinity map attached.)
4.	(a) Project Location – District	
	(b) Project Location – County	Orange
5.	Description of nature, purpose, and beneficiaries of Project:	The project involves the annexation of approximately 76 acres of inhabited and unincorporated territory to the City of Placentia. The purpose of the proposal is to facilitate the effective and efficient delivery of municipal services to the residents of the subject territory.
6.	Name of Public Agency approving project:	Orange County Local Agency Formation Commission
7.	Name of Person or Agency undertaking the project, including any person undertaking an activity that receives financial assistance from the Public Agency as part of the activity or the person receiving a lease, permit, license, certificate, or other entitlement of use from the Public Agency as part of the activity:	City of Placentia
8.	Exempt status: (check one)	

EXHIBIT A

(a)	<input type="checkbox"/>	Ministerial project.	(Pub. Res. Code § 21080(b)(1); State CEQA Guidelines § 15268)
(b)	<input type="checkbox"/>	Not a project.	
(c)	<input type="checkbox"/>	Emergency Project.	(Pub. Res. Code § 21080(b)(4); State CEQA Guidelines § 15269(b),(c))
(d)	<input checked="" type="checkbox"/>	Categorical Exemption. State type and section number:	Annexations of Existing Facilities and Lots for Exempt Facilities Class 19 § 15319
(e)	<input type="checkbox"/>	Declared Emergency.	(Pub. Res. Code § 21080(b)(3); State CEQA Guidelines § 15269(a))
(f)	<input type="checkbox"/>	Statutory Exemption. State Code section number:	CEQA Guidelines §15262 (Feasibility and Planning Studies)
(g)	<input type="checkbox"/>	Other. Explanation:	
9.	Reason why project was exempt:		The change in the organization of a local governmental agency does not change the geographical area.
10.	Lead Agency Contact Person:		Joseph Lambert, Director of Development Services
	Telephone:		(714) 667-8870
11.	If filed by applicant: Attach Preliminary Exemption Assessment (Form "A") before filing.		
12.	Has a Notice of Exemption been filed by the public agency approving the project? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		
13.	Was a public hearing held by the Lead Agency to consider the exemption? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If yes, the date of the public hearing was: February 17, 2022		

Signature: _____ Date: _____ Title: Executive Officer

Name:

☒ Signed by Responsible Agency ☐ Signed by Applicant

Date Received for Filing: _____

(Clerk Stamp Here)



Authority cited: Sections 21083 and 21110, Public Resources Code.
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.



Hamer Island

Placentia

Legend

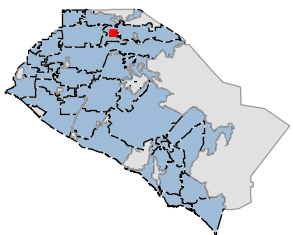
-  PROPOSED ANNEXATION
-  PLACENTIA

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

"Hamer Island Annexation to the City of Placentia (IA 22-02)"

Vicinity Map

0 0.2 Miles



ORIGINAL
CLERK OF THE BOARD
ORANGE COUNTY

**PRE-ANNEXATION AGREEMENT BY AND BETWEEN
COUNTY OF ORANGE AND CITY OF PLACENTIA**

The County of Orange, hereinafter referred to as "COUNTY", and the City of Placentia, hereinafter referred to as "CITY", with both parties collectively referred to hereinafter as "parties", enter into this pre-annexation agreement ("Agreement"), with reference to the annexation of a certain unincorporated island that falls within CITY'S sphere of influence;

WHEREAS, an unincorporated area of the COUNTY, known as the "Hamer Island," is located entirely within the CITY's geographic boundaries and sphere of influence, is comprised of approximately 76 acres of inhabited property depicted in Exhibit 1 hereto, and the COUNTY is proposing the annexation of "Hamer Island" into the CITY; and

WHEREAS, Revenue and Taxation Code section 99 provides that prior to the effective date of any jurisdictional change, the affected agencies of such change shall negotiate the amount of property tax revenues to be changed; and

WHEREAS, the CITY and COUNTY have met and negotiated both a property tax exchange and other consideration, all of which is conditional upon the annexation of the Hamer Island becoming final and effective; and

WHEREAS, upon recordation of the approved annexation and assumption of services by the CITY, the CITY shall receive a one-time compensation of \$1,500,000 to be used for public improvements and maintenance projects; and

NOW, THEREFORE, based on the foregoing recitals which are hereby incorporated into this agreement, and in consideration of the parties' mutual agreements

and promises hereinafter set forth, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Purpose.

The parties have determined that annexation of Hamer Island would benefit both the COUNTY and CITY. Policies of the Orange County Local Agency Formation Commission ("LAFCO") favor the annexation of unincorporated areas so as to encourage the orderly and efficient provision of municipal services. The CITY has the capacity and authority to provide all required municipal services to Hamer Island, including but not limited to fire and safety services and reviews; waste and recycling services; land use reviews; acceptance of applications and processing, review, approval, conditional approval, modification, amendment and/or disapproval of any and all land use entitlements, building and grading permits and development approvals; inspection of any construction work and improvement as normally conducted by a city to determine compliance with any development approval, and issuance of final clearances or certificates of occupancy. The CITY shall assume and provide all such municipal services upon the effective date of annexation, unless otherwise provided herein.

2. CITY'S Application.

Within 90 days of the execution of this Agreement, the CITY will file an application for and diligently pursue annexation of the Hamer Island with LAFCO. The parties assert Hamer Island qualifies for the streamlined change of organization provisions of California Government Code Section 56375.3(a), LAFCO cannot deny a proper application for annexation submitted by the CITY, and protest proceedings would

be waived.

3. Property Tax Exchange.

Upon recordation of LAFCO's resolution approving the annexation of the Hamer Island and the assumption of services by the CITY, the COUNTY and CITY agree to exchange of property taxes generated within Hamer Island as follows:

- (a) The COUNTY shall receive 47.3376 percent and the CITY shall receive 52.6624 percent of the COUNTY's share of the 1 percent basic levy of property tax from the annexations, with the re-allocation taking effect after LAFCO approval of the annexation. These proportional shares shall remain as the allocation of tax revenues between the CITY and the COUNTY for the annexations for all future years unless the CITY and COUNTY agree by written resolution to adjust the allocation proportions.
- (b) The CITY shall receive a one-time compensation of \$1,500,000 to be used for public improvements and maintenance projects.
- (c) As the CITY provides its own fire protection services and does not contract with the Orange County Fire Authority, the CITY shall receive one hundred percent (100%) of the Structural Fire Fund generated from the annexed area and facilities for all future years.

4. Open Code Enforcement Cases.

The COUNTY commits to making its best effort to close out open code enforcement and building safety/planning cases prior to the date of annexation, with the understanding that CITY agrees that COUNTY shall be entitled to charge, receive and retain all code enforcement fine amounts, which shall be the

COUNTY's sole consideration for all services performed in closing such open cases. For code enforcement cases that still remain open on the date of annexation, the COUNTY shall administer the cases to completion, using COUNTY ordinances and code enforcement procedures. Otherwise, the CITY assumes these responsibilities upon the effective date of annexation.

5. Permits and Plan Check Issues.

CITY agrees that COUNTY shall be entitled to charge, receive and retain all customary fees for open cases that continue past the date of annexation, including planning application, building permit fees, grading fees, and inspection fees. The fees shall be the COUNTY's sole consideration for all services performed in closing such open cases. Otherwise, the City assumes these responsibilities upon the effective date of annexation.

6. Fees.

CITY will request that LAFCO allow this annexation to be processed under the former "small island annexation program" so that LAFCO fees and map and legal fees are waived for the CITY.

7. Right, Title, Other Responsibilities and Deeds.

COUNTY and CITY agree to execute, in recordable form, such documents as may be required to effectuate the annexation. All right, title and interest of the COUNTY, including but not limited to underlying fee title where owned by the COUNTY in any public places, infrastructure, roads, streets, bridges, storm drains, utilities, sidewalks, trails, bikeways, landscaped areas, street lights, traffic signals, signs, open space and parks shall vest in the CITY and the CITY shall assume all

ownership and maintenance responsibilities thereto upon the effective date of annexation. If any transfer of ownership of real property that would not automatically result from the annexation is necessary to carry out the objectives of this agreement, the COUNTY will execute, in recordable form, such deeds or other documents as may be required to accomplish those objectives.

