

RESOLUTION 23-1526

A RESOLUTION OF THE SAN JOAQUIN LOCAL AGENCY FORMATION COMMISSION (SJLAFCO) RESOLUTION MAKING DETERMINATIONS, APPROVING AND ORDERING A REORGANIZATION TO INCLUDE INCORPORATION OF THE PROPOSED CITY OF MOUNTAIN HOUSE WITHIN THE AREA IDENTIFIED AS THE SJLAFCO ALTERNATIVE BOUNDARY AND ESTABLISHING ITS SPHERE OF INFLUENCE; DETACHMENT OF SPECIFIED TERRITORY FROM THE TRACY RURAL FIRE PROTECTION DISTRICT; THE DIVESTITURE OF CERTAIN MOUNTAIN HOUSE COMMUNITY SERVICES DISTRICT'S (MHCS D) POWERS; ANNEXATION TO MHCS D TO INCLUDE ADDITIONAL TERRITORY TO CORRESPOND WITH THE LAFCO ALTERNATIVE BOUNDARY; THE ESTABLISHMENT OF MHCS D AS A SUBSIDIARY DISTRICT OF THE CITY OF MOUNTAIN HOUSE, AND ADOPTING A NEGATIVE DECLARATION RELATED THERETO

WHEREAS, the San Joaquin Local Agency Formation Commission (SJLAFCo) encourages orderly growth and development which are essential to the social, fiscal, and economic well-being of San Joaquin County (County) and it's respective cities and special districts; and

WHEREAS, the County adopted the Mountain House Master Plan as an amendment to the County's General Plan in 1993; and

WHEREAS, on November 10, 1994, the County adopted the Mountain House Specific Plan I that was most recently amended on April 11, 2022; and

WHEREAS, the Mountain House Community Services District (MHCS D) was formed in 1996 with the County Board of Supervisors serving as its board of Directors until the district reached and exceeded 1,000 registered voters, to provide services within the boundaries of the master planned Mountain House community; and

WHEREAS, on February 8, 2005, the County adopted the Mountain House Specific Plan Specific Plan II that was most recently amended on April 11, 2022; and

WHEREAS, on November 22, 2005 the County adopted the Mountain House Specific Plan III that was most recently amended on April 11, 2022; and

WHEREAS, in 2008 MHCS D became an independent district governed by its own elected board; and

WHEREAS, the Mountain House Master Plan, Mountain House Specific Plan I, Mountain House Specific Plan II and Mountain House Specific Plan III, as amended, include approximately 4,317.6 acres, including 2,508.3 acres of residential development of varying densities, 477.20 acres of commercial, 349.2 acres of industrial, 527.2 acres of open space, 330.4 acres of schools, and 125.3 acres of public land uses; and

WHEREAS, either directly or through administration of contracts for services, MHCS D provides an array of urban services including water service, sewer service, garbage service, fire protection, public recreation, street lighting, library buildings and services, convert utilities to underground, police protection, road maintenance, transportation services, graffiti abatement, flood control protection, pest

and weed abatement, wildlife habitat mitigation, telecommunications services, dissemination of information and enforcement of conditions, covenants and restrictions within its boundaries ; and

WHEREAS, California Government Code Section 56043 requires that any area proposed for incorporation as a city have at least 500 registered voters residing within the affected territory at the time the proposal is initiated; and

WHEREAS, pursuant to California Government Code Section 56375(f), according to the San Joaquin Register of Voters as of December 16, 2020 there were 9,006 registered voters residing within the MHCS D and on January 13, 2021 the MHCS D approved the original resolution requesting that SJLAFCo initiate proceedings for the incorporation of Mountain House; and

WHEREAS, on February 23, 2021, the MHCS D filed an application for incorporation of the City of Mountain House with SJLAFCo with 9,185 registered voters residing within the MHCS D as of February 16, 2021; and

WHEREAS, as of August 10, 2023 the number of registered voters residing in the MHCS D has increased to 10,095 and current State Department of Finance estimated January 1, 2023 population for MHCS D of 27,923; and

WHEREAS, the MHCS D experienced a residential growth rate of an estimated 14.95 percent annually from 2010 to 2021-2022 that in turn generates a need for new and expanded facilities and services; and

WHEREAS, incorporation of the MHCS D will allow the residents of Mountain House additional sources of revenue to facilitate delivery of new and expanded facilities and services; and

WHEREAS, on May 11, 2022, the MHCS D Board of Directors approved an Amended Resolution of Application for SJLAFCo to Initiate Proceedings for Incorporation of Mountain House consisting of (a) an incorporation; (b) the divestiture of the District's power to provide water service, sewer service, garbage service, fire protection, public recreation, street lighting, library buildings and services, convert utilities to underground, police protection, road maintenance, transportation services, graffiti abatement, flood control protection, pest and weed abatement, wildlife habitat mitigation, telecommunications services, and dissemination of information; and (c) the establishment of the District as a subsidiary district of the City of Mountain House (Reorganization); and

WHEREAS, on November 2, 2022, MHCS D applied for the annexation of additional parcels located in the Mountain House Master Plan area; and

WHEREAS, on March 9, 2023 SJLAFCo approved the 136.09 acre College Park III Machado Reorganization to the MHCS D for which a Certificate of Completion was recorded on April 11, 2023, and the reorganized area is included in the LAFCo Alternative Boundary described below; and

WHEREAS, on June 8, 2023, SJLAFCo approved the 34.71 acre Mountain House Specific Plan III: Tract 4040 – A7 Reorganization to the Mountain House Community Services District (MHCS D) for which the Executive Director is will record upon notification from MHCS D payment of all necessary District fees, the Certificate of Completion, and the to-be-reorganized area is included in the LAFCo Alternative Boundary described below; and