8. Remedies.

In the event of a breach of this Agreement, the non-breaching party shall have the right to pursue against the breaching party, any and all remedies that are available at law or in equity for breach of a contractual agreement.

9. Organization.

The various headings and numbers herein, the grouping of provisions of this Agreement into separate clauses and paragraphs, and the organization thereof, are for the purpose of convenience only and shall not be considered otherwise.

10. Amendments.

Any changes to this Agreement shall be in writing and shall be properly executed by both parties.

11. Partial Invalidity.

If any term, covenant, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the reminder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

12. Governing Law and Venue.

This Agreement has been negotiated and executed in the County of Orange, State

of California and shall be governed by and construed under the laws of the State of California. In the event of any legal action to enforce or interpret this agreement, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure section 394.

13. Termination.

This Agreement may terminate upon the failure of either party to fail to fulfill its obligations under Sections 1 through 4 as provided herein.

14. No Third-Party Beneficiaries.

The parties expressly acknowledge and agree that they do not intend, by their execution of this Agreement, to benefit any person or entities not signatory to this Agreement. No person or entity not a signatory to this Agreement will have any rights or causes of action against the CITY or COUNTY, or any combination thereof, arising out of or due to CITY'S or COUNTY'S entry into this Agreement.

15. Notices.

All notices or other communications required hereunder shall be in writing and shall be personally delivered (including by means of professional messenger service), or sent by registered or certified mail, postage prepaid, return receipt required, or by electronic facsimile transmission followed by delivery of a "hard" copy, and shall be deemed received on the date of receipt thereof. Unless otherwise indicated in writing, such notice shall be sent addressed as follows:

To CITY:

City of Placentia
401 E. Chapman Avenue
Placentia, CA 92870
Attn: City Administrator
Telephone: (714) 993-8118
Facsimile: (714) 961-0283

To COUNTY:

County Executive Officer
Attn. Frank Kim
333 W. Santa Ana Blvd.
Santa Ana, CA 92701

16. Counterparts.

This Agreement may be executed in two (2) or more counterparts, each of which shall constitute an original.

17. Entire Agreement.

This Agreement contains the entire agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements, either written or oral, express or implied.

18. Further Acts.

The parties agree to execute such additional documents and to take such further actions as are reasonably necessary to accomplish the objectives and intent of this Agreement.

19. Indemnification.

Each party agrees to indemnify, defend with counsel approved in writing by the

other party, and hold the other party, and their officials, officers, employees and agents free and harmless from any claim, loss, damage, or injury to property or persons, including wrongful death, in any manner arising out of or incident to any negligent act, omission or willful misconduct of the agreeing party, their respective officers, employees or agents, arising out of or in connection with the execution or performance of this Agreement, including without limitation the payment of attorney fees.

20. Waiver.

The failure of any party to insist upon strict compliance with any provision of this Agreement or to exercise any right or privilege provided herein, or any party's waiver of any breach hereunder, whether unless in writing, shall not relieve any other party of any obligations hereunder, whether of the same or similar type. The foregoing shall be true whether the waiving party's actions are intentional or unintentional.

21. Authorization to Execute.

The signatories to this Agreement warrant that they have been lawfully authorized by their respective parties to execute this Agreement on their behalf.

22. Recordation.

The CITY shall cause this Agreement to be recorded with the Orange County Recorder's Office within 60 days of the last signature required on this Agreement, or upon receipt of LAFCO's resolution approving this annexation, whichever occurs last.

23. Severability.

If any provision or clause of this Agreement or any application of it to any person, firm, organization, partnership, or corporation is held invalid, such invalidity shall not affect other provisions of this Agreement which can be given effect without the invalid provision or application. To this end, the provisions of this Agreement are declared to be severable.

24. Prohibition Against Assignment.

Neither CITY nor COUNTY may assign this Agreement or any interest in it without the prior written consent of the other.

25. Exhibit.

This Agreement incorporates by this reference, the following Exhibit, which is attached hereto:

Exhibit 1 – Hamer Island Description/Depiction

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the dates set forth below:

CITY OF PLACENTIA

By 
 Damien R. Arrula
 City Administrator, City of Placentia

Date 03/29/22

APPROVED AS TO FORM:

By Christian Bettenhausen
 Christian L. Bettenhausen
 City Attorney

Date 3/29/2022

COUNTY OF ORANGE, a political subdivision of the State of California

By 
 Chairman, Board of Supervisors

Date 4/26/22

APPROVED AS TO FORM:
 OFFICE OF COUNTY COUNSEL

By 
 Deputy

Date 4-6-22



FACSIMILE SIGNATURE AUTHORIZED
 PER G.C. SEC. 25103, RESO 79-1535
 SIGNED AND CERTIFIED THAT A COPY OF
 THIS DOCUMENT HAS BEEN DELIVERED
 TO THE CHAIR OF THE BOARD

ATTEST:


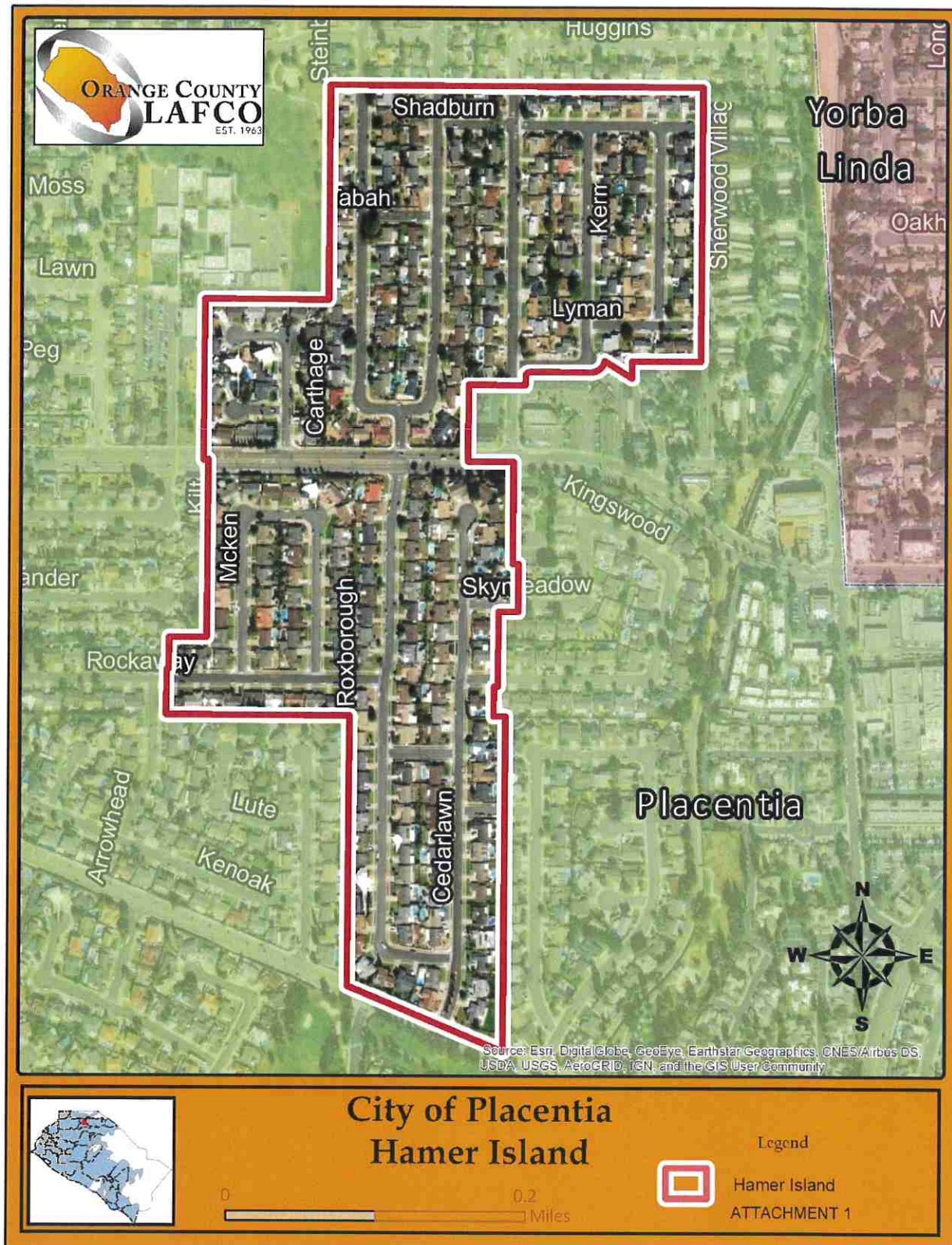

 ROBIN STIELER-Valerie Sanchez
 CLERK OF THE BOARD OF SUPERVISORS
 ORANGE COUNTY, CALIFORNIA Chief Deputy

EXHIBIT 1

Hamer Island Description/Depiction

EXHIBIT 1

Map



8a | Commission
Discussion

June 8, 2022

TO: Local Agency Formation Commission
of Orange County

FROM: Executive Officer
Policy Analyst

SUBJECT: Legislative Quarterly Report (Fourth Quarter)

BACKGROUND

Senate and Assembly bills involving several important topics of interest to LAFCOs and other local agencies continue to make their way through the legislative committees. The following are key upcoming events for the State Legislature:

2022 Legislative Session – Key Dates	
June 15, 2022	Budget bill must be passed by midnight.
July 1, 2022	Last day for policy committees to meet and report bills.
July 1 -- July 31	Summer Recess.
August 25, 2022	Last day to amend bills.
August 31, 2022	Last day for each house to pass bills.
September 30, 2022	Last day for the Governor to sign or veto bills.

Through the participation as a member of the California Association of LAFCOs (CALAFCO) Legislative Committee, staff continues to actively monitor legislation previously reviewed by the Commission and additional bills that are of LAFCO interest. This report provides a brief status update on bills considered by the Commission during this session, a discussion of other legislation expected to impact OC LAFCO if enacted and recommended positions by staff for Commission consideration.

REGULAR MEMBERS

CHAIR
Douglass Davert
Special District Member

VICE CHAIR
Donald P. Wagner
County Member

IMMEDIATE PAST CHAIR
Derek J. McGregor
Public Member

Lisa Bartlett
County Member

Wendy Bucknum
City Member

James Fisler
Special District Member

Mike Posey
City Member

ALTERNATES

Andrew Do
County Member

Kathryn Freshley
Special District Member

Peggy Huang
City Member

Lou Penrose
Public Member

STAFF

Carolyn Emery
Executive Officer

Scott Smith
General Counsel

LEGISLATION PREVIOUSLY REVIEWED

The table below provides the status of each bill reviewed by the Commission over the current legislative session.

2022 Proposed Legislation			
Bill	Description	Commission's Adopted Position	Status
AB 2081	Proposes to extend the sunset date to allow some Indian tribes contiguous to a special district to request water services. The district is mandated to provide the services without the local LAFCO conducting a thorough review of the extension of service.	Oppose	Recent amendments change the sunset date of the current law from January 1, 2023 to January 1, 2027. The bill's current location is with the Senate Governance and Finance Committee, and the next hearing date is <i>June 1, 2022</i> .
AB 2957	Makes minor and/or non-substantive changes to the Cortese-Knox-Hertzberg Government Reorganization Act of 2000 and provides consistency in how the CKH Act is applied throughout the State.	Support	No amendments to the bill. AB 2957 is currently with the Senate Governance and Finance Committee, and the next hearing date is <i>June 1, 2022</i> .
SB 938	Proposes to amend the protest provisions included in the Cortese-Knox-Hertzberg Government Reorganization Act of 2000 by consolidating and reorganizing the provisions and modifying the protest threshold for LAFCO-initiated dissolutions of special districts.	Support	No additional amendments to the bill. SB 938 is currently with the Assembly Committee on Local Government, and the next hearing date is <i>June 8, 2022</i> .
SB 1490 SB 1491 SB 1492	Yearly Validating Acts are meant to retroactively fix typographical, grammatical, and procedural errors that might invalidate boundary changes or bond issues.	Support	No amendments to the bills, and the bills are currently with the Assembly Committee on Local Government. The next hearing date is <i>June 8, 2022</i> .

OTHER LEGISLATION OF LAFCO INTEREST

Throughout the current legislative session, staff has also actively monitored other legislation of LAFCO interest or potential impact to the Commission. Of particular interest are several bills involving public meeting proceedings and funding for annexations of inhabited unincorporated islands. Additional details on these efforts are provided in the following section along with recommended positions for Commission consideration.

Open and Public Meetings

The Ralph M. Brown Act (Brown Act) allows a local legislative body to conduct public meetings by teleconference subject to certain requirements that include identifying the meeting location and teleconference details and allowing public access to the teleconference. Existing law under Executive Orders signed by the Governor authorizes a local agency to use teleconference without complying with the Brown Act's requirements until January 1, 2024. The following bills propose amendments to the current provisions involving public meetings conducted by teleconference.

AB 1944 (Lee and Garcia) Local Government: Open and Public Meetings

This bill would allow a legislative body to decide by a majority vote if the body's public meetings will provide the opportunity for its members to attend by teleconference and not require its members to identify the address of any private location from which the member elects to participate. If the legislative body allows for its members to attend a meeting by teleconference, the following must be met:

- At least a quorum of members of the legislative body shall participate in-person from a singular location that is identified in the agenda, open to the public, and the location is within the boundaries of the territory over which the local agency has jurisdiction.
- Meeting agenda must delineate which members of the legislative body will be teleconferencing to the meeting and be posted 72 hours prior to the meeting.
- Accessibility by the public to address the legislative body remotely by audio, video and call-in option.

Several months ago, staff began exploring the administrative and fiscal impacts to the agency that may occur as a result of additional state requirements involving public meetings. It is expected that staff will have more certainty involving this information after the future location of the Commission's regular meetings is confirmed in mid-June. Since that is unknown at this time and additional amendments to AB 1944 are anticipated, staff recommends the Commission adopt a **Watch** position on AB 1944. The recommended position aligns with the Commission's legislative policy to watch legislation that may have an impact on the agency and is expected to be amended. Staff will continue to monitor additional amendments to AB 1944 and bring the bill language back to the Commission, along with potential impacts to the agency, for discussion at a future meeting.

RECOMMENDED ACTION: Adopt **WATCH** position on AB 1944.

Support: Association of Bay Area Government, Association of California Healthcare Districts, Association of School Administrators, Bay Area Air Quality Management District, California Association of Councils of Governments, California Association of Joint Powers Authorities, California Association of Public Authorities for HIS, California School Board Association, California State Association of Counties, Cities Association of Santa Clara County, City of Berkeley, City of Cupertino, City of Lafayette, City of Mountain View, City of Rancho Palos Verdes, City of Redwood City, City of San Jose, City of Santa Clara, Council Member Zach Hilton, City of Gilroy, County of Mendocino, County of Monterey, County of Santa Cruz, County of Solano, County of Tulare, Disability Rights California, Encina Wastewater Authority, First 5 Solano Children and Families Commission, Housing Contractors of California, Indivisible CA-37, Indivisible Sacramento, Indivisible of San Francisco, Indivisible of San Jose, League of California Cities, Los Angeles Unified School District, Metropolitan Transportation Commission, Peninsula Clean energy, Public Risk Innovation, Solution, and Management, Rural County Representatives of California, Sacramento Area Council of Governments, San Francisco Bay Area Rapid Transit District, San Gabriel Valley Council of Government, San Mateo County Transit District, San Mateo County Transportation Authority, Santa Clara Valley Open Space Authority, Silicon Valley Clean Energy, Silicon Valley Community Foundation, Sonoma Clean Power, Stanislaus Council of Governments, State Association of County Retirements System, Town Hillsborough, town of Los Gatos, Transportation Agency for Monterey County, Transportation Authority of Marin, Upper San Gabriel Valley Municipal Water District, Urban Counties of California.

Oppose: ACLU California Action, California News Publishers Association, California Aware, First Amendment Coalition, Howard Jarvis Taxpayers Association, Leadership Counsel for Justice & Accountability, Orange County Press Club, Public Advocated, Society of Professional Journalists (Greater Los Angeles Chapter).

BILL LOCATION/STATUS: Senate Rules Committee. No hearing date scheduled at the time of agenda distribution.