WHEREAS, the process for incorporation is governed by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Government Code Sections 56000-57550 (CKH) as implemented by SJLAFCo; and

WHEREAS, pursuant to Government Code Section 56800, et seq., a Comprehensive Fiscal Analysis (CFA) has been prepared for the incorporation of the MHCS D; and

WHEREAS, pursuant to Government Code Section 56744, SJLAFCo developed an alternative to the boundary proposed by MHCS D for the Reorganization, known as the LAFCo Alternative Boundary, and further illustrated and described in Attachment “A” of this Resolution, was developed that would include certain additional unincorporated territory consisting of five parcels (APN 209-060-34, 35, 36, 42 as well as 209-040-04) totaling 10.78 acres that otherwise would be completely surrounded by the boundaries of the proposed City of Mountain House; and

WHEREAS, the CFA identified that the subject local agencies affected by the reorganization are San Joaquin County, Tracy Rural Fire Protection District (Tracy Rural), and MHCS D; and

WHEREAS, pursuant to Government Code Section 56800 the CFA utilized data from the latest fiscal year available, fiscal year ending June 30, 2022 (FY 2021-22); and

WHEREAS, the purpose of the CFA is to document the anticipated costs, revenues, and effects of the proposed incorporation, as well as present other information as may be necessary to make a well informed decision; and

WHEREAS, based on the assumptions and analysis described therein, the CFA found that the proposed City of Mountain House General Fund, including special tax fund revenues used for municipal services, is expected to produce a surplus in each year of the first ten years of incorporation; and

WHEREAS, in 2022 LAFCo conducted a Municipal Service Review (MSR) and Sphere of Influence (SOI) Update for MHCS D, making the determinations required by Government Code Section 56430 related to the MSR and Section 564528 related to the SOI; and

WHEREAS, on June 15, 2004, in an accepted report to the San Joaquin Board of Supervisors that, “The agreement required the MHCS D and the Sheriff’s Office to start negotiations for enhanced police protection services not later than the issuance of the first residential building permit within the boundaries of the MHCS D. Also the Public Services Allocation Agreement entered into between the parties on May 28, 1996, provides that the parties shall contract to provide police protection services consistent with the level provided on a countywide level”; and

WHEREAS, on June 28, 2017, the MHCS D General Manager stated in a letter to the San Joaquin County Administrator that the District would pay for “additional law enforcement presence” in the form of a ‘Working Sergeant’ and additional Deputy for an initial budget allocation of \$600,000 that was approved by the BOS”; and

WHEREAS, on September 11, 2013, the MHCS D Board accepted and filed the Review of Charges for Fire Services – Fiscal Year 2011-12 that included the following directions:

1.) Send a notice to Tracy Rural Fire District of the pricing dispute, thereby notifying Tracy Rural Fire of a potential breach in the contract.

2.) Request to enter into new Contract negotiations based on a Fee for Service structure as opposed to a percentage cost allocation structure and returning ownership (title) of all property to MHCS D as a cure for the breach in item 1.

3.) Set a fixed length of time for the new contract negotiations to be complete.

4.) If the negotiations are not completed within the time frame (curing the breach of contract) then bring the issue back to the Board of Directors along with an RFP which would be designed as a contract for services. The RFP would be open to all respondents including, but not limited to, Tracy Rural Fire, South Valley Fire, and City of Tracy Fire.

5.) Simultaneous to items 1 – 4, enter into negotiations with the Tracy Rural Fire District for repayment of over-charges; and

WHEREAS, on February 11, 2015, pursuant to direction Item 4 given on September 11, 2013, the MHCS D Board found that French Camp McKinley Fire Protection District was the most responsive proposal for fire protection services to MHCS D; and

WHEREAS, on August 11, 2015, the MHCS D pursuant to direction #2 given by the MHCS D board on September 11, 2013 and refusal by Tracy Rural to return property, including MHCS D Fire Station 1 (Fire Station 98), the MHCS D Board approved Resolution R-2015-28 approving the interfund loan from the community facilities fee fund (fund 47818) to the special tax no. 2: public safety fund (fund 47835) in an amount not to exceed \$2,970,000 plus closing costs made for the purpose of financing the purchase of fire station 98 and approving an appropriation adjustment to fund said interfund loan; and

WHEREAS, after a public hearing and due consideration on June 8, 2022, SJLAFCo adopted a Municipal Service Review (MSR) for the MHCS D; and

WHEREAS, pursuant to State Code of Regulations, California Environmental Quality Act Guidelines, Section 15063 an initial study evaluating foreseeable environmental impacts associated with establishing a sphere of influence, incorporating MHCS D and reorganization was completed; and

WHEREAS, the Initial Study reflects the independent judgment of the SJLAFCo Executive Officer; and

WHEREAS, the initial study concluded that the incorporation with the LAFCo Alternative Boundary, divestiture of certain powers of the MHCS D and assignment thereof to the proposed City of Mountain House and MHCS D being made a subsidiary district of the City of Mountain House would not have a significant adverse effect on the environment; and

WHEREAS, as a result of the initial study SJLAFCo circulated a Notice of Intent to adopt a Negative Declaration from May 27, 2022 to June 27, 2022 and no comments were received during this time; and

WHEREAS, the SJLAFCo Executive Officer has also reviewed the Reorganization in light of CEQA Guidelines Section 15061 (Review of Exemption), and has, in the alternative, determined that the proposed project meets the “general rule” exemption in that it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment (CEQA Guidelines Section 15061 (b)(3) and is exempt from further CEQA analysis.