AB 2449 (Rubio): Open Meetings: Local Agencies: Teleconferencing

This bill would allow a member of a legislative body to use teleconferencing without identifying the teleconference location in the notice and agenda of the meeting if at least a quorum of the members of the legislative body participates in person from a singular location clearly identified on the agenda and is open to the public. If a member of the legislative body teleconferences to a meeting the following key requirements must be met:

- Legislative body shall provide notice of the meeting and post the agendas.
- Members of the legislative body that teleconference to the meeting shall participate through audio and visual technology.

- Public shall have access to the meeting by a call-in or internet-based service option and have the ability to address the legislative body in-person or in real-time by call-in or internet-based service option. The legislative body shall not require the submittal of public comments before the meeting.
- In the event of a disruption that prevents the public agency from broadcasting the meeting to the public using call-in or internet-based service options or prevents public comments, the legislative body shall not take any further action on items appearing on the agenda until access is restored.

If enacted, AB 2449 will impact all state and local agencies, including LAFCOs. For similar reasons stated for AB 1944, staff recommends the Commission adopt a **Watch** position on AB 2449 at this time. The recommended position aligns with the Commission's legislative policy to watch legislation that may have an impact on the agency and is expected to be amended. Staff will continue to monitor additional amendments to AB 2449 and bring the bill language back to the Commission, along with potential impacts to the agency, for discussion at a future meeting.

RECOMMENDED ACTION: Adopt **WATCH** position on AB 2449.

Support: Three Valleys Municipal Water District, Association of California Health Districts, Association of California Water Agencies, California Municipal Utilities Association, California State Association of Counties, Colleguas Municipal Water District, Central Basin Municipal Water District, Central Contra Costa Sanitary District, City of Cupertino, City of Rancho Palos Verdes, County of Monterey, Cucamonga Valley Water District, Eastern Municipal Water District, Foothill Municipal Water District, Foothill Municipal Water District, Inland Empire Utilities Agency, League of California Cities, Local Agency Formation Commission for the County of Los Angeles, Los Angeles Unified School District, Mesa Water District, Metropolitan Water District of Southern California, Municipal Water District of Orange County, Public Risk Innovation Solutions and Management, Regional Chamber of Commerce (San Gabriel Valley), Rowland Water District, Rural County Representatives of California, San Bernardino Municipal Water Department, San Bernardino Valley Municipal Water District, San Diego County Water Authority, San Gabriel Basin Water Quality Authority, San Gabriel Valley Council of Government, San Gabriel Valley Municipal Water District, San Gabriel Valley Water Association, Santa Margarita Water District, Solano County Board of Supervisors, Southern California Water Coalition, Suburban Water System, Upper San Gabriel Valley Municipal Water District, Urban Counties of California, Walnut Valley Water District, Western Municipal Water District.

Oppose: ACLU California Action, California News Publishers Association, California Aware, First Amendment Coalition, Howard Jarvis Taxpayers Association, Leadership Counsel for Justice & Accountability, Society of Professional Journalists (Greater Los Angeles Chamber).

BILL LOCATION/STATUS: Assembly Local Government Committee. No hearing date scheduled at the time of agenda distribution.

AB 2647 (Levine) Local Government: Open Meetings

This bill would require a local agency that receives written communication for members of its legislative body less than 72 hours before an open meeting to promptly make the communication available to the public to satisfy the Ralph M. Brown Act requirements. The written communication must be made available to the public by posting at a public office or location designated by the local agency. An agency may be exempt from this requirement if:

- The local agency posts the written communication on its website in a manner that is clear the writing is related to an agenda item.
- The local agency lists the agency's website address on the agendas for all meetings.
- The local agency makes the written communication available at a designated location for public inspection.

Noted within all OC LAFCO meeting agendas is the procedure for the receiving of supplemental communication (i.e., written communication received after distribution of the agenda) and the distribution of communication to a majority of the Commission. Supplemental communication received no less than 24 hours prior to the meeting is distributed to the Commission during the meeting, copies made available to the public attending the meeting in-person, and posted on the agency's website. Additionally, physical copies of supplemental communication are available at the OC LAFCO office for public inspection. Should AB 2647 be signed into law, it is expected that OC LAFCO will be exempt from the bill's requirements based on the current local procedures of the Commission, and no administrative or fiscal impacts to the agency are anticipated. Therefore, staff recommends the Commission adopt a **Support** position on the bill as it aligns with the Commission's legislative policy to support bills that promote good governance principles as public policy and the agency's current procedure relative to this matter.

RECOMMENDED ACTION: Adopt **SUPPORT** position on AB 2647.

Support: League of California Cities, Association of California Health Districts, Association of California Water Agencies, California Association of Joint Powers Authorities for IHSS, California Charter Schools Association, California School Boards Association, California Special Districts Association, California State Association of Counties, Desert Water Agency, El Dorado Irrigation District, Los Angeles Unified School District, Marin County Council of Mayors and Council Members, North Orange County Community College District, Palmdale Water District, Rowland Water District, Rural County Representatives of California, San Gabriel Valley Council of Governments, Santa Clara Valley Open Space Authority, Solano County Water Agency, Urban Counties of California, Valley County Water District, Walnut Valley Water District, Water Replenishment District of Southern California.

Oppose: None on record.

BILL LOCATION/STATUS: Senate Rules Committee. No hearing date scheduled at the time of agenda distribution.

Grant Funding for Annexations

SB 1449 (Caballero) Office of Planning and Research: Grant Program: Annexation

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 provides the provisions for annexing unincorporated islands to a city, preparing municipal service reviews for cities every five years and establishing spheres of influence for each city. The sphere of influence determines which city can most efficiently provide municipal services to an unincorporated island. For over 20 years, OC LAFCO has worked collaboratively with multiple cities and the County of Orange to transition islands to cities. In part to this effort, for the past several years the Commission has implemented a fee-waiver program for small island annexations as an incentive for cities to annex these small pockets located throughout the County.

Encouragement to annex islands originated in the State Legislature, and SB 1499 is a recent effort that proposes a grant program to further assist with the annexation of unincorporated islands. The Unincorporated Area Annexation Incentive Program would be funded by the State and administered by the Governor's Office of Planning and Research (OPR) to do the following:

- Provide grants to cities to fund projects related to the proposed or completed annexation of an unincorporated area that is substantially surrounded by a city.
- Give priority for grant funding to unincorporated areas that are completely surrounded by a city, projects that provide for improvements to public health and safety infrastructure within the unincorporated area and involves the annexation of a disadvantaged unincorporated community.

Additionally, SB 1449 requires OPR to develop guidelines for implementation of the program by September 1, 2023, with input from LAFCOs, cities, counties and residents. Staff recommends that the Commission adopt a **Support** position on SB 1449. The current intent of the bill aligns with the Commission's policy to support proposed legislation that encourages the transition of unincorporated areas located within a city's sphere of influence and reflects efficient governance.

RECOMMENDED ACTION: Adopt **SUPPORT** position on SB 1449.

Support: California State Association of Counties.

Oppose: None on record.

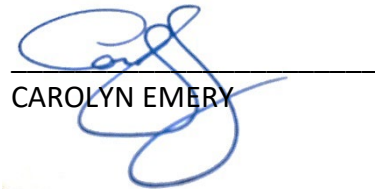
BILL LOCATION/STATUS: Senate Appropriations Committee. No hearing date scheduled.

RECOMMENDED ACTIONS

Staff recommends that the Commission:

1. Adopt positions on the following bills:
 - AB 1944 (**WATCH**)
 - AB 2449 (**WATCH**)
 - AB 2647 (**SUPPORT**)
 - SB 1449 (**SUPPORT**)
2. Direct staff to send position letters to the respective bill authors for AB 2647 and SB 1449.

Respectfully Submitted,


CAROLYN EMERY
LUIS TAPIA

Attachments:

1. Assembly Bill 1944 (Lee and Garcia)
2. Assembly Bill 2449 (Rubio)
3. Assembly Bill 2647 (Levine)
4. Senate Bill (Caballero)

Exhibits:

- A. Letter of Support - AB 2647
- B. Letter of Support – SB 1449


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AB-1944 Local government: open and public meetings. (2021-2022)

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AMENDED IN ASSEMBLY MAY 25, 2022

AMENDED IN ASSEMBLY APRIL 18, 2022

CALIFORNIA LEGISLATURE— 2021–2022 REGULAR SESSION

ASSEMBLY BILL

NO. 1944

Introduced by Assembly Members Lee and Cristina Garcia
(Coauthors: Senators Becker, Cortese, and Stern)

February 10, 2022

An act to amend, repeal, and add Section 54953 of the Government Code, relating to public meetings.

LEGISLATIVE COUNSEL'S DIGEST

AB 1944, as amended, Lee. Local government: open and public meetings.

Existing law, the Ralph M. Brown Act, requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act contains specified provisions regarding the timelines for posting an agenda and providing for the ability of the public to observe and provide comment. The act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined.

Existing law, until January 1, 2024, authorizes a local agency to use teleconferencing without complying with those specified teleconferencing requirements in specified circumstances when a declared state of emergency is in effect, or in other situations related to public health.

This bill would require the agenda to identify any member of the legislative body that will participate in the meeting remotely. The bill would also require an updated agenda reflecting all of the members participating in the meeting remotely to be posted, if a member of the legislative body elects to participate in the meeting remotely after the agenda is posted.

This bill would ~~authorize, under specified circumstances and~~ *authorize*, upon a determination by a majority vote of the legislative body, a member to be exempt from identifying the address of the member's teleconference location in the notice and agenda or having the location be accessible to the public, if the member elects to teleconference from a location that is not a public ~~place~~ *place, including, beginning January 1, 2024, that at least a quorum of members of the legislative body participates from a single physical location that is clearly identified on the agenda, open to the public, and situated within the boundaries of the territory over which the local agency has jurisdiction.*

This bill would require all open and public meetings of a legislative body that elects to use teleconferencing to provide a video stream accessible to members of the public and an option for members of the public to address the body remotely during the public comment period through an audio-visual or call-in option.

This bill would repeal these provisions on January 1, 2030.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 54953 of the Government Code, as amended by Section 3 of Chapter 165 of the Statutes of 2021, is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) (A) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency.

(B) Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public, except as provided in subparagraph (E).

(C) The agenda shall identify any member of the legislative body that will participate in the meeting remotely. If a member of the legislative body elects to participate in the meeting remotely after the agenda is posted, an updated agenda shall be posted. In the time between the start of the meeting and 72 hours before a regular meeting, in accordance with Section 54954.2, and 24 hours before a special meeting, in accordance with Section 54956, a legislative body shall only update the agenda to reflect the members participating in the meeting remotely.

(D) During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location, except as provided in subparagraph (E).

(E) If a member of a legislative body elects to teleconference from a location that is not a public place, the legislative body shall be exempt from identifying the address of the location in the notice and agenda and from having the location be accessible to the public in both of the following circumstances:

(i) The legislative body holds its first teleconferenced meeting after passage of the act that added this subparagraph, for the purpose of determining, by a majority vote, whether members will not be required to identify the address of any private location from which the member elects to teleconference. This determination remains applicable to the legislative body until such time as the legislative body votes otherwise.

(ii) The legislative body holds a meeting and has previously determined, by majority vote, that members will not be required to identify the address of any private location from which the member elects to teleconference.

(F) If a legislative body elects to use teleconferencing as authorized by this section, it shall provide both of the following:

(i) A video stream accessible to members of the public.

(ii) An option for members of the public to address the body remotely during the public comment period through an audio-visual or call-in option.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(5) For the purposes of this section, "video stream" means a medium in which the data from a live filming or a video file is continuously delivered via the internet to a remote user, allowing a video to be viewed online by the public without being downloaded on a host computer or device.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory

committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3. In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.

(D) In the event of a disruption which prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(G) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) For the purposes of this subdivision, "state of emergency" means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 2. Section 54953 of the Government Code, as added by Section 4 of Chapter 165 of the Statutes of 2021, is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) (A) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency.

(B) Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public, except as provided in subparagraph (E).

(C) The agenda shall identify any member of the legislative body that will participate in the meeting remotely. If a member of the legislative body elects to participate in the meeting remotely after the agenda is posted, an updated agenda shall be posted. In the time between the start of the meeting and 72 hours before a regular meeting, in accordance with Section 54954.2, and 24 hours before a special meeting, in accordance with Section 54956, a legislative body shall only update the agenda to reflect the members participating in the meeting remotely.

(D) During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location, except as provided in subparagraph (E).

(E) If a member of a legislative body elects to teleconference from a location that is not a public place, the legislative body shall be exempt from identifying the address of the location in the notice and agenda and from having the location be accessible to the public ~~in both of the following circumstances:~~ *if both of the following circumstances are present:*

~~(i) The legislative body holds its first teleconferenced meeting after passage of the act that added this subparagraph, for the purpose of determining, by a majority vote, whether members will not be required to~~

~~identify the address of any private location from which the member elects to teleconference. This determination remains applicable to the legislative body until such time as the legislative body votes otherwise.~~

(ii)

(i) The legislative body holds a meeting and has ~~previously~~ determined, by majority vote, that members will not be required to identify the address of any private location from which the member elects to teleconference. *A determination described by this clause shall remain applicable to the legislative body until the legislative body votes otherwise.*

(ii) At least a quorum of members of the legislative body participates from a single physical location that is clearly identified on the agenda, open to the public, and situated within the boundaries of the territory over which the local agency has jurisdiction.

(F) If a legislative body elects to use teleconferencing as authorized by this section, it shall provide both of the following:

(i) A video stream accessible to members of the public.

(ii) An option for members of the public to address the body remotely during the public comment period through an audio-visual or call-in option.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(5) For the purposes of this section, "video stream" means a medium in which the data from a live filming or a video file is continuously delivered via the internet to a remote user, allowing a video to be viewed online by the public without being downloaded on a host computer or device.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2024.

(f) This section shall remain in effect only until January 1, 2030, and as of that date is repealed.

SEC. 3. Section 54953 is added to the Government Code, to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference ~~locations~~ locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory

committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2030.

SEC. 4. The Legislature finds and declares that Sections 1, 2, and 3 of this act, which amend, repeal, and add Section 54953 of the Government Code, further, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

This act is necessary to ensure minimum standards for public participation allowing for greater public participation in teleconference meetings.

SEC. 5. (a) The Legislature finds and declares that during the COVID-19 public health emergency, certain requirements of the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code) and the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) were suspended by Executive Order No. N-29-20. Audio and video teleconference were widely used to conduct public meetings in lieu of physical location meetings, and public meetings conducted by teleconference during the COVID-19 public health emergency have been productive, have increased public participation by all members of the public regardless of their location in the state and ability to travel to physical meeting locations, have protected the health and safety of civil servants and the public, and have reduced travel costs incurred by members of state bodies and reduced work hours spent traveling to and from meetings.

(b) The Legislature finds and declares that Sections 1, 2, and 3 of this act, which amend, repeal, and add Section 54953 of the Government Code, impose a potential limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this potential limitation and the need for protecting that interest:

By removing the requirement for each teleconference location to be identified in the notice and agenda, including the member's private home address, and by providing exceptions to the requirements that each teleconference location must be accessible to the public and that members of the public be given the opportunity to address the legislative body directly at each teleconference location, this act protects the personal, private information and location of public officials and their families while preserving the public's right to access information concerning the conduct of the people's business.


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AB-2449 Open meetings: local agencies: teleconferences. (2021-2022)

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AMENDED IN ASSEMBLY MAY 23, 2022

CALIFORNIA LEGISLATURE— 2021–2022 REGULAR SESSION

ASSEMBLY BILL

NO. 2449

Introduced by Assembly Member Blanca Rubio

February 17, 2022

An act to ~~amend~~ *amend, repeal, and add* Section 54953 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 2449, as amended, Blanca Rubio. Open meetings: local agencies: teleconferences.

Existing law, the Ralph M. Brown Act, requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act contains specified provisions regarding the timelines for posting an agenda and providing for the ability of the public to observe and provide comment. The act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined.

Existing law, until January 1, 2024, authorizes a local agency to use teleconferencing without complying with those specified teleconferencing requirements in specified circumstances when a declared state of emergency is in effect, or in other situations related to public health.