NOW, THEREFORE, the San Joaquin Local Agency Formation Commission **DOES HEREBY MAKE THE FOLLOWING FINDINGS IN SUPPORT OF THE REORGANIZATION** as follows:

FINDING 1. Pursuant to Government Code Section 56720(a), the Commission finds the Reorganization including incorporation of the proposed City of Mountain House is consistent with the intent of CKH, including but not limited to, the policies of Government Code Sections 56001, 56300, 56301 and 56377, and the policies of SJLAFCo. Further, the Commission has considered the factors set forth for changes of organization and reorganizations in Government Code section 56668 as set forth in the Executive Officer's staff report, and Commission policies.

FINDING 2. Pursuant to Government Code Section 56720(b), the Commission has reviewed the spheres of influence of affected local agencies and the Executive Officer's staff report related thereto, and finds the Reorganization is consistent with the those spheres of influence, and further finds that the proposed City of Mountain House Sphere of Influence shall initially be the same as existing MHCSO Sphere of Influence as further illustrated and described in Attachment "B" of this resolution.

FINDING 3. Pursuant to Government Code Section 56720(c), the Commission has reviewed the comprehensive fiscal analysis (CFA) prepared pursuant to Section 56800, which review included the Commission conducting a study session regarding the CFA on July 13, 2022.

FINDING 4. The existing contract between the MHCSO and the Sheriff's Department is only for supplemental law enforcement above the base level provided to unincorporated areas. As an unincorporated area, MHCSO receives a certain level of police protection as part of the duties of the County to all unincorporated areas at a base level cost funded by the County (Base Level Cost). Base Level Cost for base level services is not currently paid for by MHCSO but will be the responsibility of the new City of Mountain House commencing on the effective date.

FINDING 5. The Sheriff's Department did not and has not provided direct data showing expenditures made for base level services. The CFA, which applied and analyzed data collected by various agencies, as more particularly described in the CFA, calculated the contracted Law Enforcement using best practical methods using audited expenditures from MHCSO's FY 2021-22 financials. In the absence of direct data from the Sheriff's Department, the CFA calculated Sheriff base level services using calls for service data provided by the Sheriff's Department and applying MHCSO's percentage share of those calls to the total net cost of Sheriff services for the County. MHCSO, as of FY 2021-22, accounts for 4.85 percent of the total calls for service the Sheriff's Department receives.

FINDING 6. The CFA determined that total law enforcement costs equals net costs for the County by excluding certain law enforcement costs that the future City would not be responsible for as well as those that are accounted for in another departments. These included services classified under the Probations, Detentions, and Corrections category, Special Services Division, Animal Control, and contract administration. The CFA calculations netted out the existing Sheriff's Department/MHCSO supplemental service contract amount to arrive at the Base Level Cost.

FINDING 7. The CFA calculations result in a forecasted Law Enforcement General Fund expenditure of \$3,279,200 in FY 2024-25. The overall Law Enforcement cost of \$5,679,200 (\$2.3 million for the County Sheriff's supplemental policing, \$562,400 for Rank Investigations, \$16,800 for CHP, and \$2.8 million for the Sheriff's base level policing) minus the projected \$2,400,000 covered by the Public Safety Special Tax

(MHCSO Ordinance 96-2) equating to \$3,279,200 to be paid from the General Fund of the proposed City of Mountain House.

FINDING 8. Pursuant to Government Code Section 56720(d), the Commission has reviewed the Executive Officer's staff report and recommendations prepared pursuant to Government Code Section 56665 (which staff report considered the testimony presented at the SJLAFCo August 23, 2023 public workshop) and the September 14, 2023 public hearings.

FINDING 9. Pursuant to Government Code Section 56720(e), Commission finds that the proposed city of Mountain House is expected to receive revenues sufficient to provide public services and facilities and a reasonable reserve during the first three fiscal years following incorporation.

FINDING 10. Pursuant to Government Code Section 56803, the Commission accepts each of the findings and recommendations in the Executive Officer's report and the CFA analysis prepared pursuant to Government Code Section 56800.

FINDING 11. Pursuant to Government Code Section 56301 and Section 56886.5, the Commission has determined that existing agencies cannot provide needed services in a more efficient and accountable manner. Incorporation will allow for increased local accountability. Contracting services such as police and fire protection will still allow the proposed City of Mountain House to take advantage of economies of scale associated with a single multipurpose governmental agency.

FINDING 12. Pursuant to Government Code Section 56001, the Reorganization creating the City of Mountain House, as conditioned, will be best suited to account for community service needs and financial resources. The proposed City of Mountain House represents the most efficient institutional arrangement for establishing community service priorities while allowing public service levels and priorities to be established locally.

FINDING 13. Pursuant to Government Code Section 56375(o) and Section 56810, the property tax exchange between the affected agencies and the proposed City of Mountain House shall be as follows:

a. From County of San Joaquin: Pursuant to Section 56810, the base year property tax to be transferred from the County to the proposed city is \$1,533,435, based on a net cost of services in the base year of \$2,743,175 and an Auditor's Ratio of 55.9 percent. Pursuant to Section 56810(d), all of the base year property tax generated by parcels within the LAFCo Alternative Boundary that will become part of the City shall be transferred from County Road District 5 to the proposed City.

b. From Mountain House Community Services District (MHCSO): Pursuant to Section 56810, the base year property tax to be transferred from MHCSO to the proposed city is \$6,062,638, based on a net cost of services of \$6,525,892 and an Auditor's Ratio of 92.9 percent.

c. From Tracy Rural Fire Protection District (Tracy Rural): Pursuant to Section 56810(d), the base year property tax to be transferred from Tracy Rural to the proposed city is \$8,005, which is all of the Tracy Rural property tax revenues generated by parcels within the LAFCo Alternative that will become part of the City.