This bill would *revise and recast those teleconferencing provisions and, until January 1, 2028, would* authorize a local agency to use teleconferencing without complying with ~~those specified the~~ *teleconferencing requirements that each teleconference location be identified in the notice and agenda and that each teleconference location be accessible to the public* if at least a quorum of the members of the legislative body participates in person from a singular *physical* location clearly identified on the agenda that is open to the public and situated within the local

agency's jurisdiction. ~~The~~ *Under this exception, the bill would authorize a member to participate remotely only under specified circumstances and for a period of three consecutive months.*

This bill would impose prescribed requirements for this exception relating to notice, agendas, the means and manner of access, and procedures for disruptions. The bill would require the legislative body to implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with federal law.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 54953 of the Government Code, as amended by Section 3 of Chapter 165 of the Statutes of 2021, is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. ~~All~~ *If the legislative body of a local agency elects to use teleconferencing, the legislative body of a local agency shall comply with all of the following:*

(A) All votes taken during a teleconferenced meeting shall be by rollcall.

(B) The teleconferenced meetings shall be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency.

(C) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(D) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference ~~locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency.~~ *locations.* Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e). ~~The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.~~

~~(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing~~

~~in this section shall prohibit a local agency from providing the public with additional teleconference locations:~~

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Division 10 (commencing with Section 7920.000) ~~if~~ *of* Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) ~~A~~ *The legislative body of a* local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

~~(A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter:~~

~~(B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3. In~~

(A) In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. ~~This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.~~

~~(C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.~~

~~(D)~~

(B) In the event of a disruption that prevents the ~~public agency~~ *legislative body* from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the *legislative* body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption that prevents the ~~public agency~~ *legislative body* from broadcasting the meeting may be challenged pursuant to Section 54960.1.

~~(E)~~

(C) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time. ~~This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.~~

~~(F)~~

(D) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

~~(G)~~

(E) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

~~(4) For the purposes of this subdivision, "state of emergency" means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2):~~

~~(4) This subdivision shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.~~

(f) ~~A~~ (1) *The legislative body of a* local agency may use teleconferencing without complying with paragraph (3) of subdivision (b) if, during the teleconference meeting, at least a quorum of the members of the legislative body

participates in person from a singular *physical* location clearly identified on the agenda, which location shall be open to the public and situated within the boundaries of the territory over which the local agency exercises jurisdiction and the legislative body complies with all of the following:

~~(1) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.~~

~~(2) All members of the legislative body attending the meeting by teleconference shall participate only through both audio and visual technology.~~

(A) The legislative body shall provide at least one of the following as a means by which the public may remotely hear and visually observe the meeting, and remotely address the legislative body:

(i) A two-way audio-visual platform.

(ii) A two-way telephonic service and a live webcasting of the meeting.

(B) In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment.

~~(3) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3. In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The~~

(C) The agenda shall identify and include an opportunity for all persons to attend and address the legislative body directly pursuant to Section 54954.3 via a call-in option or option, via an internet-based service option, and an opportunity for members of the public to attend and address the legislative body at the in-person location of the meeting.

~~(4) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency, and at the in-person location of the meeting.~~

~~(5)~~

(D) In the event of a disruption that prevents the ~~public agency~~ legislative body from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption that prevents the ~~public agency~~ legislative body from broadcasting the meeting may be challenged pursuant to Section 54960.1.

~~(6)~~

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time.

~~(7)~~

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(2) A member of the legislative body shall only participate in the meeting remotely pursuant to this subdivision, if all of the following requirements are met:

(A) One of the following circumstances applies:

(i) The agenda identifies that the member of the legislative body will participate in the meeting remotely and provides a brief general description of the circumstances relating to their need to appear remotely at the given meeting. A brief general description of an item generally needs not to exceed 20 words.

(ii) The circumstances relating to the member's need to participate remotely arose after the agenda for the meeting was posted and those circumstances are publicly disclosed at the meeting before any action is taken.

(B) The member shall publicly disclose at the meeting before any action is taken, whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's relationship with any such individuals.

(C) The member shall participate through both audio and visual technology.

(3) The provisions of this subdivision shall not serve as a means for any member of a legislative body to participate in meetings of the legislative body solely by teleconference from a remote location for a period of three consecutive months.

~~(8)~~

(g) The legislative body shall have and implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and resolving any doubt in favor of accessibility. In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the procedure for receiving and resolving requests for accommodation.

(h) The legislative body shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to, the language access and other nondiscrimination obligations of Section 11135 and Subchapter V (commencing with Section 2000d) of Chapter 21 of Title 42 of the United States Code.

(i) (1) Nothing in this section shall prohibit a legislative body from providing the public with additional teleconference locations.

(2) Nothing in this section shall prohibit a legislative body from providing members of the public with additional physical locations in which the public may observe and address the legislative body by electronic means.

(j) For the purposes of this section, the following definitions shall apply:

(1) "Remote location" means a location from which a member of a legislative body participates in a meeting pursuant to subdivision (f), other than any physical meeting location designated in the notice of the meeting. Remote locations need not be accessible to the public.

(2) "Remote participation" means participation in a meeting by teleconference at a location other than any physical meeting location designated in the notice of the meeting. Watching or listening to a meeting via webcasting or another similar electronic medium that does not permit members to interactively hear, discuss, or deliberate on matters, does not constitute remote participation.

(3) "State of emergency" means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(4) "Teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both.

(5) "Two-way audio-visual platform" means an online platform that provides participants with the ability to participate in a meeting via both an interactive video conference and a two-way telephonic function.

(6) "Two-way telephonic service" means a telephone service that does not require internet access, is not provided as part of a two-way audio-visual platform, and allows participants to dial a telephone number to listen and verbally participate.

(7) "Webcasting" means a streaming video broadcast online or on television, using streaming media technology to distribute a single content source to many simultaneous listeners and viewers.

~~(9)~~

(k) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 2. Section 54953 of the Government Code, as added by Section 4 of Chapter 165 of the Statutes of 2021, is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all *otherwise applicable* requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. ~~All~~ *If the legislative body of a local agency elects to use teleconferencing, the legislative body of a local agency shall comply with all of the following:*

(A) All votes taken during a teleconferenced meeting shall be by rollcall.

(B) The teleconferenced meetings shall be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency.

(C) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(D) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference ~~locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency.~~ *locations.* Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). ~~The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.~~

~~(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations~~

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) ~~A~~ *(1) The legislative body of a* local agency may use teleconferencing without complying with ~~the requirements of~~ paragraph (3) of subdivision (b) if, during the teleconference meeting, at least a quorum of the members of the legislative body participates in person from a singular *physical* location clearly identified on the agenda, which location shall be open to the public and situated within the boundaries of the territory over which the local agency exercises jurisdiction and the legislative body complies with all of the following:

~~(1) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.~~

~~(2) All members of the legislative body attending the meeting by teleconference shall participate only through both audio and visual technology.~~

(A) The legislative body shall provide at least one of the following as a means by which the public may remotely hear and visually observe the meeting, and remotely address the legislative body:

(i) A two-way audio-visual platform.

(ii) A two-way telephonic service and a live webcasting of the meeting.

(B) In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment.

~~(3) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3. In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The~~

(C) The agenda shall identify and include an opportunity for all persons to attend and address the legislative body directly pursuant to Section 54954.3 via a call-in ~~option or~~ option, via an internet-based service option, and an opportunity for members of the public to attend and address the legislative body at the in-person location of the meeting.

~~(4) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.~~

~~(5)~~

(D) In the event of a disruption that prevents the ~~public agency~~ legislative body from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption that prevents the ~~public agency~~ legislative body from broadcasting the meeting may be challenged pursuant to Section 54960.1.

~~(6)~~

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time.

~~(7)~~

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(2) A member of the legislative body shall only participate in the meeting remotely pursuant to this subdivision, if all of the following requirements are met:

(A) One of the following circumstances applies:

(i) The agenda identifies that the member of the legislative body will participate in the meeting remotely and provides a brief general description of the circumstances relating to their need to appear remotely at the given meeting. A brief general description of an item generally need not exceed 20 words.

(ii) The circumstances relating to the member's need to participate remotely arose after the agenda for the meeting was posted and those circumstances are publicly disclosed at the meeting before any action is taken.

(B) The member shall publicly disclose at the meeting before any action is taken whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's relationship with any such individuals.

(C) The member shall participate through both audio and visual technology.