FINDING 14. Pursuant to Government Code Section 56812, the Commission has determined that the provisional appropriations limit is \$31,665,091 and it shall be so established for the new City of Mountain House. A permanent appropriations limit will be proposed by the city council and established

by the voters of the new City of Mountain House at the first municipal election held following the first full fiscal year of operation.

FINDING 15. Pursuant to Government Code Section 56815, the Commission has determined that the amount of revenue transferring from the County to the new City of Mountain House is substantially equal to the cost of services transferred from the County to the new City of Mountain House. Furthermore, the calculation required by Section 56815 in the CFA indicates that incorporation will result in a net positive effect on the County.

FINDING 16. Pursuant to Government Code Section 56815, the Commission has determined that the amount of revenue transferring from Tracy Rural is substantially equal to the cost of services similarly transferred. The calculation required by Section 56815 in the CFA indicates that Tracy Rural will experience a net revenue loss of approximately \$5,261. The Commission finds that in light of payments previously made by MHCS D to Tracy Rural related to MHCS D Station 1, there is no negative fiscal impact to Tracy Rural.

FINDING 18. The City of Mountain House shall be incorporated as a general law city, and the Commission finds that the incorporation of the new City of Mountain House is fiscally feasible and efficiently accomplishes the stated reasons for the Reorganization:

- a) To meet the District Strategic Plan Goals. Upon creation of the Mountain House Community Services District it was envisioned that the community would one day incorporate. The District was established with a governing body to manage services that would be provided by a future incorporated city, and current and prior state law anticipates this Reorganization;
- b) To expand local control and accountability over services provided to the community including land use and development services, economic development and animal control;
- c) To increase revenues and control of such revenues to improve local services for the residents of the community; and
- d) To promote and enhance citizen involvement in the local civic process of Mountain House and provide additional accountability through a locally elected city council”

FINDING 19. Pursuant to California Government Code Section 56724, the Commission determines that the proposal application stating that the elected officials of the proposed City of Mountain House to be five (5) member city council with a directly elected mayor and four (4) city council members elected at large throughout the Reorganization area will facilitate residents understanding of and ensure that the values of their elected and appointed officials reflect community expectations.

FINDING 20. In addition to Finding 9 above, the Commission has determined that the CFA conclusion that incorporation of the MHCS D is fiscally feasible is correct and consistent with the determinations of the June 8, 2022 MSR.

FINDING 21. Pursuant to Government Code Section 56668(k), MHCS D has the institutional capacity to incorporate and provide services in that the June 8, 2022 MSR determined, “Most of the planning, operational and financial systems of the MHCS D are continually being improved as the District Staff implement large infrastructure projects and establish new services for the growing community.”

FINDING 22. Pursuant to Government Code Section 56046 the Commission has determined that affected territory is legally inhabited as defined in Government Code Section 56045, having more than 12 registered voters residing therein.

FINDING 23. Pursuant to Government Code Section 57105 the Commission has determined that as to establishment of MHCS D as a subsidiary district of the proposed City of Mountain House, the portion of the territory of MHCS D that is included within the proposed boundaries for the new City of Mountain House meet both of the following requirements: (1) seventy percent (70%) or more of the area of land within MHCS D is included within the boundaries the proposed City of Mountain House; (2) seventy percent (70%) or more of the number of registered voters who reside within MHCS D are included within the boundaries the proposed City of Mountain House.

FINDING 24. Pursuant to State Code of Regulations Section 15003 (g), the purpose of CEQA is not to generate paper, but to compel government at all levels to make decisions with environmental consequences in mind and the Executive Officer of the SJLAFCo prepared an initial study that found the incorporation of the new City of Mountain House with the LAFCo Alternative Boundary, divestiture of certain powers of the MHCS D and assignment thereof to the proposed City of Mountain House and MHCS D being made a subsidiary district of the City of Mountain House would not have a significant adverse effect on the environment. As a result of the initial study SJLAFCo circulated a Notice of Intent to Adopt a Negative Declaration from May 27, 2022 to June 27, 2022 and no comments were received during this time. SJLAFCo intends to adopt a Negative Declaration, while also finding that, in the alternative, in light of CEQA Guidelines Section 15061 (Review of Exemption), the proposed Reorganization/ Project meets the “common sense rule” exemption in that it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, CEQA Guidelines Section 15061 (b)(3). For these reasons, the project qualifies as exempt from CEQA and, in the alternative, for a Negative Declaration.

FINDING 25. Pursuant to Government Code Section 56887.5, the affected territory within the boundaries of the Reorganization will not be taxed for any existing bonded indebtedness of any agency whose boundaries are changed as a result of this Reorganization. Any existing bonded indebtedness of the County or any other affected agency whose boundaries are not changed shall remain in effect.

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

SECTION 1. SJLAFCo reviewed and considered the information contained in the IS/ND including, without limitation, the Draft IS/ND, any comments made at the public hearing or contained in the administrative record for establishing a sphere of influence, incorporating MHCS D and reorganization prior to taking these actions. SJLAFCo hereby finds that the Final IS/ND contains a complete and accurate reporting of the environmental impacts associated with the proposed actions. SJLAFCo finds that the IS/ND has been completed in compliance with the California Environmental Quality Act and State CEQA Guidelines, that the IS/ND is adequate and complete, that the IS/ND, its reference documents, and this Resolution reflect the independent judgment and analysis of SJLAFCo and, hereby approves the IS/ND, and, in the alternative, finds that the proposed Reorganization meet the “general rule” exemption in that it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment (CEQA Guidelines Section 15061 (b)(3)) and is exempt from further CEQA analysis.

SECTION 2. Pursuant to California Government Code Section 57077, the Reorganization consisting of (a) an incorporation with the boundaries as shown in Attachment “B” of this resolution, known as the LAFCo Alternative Boundary; (b) the divestiture of the MHCS D power to provide water service, sewer service, garbage service, fire protection, public recreation, street lighting, library buildings and services, convert utilities to underground, police protection, road maintenance, transportation services, graffiti abatement, flood control protection, pest and weed abatement, wildlife habitat mitigation, telecommunications services, and dissemination of information; (c) the establishment of MHCS D as a subsidiary district of the City of Mountain House; d) the annexation to MHCS D to include additional territory to correspond with the LAFCO Alternative Boundary; and e) the detachment of territory from Tracy Rural Fire Protection District as depicted in Exhibit “C” hereto, is hereby approved as specified in this Resolution, subject to the confirmation of the registered voters within the LAFCo Alternative Boundary.

SECTION 3. Pursuant to Government Code Section 57118, the question to registered voters within the LAFCo Alternative Boundary that is the entire territory to be reorganized, on the Reorganization shall be in substantial compliance with the following pursuant to Government Code Section 57133(f), Section 57134, and Section 37135:

"Shall the order adopted on September 14, 2023, by the San Joaquin Local Agency Formation Commission ordering a reorganization affecting the County of San Joaquin, Mountain House Community Services District, and Tracy Rural Fire District, and providing for the incorporation of the City of Mountain House based on the SJLAFCo Alternative Boundary and establishing its sphere of influence, divestiture of certain Mountain House Community Services District powers, annexation of territory to Mountain House Community Services District to correspond with the SJLAFCo Alternative Boundary, establishing the Mountain House Community Services District as a subsidiary district of the City of Mountain House (only for the enforcement of Conditions, Covenants, and Restrictions), and detachment of territory from the Tracy Rural Fire Protection District, be confirmed, subject to the terms and conditions specified in the order as more particularly described and set forth in LAFCo Resolution 23-1526."

SECTION 4. The effective date of the Reorganization (including the incorporation of the City of Mountain House) shall be July 1, 2024.

SECTION 5. A simple majority of votes cast shall determine the outcome of the election.

SECTION 6. Pursuant to Government Code Section 56722, the Reorganization application proposed and the Commission approves name of the new city as the City of Mountain House, which shall be incorporated as a general law city.

SECTION 7. Pursuant to Government Code Section 57116, the election and terms of office for members of the city council shall be subject to Government Code Sections 57377-57379, inclusive, unless later altered in the manner required by law.

SECTION 8. Pursuant to Section 57116, the election to confirm the question of incorporation shall also present the question of whether members of the city council in future elections shall be elected by district or at large.

SECTION 9. Pursuant to Government Code Section 57116(b), the elected officials of the proposed city shall be a five (5) member city council and shall consist of a directly elected mayor and four (4) city council members, to be elected at large throughout the area to be incorporated at the same election as the incorporation election.

SECTION 10. Pursuant to Government Code Section 57376, the City Council shall, immediately following its organization and prior to performing any other official act, adopt an ordinance providing that all County ordinances applicable immediately prior to the effective date of the incorporation shall remain in full force and effect as City ordinances for a period of 120 days thereafter, or until the City Council has enacted ordinances superseding them, whichever shall occur first. Enforcement of continuing County ordinances in the incorporated area shall be with the City, except insofar as enforcement services are furnished in accordance with Government Code Section 57384.

SECTION 11. Pursuant to Government Code Section 57376, the City Council shall, immediately following its organization and prior to performing any other official act, adopt an ordinance providing that all MHCS D ordinances, policies and procedures, applicable immediately prior to the effective date of the incorporation shall remain in full force and effect as City ordinances for a period of 120 days thereafter, or until the City Council has enacted ordinances superseding them, whichever shall occur first. Enforcement of continuing MHCS D ordinances, policies and procedures in the incorporated area shall be with the City, except insofar as enforcement services are furnished in accordance with Government Code Section 57384.

SECTION 12. On the effective date, all real and personal property interests of MHCS D shall transfer to the City of Mountain House, excepting those related to the enforcement of conditions, covenants, and restrictions.

SECTION 13. On the effective date, the City of Mountain House shall be the successor to all contractual rights and obligations of MHCS D, excepting those related to the enforcement of conditions, covenants, and restrictions.

SECTION 14. The City of Mountain House shall have a city council/city manager form of government pursuant to Government Code Sections 34851–34906. The City Manager shall be appointed by the City Council. The City Council shall promptly adopt an ordinance defining the powers and duties of the City Manager, in accordance with Government Code Section 34852.

SECTION 15. On the effective date, the employees of MHCS D shall become employees of the City of Mountain House and any existing employment contracts, civil service rights, seniority rights, retirement rights, and other employee benefits, rights and responsibilities of the District and/or its employees shall transfer to the City of Mountain House.