(3) The provisions of this subdivision shall not serve as a means for any member of a legislative body to participate in meetings of the legislative body solely by teleconference from a remote location for a period of three consecutive months.

~~(6)~~

(f) The legislative body shall have and implement a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and resolving any doubt in favor of accessibility. In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the procedure for receiving and resolving requests for accommodation.

(g) The legislative body shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to, the language access and other nondiscrimination obligations of Section 11135 and Subchapter V (commencing with Section 2000d) of Chapter 21 of Title 42 of the United States Code.

(h) (1) Nothing in this section shall prohibit a legislative body from providing the public with additional teleconference locations.

(2) Nothing in this section shall prohibit a legislative body from providing members of the public with additional physical locations in which the public may observe and address the legislative body by electronic means.

(i) For the purposes of this section, the following definitions shall apply:

(1) "Remote location" means a location from which a member of a legislative body participates in a meeting pursuant to subdivision (e), other than any physical meeting location designated in the notice of the meeting. Remote locations need not be accessible to the public.

(2) "Remote participation" means participation in a meeting by teleconference at a location other than any physical meeting location designated in the notice of the meeting. Watching or listening to a meeting via webcasting or another similar electronic medium that does not permit members to interactively hear, discuss, or deliberate on matters, does not constitute remote participation.

(3) "Teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both.

(4) "Two-way audio-visual platform" means an online platform that provides participants with the ability to participate in a meeting via both an interactive video conference and a two-way telephonic function.

(5) "Two-way telephonic service" means a telephone service that does not require internet access, is not provided as part of a two-way audio-visual platform, and allows participants to dial a telephone number to listen and verbally participate.

(6) "Webcasting" means a streaming video broadcast online or on television, using streaming media technology to distribute a single content source to many simultaneous listeners and viewers.

(f)

(j) This section shall become operative January 1, ~~2024~~, 2024, shall remain in effect only until January 1, 2028, and as of that date is repealed.

SEC. 3. Section 54953 is added to the Government Code, to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the

purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2028.

~~SEC. 3.~~ SEC. 4. The Legislature finds and declares that Sections 1 and 2 of this act, which amend Section 54953 of the Government Code, impose a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

By removing the requirement for agendas to be placed at the location of each public official participating in a public meeting remotely, including from the member's private home or hospital room, this act protects the personal, private information of public officials and their families while preserving the public's right to access information concerning the conduct of the people's business.

~~SEC. 4.~~ SEC. 5. The Legislature finds and declares that Sections 1 and 2 of this act, which amend Section 54953 of the Government Code, further, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

This act is necessary to ensure minimum standards for public participation and notice requirements allowing for greater public participation in teleconference meetings.


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AB-2647 Local government: open meetings. (2021-2022)

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Date Published: 04/19/2022 09:00 PM

AMENDED IN ASSEMBLY APRIL 19, 2022

CALIFORNIA LEGISLATURE— 2021–2022 REGULAR SESSION

ASSEMBLY BILL

NO. 2647

Introduced by Assembly Member Levine

February 18, 2022

An act to amend Section 54957.5 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 2647, as amended, Levine. Local government: open meetings.

Existing law, the California Public Records Act, requires state agencies and local agencies to make public records available for inspection, subject to specified criteria, and with specified exceptions. Existing law, the Ralph M. Brown Act, requires the meetings of the legislative body of a local agency to be conducted openly and publicly, with specified exceptions. Existing law makes agendas of public meetings and other writings distributed to the members of the governing board disclosable public records, with certain exceptions.

Existing law requires a local agency to make those writings distributed to the members of the governing board *less than 72 hours before a meeting* available for public ~~inspection~~ *inspection, as specified*, at a public office or location that the agency designates. Existing law also requires the local agency to list the address of the office or location on the agenda for all meetings of the legislative body of the agency. Existing law authorizes a local agency to post the writings on the local agency's internet website in a position and manner that makes it clear that the writing relates to an agenda item for an upcoming meeting.

This bill would instead require a local agency to make those writings distributed to the members of the governing board available for public inspection at a public office or location that the agency designates ~~or post and list the address of the office or location on the agenda for all meetings of the legislative body of the agency unless the local agency meets certain requirements, including the local agency immediately posts~~ the writings on the local agency's internet website in a position and manner that makes it clear that the writing relates to an agenda item for an upcoming meeting.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends

or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 54957.5 of the Government Code, as amended by Section 208 of Chapter 615 of the Statutes of 2021, is amended to read:

54957.5. (a) ~~Notwithstanding Section 7922.000 or any other law, agendas~~ *Agendas* of public meetings ~~and any other writings, when distributed to all, or a majority of all, of the members of a legislative body of a local agency by any person in connection with a matter subject to discussion or consideration at an open meeting of the body,~~ are disclosable public records under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1), and shall be made available ~~upon request without delay.~~ *pursuant to subdivision (b).* However, this section shall not ~~include any writing exempt from public disclosure under Section 7924.100, 7924.105, 7924.110, 7924.510, 7924.700, 7926.205, 7927.410, 7927.605, 7928.300, or 7928.710, or any provision listed in Section 7920.505.~~ *apply to a writing, or portion thereof, that is exempt from public disclosure.*

(b) (1) If a writing ~~that~~ is a public record ~~under subdivision (a), and that relates~~ *related* to an agenda item for an open session of a regular meeting of the legislative body of a local ~~agency,~~ *agency and* is distributed ~~to all, or a majority of all, of the members of a legislative body of a local agency by a person in connection with a matter subject to discussion or consideration at an open meeting of the body~~ less than 72 hours ~~prior to before~~ that meeting, the writing shall be made available for public inspection pursuant to paragraph (2) at the time the writing is distributed to all, or a majority of all, of the members of the body.

(2) (A) Except as provided in subparagraph (B), a local agency shall comply with both of the following requirements:

(i) A local agency shall make any writing described in paragraph (1) available for public inspection at a public office or location that the agency shall designate for this purpose.

(ii) ~~Each~~ *A* local agency shall list the address of ~~this~~ *the* office or location *designated pursuant to clause (i)* on the agendas for all meetings of the legislative body of that agency.

(B) A local agency shall not be required to comply with *the* requirements of subparagraph (A) if ~~both~~ *all* of the following requirements are met:

(i) The local agency ~~shall post~~ *immediately posts* any writing described in paragraph (1) on the local agency's internet website in a position and manner that makes it clear that the writing relates to an agenda item for an upcoming meeting.

(ii) The local agency ~~shall list~~ *lists* the web address of the local agency's internet website on the agendas for all meetings of the legislative body of that agency.

(iii) The local agency makes physical copies available for public inspection, beginning the next regular business hours for the local agency, at a public office or location that the agency shall designate for this purpose.

(c) Writings that are public records ~~under subdivision (a)~~ *described in subdivision (b)* and ~~that are~~ distributed during a public meeting shall be made available for public inspection at the meeting if prepared by the local agency or a member of its legislative body, or after the meeting if prepared by some other person. These writings shall be made available in appropriate alternative formats upon request by a person with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

(d) This chapter shall not be construed to prevent the legislative body of a local agency from charging a fee or deposit for a copy of a public record pursuant to Section 7922.530, except that a surcharge shall not be imposed on persons with disabilities in violation of Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

(e) This section shall not be construed to limit or delay the public's right to inspect or obtain a copy of any record required to be disclosed under the requirements of the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title ~~1~~*.This 1*), *including, but not limited to, the ability of the public to inspect public records pursuant to Section 7922.525 and obtain copies of public records pursuant to either subdivision (b) of Section 7922.530 or Section 7922.535. This* chapter shall not be construed to require a legislative body of a local agency to place any paid advertisement or any other paid notice in any publication.

SEC. 2. The Legislature finds and declares that Section 1 of this act, which amends Section 54957.5 of the Government Code, furthers, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

Because this act would authorize local agencies to make public documents available by posting the public documents on the local agency's internet website, thus making the public documents available by local agencies more quickly and cost effectively, this act furthers the purpose of Section 3 of Article I of the California Constitution.