SECTION 16. Pension obligations of the MHCS D to the San Joaquin County Employees Retirement Association shall be:

a) On and after the effective date of a resolution of the Board of Retirement of the San Joaquin County Employees' Retirement Association (SJCERA) consenting to membership of the employees of the City of Mountain House pursuant to subdivision (b) of Government Code Section 31557 of the County Employees' Retirement Law of 1937 (CERL), the status of each employee deemed to be an employee of the City of Mountain House pursuant to SECTION 15, with respect to membership in the retirement

system, shall, in all respects, be as if the employee had remained a member of the retirement system without any break in service or change of employer. The City of Mountain House shall be deemed to be a "district," as defined therein, and shall, in all respects, assume all of the rights, obligations, and status previously occupied by MHCS D as a participating district in the retirement system, including, but not limited to, all of the following: the payment of employer contributions, the payment of unfunded actuarial liability, the withholding of employee contributions, the reporting of compensation earnable and pensionable compensation, record retention and audit compliance, the enrollment of eligible employees as members of the retirement system, compliance with restrictions on the employment of retired persons, and the pickup of employee contributions pursuant to Section 414(h)(2) of the Internal Revenue Code and any agreement or resolution implementing that section.

b) The termination of the participation of MHCS D in SJCERA shall not trigger withdrawal liability pursuant to Government Code Section 31564.2 of the CERL. The City of Mountain House shall assume the prior obligations of the MHCS D pension plan for the payment of unfunded actuarial liability, which shall continue to be included in contribution rates calculated and approved by the SJCERA Board of Retirement pursuant to the CERL, including, but not limited to, Government Code Sections 31453, 31453.5, 31454, 31581, and 31585, as if no change in the participating employer had occurred.

c) The City of Mountain House shall succeed to the rights, duties, and obligations of the MHCS D pension plan with respect to its replacement benefits program pursuant to Chapter 3.9 (commencing with Section 31899). The rights of each member of the retirement system to participate in the replacement benefits program, as those rights exist at the time of the transfer of rights, duties, and obligations to the authority pursuant to this section, whether the member is actively employed, deferred, or retired, shall continue as if there had been no change in the status of the employer. The transfer of rights, duties, and responsibilities shall not be deemed to be the creation of a new replacement benefit program and the continuation of employees' rights pursuant to this section shall not be deemed the offering of a new plan to any employee for purposes of Section 7522.43 of the Government Code or subdivision (c) of Section 31899 of the CERL.

SECTION 17. On the effective date, any moneys or funds, including cash on hand and moneys due but uncollected, excepting such amount of reserves encumbered for or determined necessary for MHCS D to perform its retained services, and any other obligations of MHCS D shall transfer to the City of Mountain House.

SECTION 18. On the effective date, all priorities of use, or right of use, of water, or capacity rights in any public improvements or facilities or any other property, real or personal, of MHCS D shall transfer to the City of Mountain House, excepting rights related to the enforcement of conditions, covenants, and restrictions.

SECTION 19. On the effective date, the City of Mountain House shall be the successor of MHCS D for the purpose of succeeding to all of the rights, duties, and obligations of MHCS D with respect to enforcement, performance, or payment of any outstanding bonds, including revenue bonds, or other contracts and obligations of MHCS D, excepting those contracts and obligations related to the enforcement of conditions, covenants, and restrictions.

SECTION 20. The San Joaquin County Board of Supervisors shall continue to furnish, without additional charge to the area of incorporation, all services furnished to the area prior to incorporation. Such

services shall be furnished for not less than the remainder of the fiscal year during which the incorporation becomes effective, or until the City Council requests discontinuance of a service or services, whichever shall occur first, in accordance with Government Code Section 57384. Prior to the Commission adopting a resolution making determinations, the San Joaquin County Board of Supervisors may request that the new City of Mountain House reimburse the County for the net cost of services provided, in accordance with Government Code Section 57384, subdivision (b). If so requested, the San Joaquin County Board of Supervisors shall adopt a resolution requesting reimbursement from the City of Mountain House for the net cost of services provided during the transition period.

SECTION 21. Notwithstanding the foregoing, the City of Mountain House shall be entitled to provide any service provided by MHCS D or that has been authorized to be provided by official act of MHCS D, and the City of Mountain House shall have all of the rights and authorities granted to MHCS D by state law, including, but not limited to, Public Utilities Code Sections 9610 and 132655, excepting those services, rights and authorities directly related to the enforcement of conditions, covenants, and restrictions.

SECTION 22. In accordance with Government Code Section 56886(i), the County shall transfer the funds accumulated in the Mountain House Housing Trust Fund, and any such funds due but uncollected, pursuant to Chapter 9-1270M of the County Code to the new City of Mountain House. The City shall use funds only for the purposes authorized by Section 9-1270M.7m of the County Code.

SECTION 23. The regular county assessment roll shall be utilized.

SECTION 24. In accordance with Government Code Sections 56886(t), any previously authorized charge, fee, assessment or general or special tax levied by the County, MHCS D or other subject agency, including, but not limited to, franchise fees, business license fees, property transfer tax, sales and use tax, and any taxes, assessments, fees or charges, are hereby extended and continued, which the new City of Mountain House shall be authorized to levy and collect. This includes the continuation and/or extension of special taxes enabled by MHCS D Ordinances 96-1 (Roads and Transportation Services), 96-2 (Public Safety Services), 96-3 (Parks, Recreation, and Community Facilities and Services), and 96-4 (Public Works), Community Facilities Fees (Mountain House Community Services District Code of Ordinances [the "District Code"] §§ MH-3-1100-1111); Transportation Improvement Fee (District Code, §§ MH-3-1200-1211); Water, Wastewater, and Storm Drainage Charges (District Code, §§ MH-3-1300-1310); Annexation Fees (District Code MH-3-1400–MH-3-1409); and Transportation, Operations and Administration [Special] Tax (District Code MH-3-4000-4004); provided, however, this term and condition shall not apply to any previously authorized charge, fee, assessment or general or special tax levied by MHCS D related to its continued covenants, conditions, and restrictions enforcement powers if any. This term and condition is not intended to and does not prevent the Mountain House City Council from repealing or amending the sections of the District Code referenced herein, if otherwise authorized by law.

SECTION 25. The new City of Mountain House shall have the authority to administer special tax and special assessment districts, including, but not limited to, the levying and collecting of special taxes and special assessments, including the determination of the annual special tax rate within authorized limits; the management of redemption, reserve, special reserve, and construction funds; the issuance of bonds which are authorized but not yet issued at the time of the transfer, including not yet issued portions or phases of bonds which are authorized; supervision of construction paid for with bond or special tax or

assessment proceeds; administration of agreements to acquire public facilities and reimburse advances made to the district; and all other rights and responsibilities with respect to the levies, bonds, funds, and use of proceeds that would have applied to the local agency that created the special tax or special assessment district. This authority shall include such authority of the new City of Mountain House to administer the existing Landscape and Lighting Districts within MHCSD immediately prior to the effective date.

SECTION 26. At the earliest possible time after the effective date, the new City of Mountain House shall take necessary actions to participate in regional agencies, plans and programs, specifically including the San Joaquin Council of Governments; San Joaquin Council of Governments, Inc. (Multi-Species Habitat Conservation Plan); County CDGB program; Public Agency Risk Management Association, Sacramento Chapter; and, San Joaquin Local Agency Formation Commission.

SECTION 27. On the effective date the new City of Mountain House shall assume responsibility for and deliver all functions and services currently provided or authorized to provide by the Mountain House Community Services District, excepting enforcement of the Declaration of Covenants, Conditions and Restrictions associated with the Mountain House Master Plan.

SECTION 28. On the effective date, the new City of Mountain House shall be designated as the successor agency to the MHCSD for the purpose of succeeding to all rights, responsibilities, properties (both real and personal), contracts, equipment, assets, liabilities, obligations, functions, executory provisions, entitlements, permits and approvals attributable to the MHCSD excepting those associated with the enforcement of Conditions, Covenants and Restrictions within the boundaries of MHCSD.

SECTION 29. To the extent otherwise required by law, the new City of Mountain House shall refer applicable projects, as determined by the new City of Mountain House Community Development Director (or similar position), within the boundaries of the new City of Mountain House, including ministerial and discretionary projects, to the County's Environmental Health Department (EHD) for review and comments. Such projects include, but not limited to, the following to the extent applicable:

a) Any geotechnical drilling shall be conducted under permit and inspection by EHD (San Joaquin County Development Title, Section 9-1115.3 and 9-1115.6).

b) Any existing wells, monitoring wells, or septic systems to be abandoned shall be destroyed under permit and inspection by the EHD (San Joaquin County Development Title, Section 9-605.010 & 9-601.020)

c) Any construction of water wells and monitoring wells shall be done under permit and inspection by the EHD (San Joaquin County Development Title, Section 9-601.010(b)).

SECTION 30. To the extent otherwise required by law, the new City of Mountain House shall note on all applicable maps, plans, standards and specifications that project grading, excavation, and other earth moving activities in or directly adjacent to the December 4, 2003 Chevron crude oil release (located at 23577 S. Mountain House Parkway, APN 209-080-26 in the Specific Plan I, Mountain House Business Park) shall not occur until clean-up has been completed and approved by the California Department of Toxic Substances Control and the California Regional Water Quality Control Board. To the extent applicable, the developer(s) shall provide a letter to the San Joaquin Environmental Health Department

(EHD) and any other appropriate agency that the remediation of the site has been completed prior to issuance of building permits.

SECTION 31. On the effective date, MHCS D shall be established as a subsidiary district of the new City of Mountain House for the sole purpose of enforcement of the Declaration of Covenants, Conditions, and Restrictions. The subsidiary district shall assume all rights, responsibilities, properties (both real and personal), contracts, equipment, assets, liabilities, obligations, functions, executory provisions, entitlements, permits and approvals attributable to the enforcement of the Declaration of Covenants, Conditions, and Restrictions.

SECTION 32. On the effective date, the MHCS D as a subsidiary district of the City shall have the same boundaries as the City of Mountain House, and the sphere of influence of MHCS D shall remain unchanged.

SECTION 33. Any territory included within both the boundaries of the new City of Mountain House and the boundaries of MHCS D, that was not included within the boundaries of MHCS D as of the effective date of the Reorganization, shall be subject to the following requirement if independently imposed and/or enforced by the new City of Mountain House: Prior to the issuance of any discretionary or non-discretionary approval by the new City of Mountain House, the applicant shall pay or cause to be paid the entire annexation fee for the associated parcel (as it existed immediately prior to the effective date) as determined pursuant to Chapter MH-4 of Title 3 of the Mountain House Community Services District Code of Ordinances or its successor chapter as may be adopted by the new City of Mountain House. The new City of Mountain House may elect to condition its acceptance of applications on the payment of the annexation fee.

SECTION 34. On the effective date, the City Council shall be designated, and empowered to act, ex officio as the board of directors of the subsidiary district MHCS D and shall continue in existence with all of the powers, rights, duties, obligations, and functions provided for by the principal act except for any provisions relating to the selection or removal of the members of the board of directors of the district in accordance with Government Code Section 57534.

SECTION 35. Pursuant to Government Code Section 56375(o) and Section 56810, and based on Finding 13, the County Auditor shall assign the County of San Joaquin (Tax Code 10001 County General) base property tax of \$1,533, 435 to be transferred from the County of San Joaquin to the proposed new City, adjusted by the change in assessed value to Fiscal Year 2023-2024.