SB-1449 Office of Planning and Research: grant program: annexation of unincorporated areas. (2021-2022)

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Date Published: 04/19/2022 09:00 PM

AMENDED IN SENATE APRIL 19, 2022

AMENDED IN SENATE MARCH 16, 2022

CALIFORNIA LEGISLATURE— 2021–2022 REGULAR SESSION

SENATE BILL

NO. 1449

Introduced by Senator Caballero

February 18, 2022

An act to add Section 65040.16 to the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 1449, as amended, Caballero. Office of Planning and Research: grant program: annexation of unincorporated areas.

Existing law establishes, within the Governor's office, the Office of Planning and Research to constitute the comprehensive state planning agency, under the control of the Director of State Planning. Existing law requires the office to, among other things, accept and allocate or expend grants and gifts from any source, public or private, for the purpose of state planning and undertake other planning and coordinating activities, as specified, and encourage the formation and proper functioning of, and provide planning assistance to, city, county, district, and regional planning agencies.

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 provides the authority and procedure for the initiation, conduct, and completion of changes of organization, reorganization, and sphere of influence changes for cities and districts, as specified. Existing law requires that an applicant seeking a change of organization or reorganization submit a plan for providing services within the affected territory that includes, among other requirements, an enumeration and description of the services to be extended to the affected territory and an indication of when those services can feasibly be extended.

This bill would require the office to, upon appropriation by the Legislature, establish the Unincorporated Area Annexation Incentive Program, authorizing the office to issue a grant to a city for the purpose of funding infrastructure projects related to the proposed or completed annexation of a substantially surrounded unincorporated area, as defined, subject to approval by the director after the city submits an application containing specified information. The bill would require the office to match, on a dollar-for-dollar basis, any dollar contribution a city makes toward a project funded by the program, subject to a maximum funding threshold as determined by the director. *The bill would, by September 1, 2023, require the office to develop guidelines, and consult with various local representatives to prepare those guidelines, for purposes of implementing the program, and would provide that the guidelines are not subject to the rulemaking requirements of the Administrative Procedure Act.*

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 65040.16 is added to the Government Code, to read:

65040.16. (a) For purposes of this section, the following definitions apply:

(1) "City" means any incorporated chartered or general law city, including any city the name of which includes the word "town."

(2) "Director" refers to the Director of State Planning and Research.

(3) "Fully surrounded" means the entire perimeter of the unincorporated area adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses.

(4) "Program" refers to the Unincorporated Area Annexation Incentive Program.

(5) "Qualified urban use" means any residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.

(6) "Substantially surrounded" means at least 75 percent of the perimeter of the unincorporated area adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses.

(7) "Unincorporated area" means inhabited territory, as defined by Section 56046, that is not part of a city or that a city has annexed according to the process described in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Division 3 (commencing with Section 56000) of Title 5).

(b) The Office of Planning and Research shall establish, upon appropriation by the Legislature, the Unincorporated Area Annexation Incentive Program.

(c) Pursuant to the program, the office may issue, subject to approval by the director, a grant to a city for the purpose of funding projects related to the proposed or completed annexation of an unincorporated area into the city.

(1) The director shall not issue a grant to a project unless that project is related to the annexation of a substantially surrounded unincorporated area.

~~(2) The director shall prioritize the issuance of grants to projects related to the annexation of fully surrounded unincorporated areas.~~

~~(3) The director shall prioritize the issuance of grants that fund projects related to public health and safety infrastructure.~~

~~(4)~~

(2) The director may issue grants that fund projects related to municipal infrastructure including, but not limited to, roads, street lighting, sidewalks, curbs, gutters, ~~storm water~~ *stormwater* management infrastructure, parks, and greenways.

(3) The director shall prioritize the issuance of grants to applications to fund projects related to any of the following:

(A) Annexation of fully surrounded unincorporated areas.

(B) Annexations that would result in the improvement of public health and safety infrastructure.

(C) Annexation of disadvantaged unincorporated communities, as defined in Section 56033.5.

(d) The director shall require a city to submit an application to the office in order to participate in the program. The application shall include, but not be limited to, all of the following:

(1) A description of the unincorporated area and the population that resides in the unincorporated area.

(2) A statement on the infrastructure that the project proposes to construct or improve, including the estimated capital cost of the infrastructure and the timeline for the development of the infrastructure.

(3) A funding plan, including estimated funds from the program, for the costs and ongoing maintenance of the infrastructure.

(e) A project funded by the program shall not receive funding pursuant to this section that exceeds a maximum threshold determined by the director.

(f) Any dollar contribution a city makes toward a project funded by the program shall be matched by the office on a dollar-for-dollar basis. Matching funds from the office shall be subject to the maximum threshold determined pursuant to subdivision (e).

(g) (1) The office shall develop guidelines for purposes of implementing the program no later than September 1, 2023. In preparing the guidelines, the office shall consult with representatives of all of the following:

(A) Local agency formation commissions.

(B) Counties.

(C) Cities.

(D) Residents of disadvantaged unincorporated communities, as defined in Section 56033.5.

(2) The guidelines developed pursuant to paragraph (1) shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

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Executive Officer

Scott Smith

General Counsel

June 8, 2022

Assemblymember Marc Levine

California State Assembly

1021 O Street, Suite 5240

Sacramento, CA 95814

RE: **Support** – AB 2647 (Levine): Local Government: Opening Meetings

Dear Assemblymember Levine:

The Orange County Local Agency Formation Commission (OC LAFCO) is pleased to support Assembly Bill 2647. If enacted, this bill allows writings that have been distributed to members of a legislative body of a local agency less than 72 hours before an opening meeting to be posted online to satisfy specified requirements of the Ralph M. Brown Act (Brown Act).

Specifically, AB 2647 would require local agencies to make any writings distributed to the members of a legislative body to also make those writings available for public inspection at the time the writing is distributed to the members at a location designated by the local agency. The bill also calls for the local agency to list the address of the designated location in the agendas for all meetings of the legislative body of that agency.

In an effort to create more public transparency, OC LAFCO, through its current procedures, makes available for public inspection any writings that is a public record related to a Commission's agenda item for regular session through the distribution of copies of the writings during the regular session, posting of the writings on the agency's website, and the availability of physical copies of the writings at the OC LAFCO offices. AB 2647 aligns with OC LAFCO's current practice for this subject area and would also clarify that physical copies shall be made available for public inspection beginning the next regular business hours for the local agency at the location designated by the agency.

OC LAFCO appreciates your initiative to further encourage the transparency and efficiency of local agencies and authoring of this key legislation.

Respectfully,

Douglass Davert
Chair

cc: Rene LaRoche, Executive Director, CALAFCO

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STAFF**Carolyn Emery**

Executive Officer

Scott Smith

General Counsel

June 8, 2022

Senator Anna Caballero
California State Senate
1021 O Street, Suite 7620
Sacramento, CA 95814RE: **Support** – SB 1449 (Caballero): Grant program: Annexation
of Unincorporated Areas

Dear Senator Caballero:

The Orange County Local Agency Formation Commission (OC LAFCO) is pleased to support Senate Bill 1449. This bill would create a grant program under the Governor's Office of Planning and Research for the purpose of improving the infrastructure in existing unincorporated communities that are substantially surrounded by a city or those that have been recently annexed into a city.

Counties and special districts are responsible for municipal services and the infrastructure in unincorporated communities. Significant infrastructure disparities can exist in some communities depending on how the area was originally developed, competing needs for limited general fund dollars, and a lack of financing tools to support the infrastructure other than what can be funded through fees and assessments. In many cases, annexation into a nearby city may be the best option for providing a higher level of services and infrastructure, but needed improvements can be costly. The grant program proposed by SB 1449 would assist with these costs.

For over 20 years, OC LAFCO has worked collaboratively with multiple cities and the County of Orange in an effort to enhance the delivery of municipal services within unincorporated communities. This joint effort has resulted in the successful annexation of over 50 unincorporated areas to adjacent cities and more efficient service delivery to residents. However, many of the unincorporated areas within Orange County include built out residential communities and annexation costs may be challenging for cities due to needed infrastructure improvements and limited revenue opportunities within the areas to offset the costs. The grant program proposed through SB 1449 provides an additional tool for the annexation process and important opportunities, such as infrastructure improvements, within our unincorporated areas.

Because of these key reasons, OC LAFCO supports SB 1449 and appreciates your authorship of this important legislation.

Respectfully,

Douglass Davert
Chair

cc: Rene LaRoche, Executive Director, CALAFCO