3.79487 percent of each County of San Joaquin tax increment factor, which applied to future changes in property tax, in each MH Tax Rate Area (TRA) shall be transferred to the City of Mountain House and added to the other tax increment factors transferred to the City of Mountain House.

SECTION 36. Pursuant to Government Code Section 56810(d) and consistent with the Section 3.A.12 of the Public Services Allocation Agreement between the County and MHCS D, dated November 18, 2003, and based on Finding 13, the County Auditor shall assign all of County Road District 5 (Tax Code 10527) base property tax in each MH TRA that previously included County Road District 5 to the City of Mountain House.

The tax increment factors of County Road District 5, which apply to future changes in property tax, in each MH TRA that previously included a County Road District 5 tax increment factor shall be transferred

to the City of Mountain House and added to the other tax increment factors transferred to the City of Mountain House.

SECTION 37. Pursuant to Government Code Section 56810 and based on Finding 13, the County Auditor shall assign Mountain House Community Services District (MHCS D Tax Code 26001) base property tax in each TRA to the City of Mountain House to produce the required total property tax of \$6,062,638 to be transferred from MHCS D to the proposed new city, adjusted by the change in assessed value to Fiscal Year 2023-24.

93.7612 percent of the tax increment factors of the MHCS D, which apply to future changes in property tax, in each MH TRA shall be transferred to the City of Mountain House and added to the other tax increment factors transferred to the City of Mountain House.

It is the intention of LAFCO, consistent with the CFA, that the Mountain House Subsidiary District retain 6.2387 percent of the former MHCS D property tax base in each TRA, as adjusted by the change in assessed value to Fiscal Year 2023-24 and retain 6.2387 percent of the former MHCS D tax increment factors in each TRA.

SECTION 38. Pursuant to Government Code Section 56810(d) and based on Finding 13, the County Auditor shall assign all of the Tracy Rural Fire Protection District (Tracy Rural Fire Tax Code 15401) base property tax in each MH TRA that previously included Tracy Rural to the City of Mountain House.

The tax increment factors of Tracy Rural, which apply to future changes in property tax, in each MH TRA that previously included a Tracy Rural tax increment factor shall be transferred to the City of Mountain House and added to the other tax increment factors transferred to the City of Mountain House.

SECTION 39. Prior to the issuance of any permits for ground disturbing activities on Assessor Parcel Numbers 209-060-41&42, 209-080-33, 209-150-27&30, the proposed City of Mountain House shall file an application to SJLAFCo for the detachment of said parcels from the San Joaquin Natural Resource Conservation District and permits for said parcels shall not be issued until a Certificate of Completion for the detachment(s) is/are recorded by the San Joaquin County Recorder's Office.

SECTION 40. In the event that the timely transfer of property and sales tax revenues from the County to the new City of Mountain House does not occur during the transition year, these funds received by the County shall be applied towards reimbursement of County transition year services. Any additional funds received by the County during the transition year, in excess of reimbursements, that otherwise would have accrued to the new City of Mountain House, shall be remitted by the County to the new City of Mountain House.

SECTION 41. Pursuant to Government Code Section 65865.3, on the effective date of the new City of Mountain House any development agreement entered into by San Joaquin County prior to the effective date of the incorporation shall remain valid for the duration of the agreement, or until July 1, 2032, whichever is earlier. The holder of the development agreement and the new City of Mountain House may agree that the development agreement shall remain valid past that date, provided that the term of the agreement does not exceed July 1, 2039. The holder of the development agreement and the new City of Mountain House shall have the same rights and obligations with respect to each other as if the property had remained in the unincorporated territory of San Joaquin County. The new City of Mountain House may modify or suspend the provisions of the development agreement if the new City determines that

the failure of the new City to do so would place the residents of the territory subject to the development agreement, or the residents of the City, or both, in a condition dangerous to their health or safety, or both.

SECTION 42. The Commission assigns the proposal the following short-term designation: “Mountain House Incorporation/ Reorganization”

SECTION 43. MHCS D and/or the City of Mountain House following incorporation, shall defend, indemnify, and hold harmless SJLAFCo, its agents, officers, and employees, from any claim, action, or proceeding against SJLAFCo, its agents, officers, and employees, to attack, set aside, void or annul SJLAFCo’s approval of the Reorganization, adoption of this Resolution, or any of the terms and conditions set forth herein.

SECTION 44. Prior to the issuance of the Certificate of Completion by SJLAFCo, MHCS D shall submit to LAFCo, a final map and geographic description of the affected territory as approved by SJLAFCo conforming to the requirements of the State Board of Equalization – Tax Services Division, and all fees due to SJLAFCo related to processing the Reorganization.

SECTION 45. As allowed under Government Code Section 56107 and Government Code Section 56883, the Commission authorizes the Executive Officer to make non-substantive corrections to this Resolution to address any technical defects, clerical errors, mistakes, irregularities, or omissions.

SECTION 46. Under Government Code Sections 56880-56882, the Executive Officer is hereby authorized and directed to mail copies of this Resolution.

SECTION 47. The Executive Officer is further authorized and directed to prepare, execute, and record a Certificate of Completion, make the required filings with the County Assessor, County Auditor, and the State Board of Equalization as required by Section 57200, et seq., of the Government Code.

SECTION 48. If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable.

PASSED AND ADOPTED this 14th day of September 2023 by the following roll call vote:

AYES:

NOES:

ABSTAIN:

TOM PATTI, CHAIRPERSON
SAN JOAQUIN LOCAL AGENCY
FORMATION COMMISSION

ATTEST:

MITZI STITES, COMMISSION CLERK
SAN JOAQUIN LOCAL AGENCY
FORMATION COMMISSION