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**SAN JOAQUIN  
LOCAL AGENCY FORMATION COMMISSION**

**LAFCo**

44 NORTH SAN JOAQUIN STREET □ SUITE 374 □ STOCKTON, CA 95202

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**Local Agency Formation Commission Special Meeting Agenda  
Thursday, March 3, 2022 9:00 A.M.**

In accordance with the Ralph M. Brown Act (Cal. Gov. Code 54950 *et seq.*), as amended by Assembly Bill 361 (2021), the San Joaquin Local Agency Formation Commission and staff will be participating in this meeting via teleconference. In the interest of maintaining appropriate social distancing, members of the public may participate in the meeting by teleconference.

**TO ATTEND:**

**Join Zoom Meeting:**

<https://us02web.zoom.us/j/86724874456?pwd=RHZaYmtvWlBzMmgyQ3hyNVNWbTgrdz09>

**Meeting ID:** 867 2487 4456

**Passcode:** 553453

**Dial by phone** (669) 900 6833

**Note:** If you don't have access to a smart device or a computer with a webcam & a mic, you can dial in using the teleconference number and meeting ID above.

**Attention Callers:** Please mute the call unless speaking.

\*\*\*To be recognized to speak, please use the "raise hand" or chat feature in Zoom. \*\*\*  
We have also provided a call-in number, as identified on this Agenda, and encourage you to attend by telephone. \*\*\*To be recognized to speak, press \*9 to signal the moderator.\*\*\*

**Download Agenda Packet and Materials at: [www.sjgov.org/commission/lafco](http://www.sjgov.org/commission/lafco)**

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Call to Order

Announce Date and Time of Meeting for the Record

Roll Call

Pledge of Allegiance

**CONSENT ITEMS**

1. MEETING MINUTES OF FEBRUARY 3, 2022  
(Action by All Members)  
Approve Summary Minutes of the regular meeting.

2. **OUT-OF-AGENCY SERVICE REQUEST**

*(Action by Regular Members)*

Request from the City of Stockton to provide out-of-agency sewer service outside the City boundary under Government Code §56133 to 1859 E. Eleventh in Stockton.

3. **DISCUSSION AND POSSIBLE ACTION REGARDING MEETINGS OF THE SAN JOAQUIN LOCAL AGENCY FORMATION COMMISSION UNDER AB 361 USING TELECONFERENCE DURING A PROCLAIMED STATE OF EMERGENCY**

*(Action by All Members)*

Consider Resolution to conduct meetings of the San Joaquin Local Agency Formation Commission using teleconferencing pursuant to Government Code 54953 as amended by Assembly Bill 361 for the period March 8, 2022 to April 8, 2022.

**PUBLIC COMMENTS**

4. Persons wishing to address the Commission on matters not otherwise on the agenda

**EXECUTIVE OFFICER COMMENTS**

5. Comments from the Executive Officer

**COMMISSIONER COMMENTS**

6. Comments, Reports, or Questions from the LAFCO Commissioners

**ADJOURNMENT**

# LAFCo

44 N. SAN JOAQUIN STREET SUITE 374 □ STOCKTON, CA 95202

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**SUMMARY MINUTES OF SPECIAL MEETING  
February 3, 2022**

**VIDEO CONFERENCE**

Chairman Villapudua called the meeting to order at 9:00 A.M.

**MEMBERS PRESENT** Commissioners Breitenbucher, Johnson, Lincoln, Patti and Chairman Villapudua.

**MEMBERS ABSENT:** None

**ALTERNATE MEMBERS PRESENT:** Commissioners Diallo, Morowit and Winn

**ALTERNATE MEMBERS ABSENT:** None

**OTHERS PRESENT:** James Glaser, Executive Officer; Rod Attebery, Legal Counsel and Mitzi Stites, Commission Clerk

Vice Chair Breitenbucher thanked Chairman Villapudua for his dedication and leadership during his year as LAFCo Chairperson.

Chairman Villapudua thanked the Commission and LAFCo Staff and stated it was an honor and pleasure to serve this past year.

Mr. James Glaser, Executive Officer, informed the Commission that the Board of Supervisors have announced their representatives for this year's Commission. Commissioner Villapudua and Commissioner Winn will serve as Regular Members and Commissioner Patti will serve as an Alternate Member.

Commissioner Patti inquired regarding the duties of an Alternate Member.

Executive Officer, Mr. James Glaser, stated that while an Alternate Member will vote on administrative matters such as budget, summary of minutes and personnel matters, they will not vote on any projects requiring a public hearing unless a Regular Voting Member is not in attendance or has a conflict of interest.

An Alternate Member may be involved in the discussion of a project as long as is no conflict of interest.

Commissioner Patti inquired about the restrictions of contribution limits for alternates. Rod Attebery, LAFCo Counsel, responded generally to the question. **CONSENT ITEMS**

Commissioner Johnson inquired on Consent Votes. Since we take all items together, even though two are Administrative Items and one is an Action Item, does the Commission Clerk separate the items.

Mr. James Glaser, Executive Officer, stated yes the Commission Clerk separates the items for the minutes.

A motion was made by Commissioner Johnson and seconded by Commissioner Breitenbucher, to approve the Consent Calendar.

The motion for approval of the Summary Minutes of January 6, 2022 meeting was passed by a unanimous vote of the Commission.

The motion for approval for the out-of-agency service request to properties located at 3344 West Lane, 1648 Myran Avenue, 3536 Mourfield Avenue, 1887 Anita Avenue, and 1863 Anita Avenue in Stockton was passed by a unanimous vote of the regular voting members of the Commission.

### **ACTION ITEMS**

#### **ELECTION OF CHAIR AND VICE-CHAIR**

*(Action by All Members)*

Election of Chair and Vice-Chair to serve during the 2022 calendar year.

Mr. Glaser, Executive Officer, informed the Commission that at the beginning of each calendar year, the Commission selects its Chair and Vice Chair. Although it is not required, the rotation of the Chair has traditionally been City-County-City-County-Public Member. If the Commission choose to follow past practice, a City Member would serve as Chair and a County Member would serve as Vice-Chair this year.

Chairman Villapudua opened the floor to nominations for Chairman. Commissioner Winn nominated Vice Chair Breitenbucher as Chairman.

With no other nominations, Chairman Villapudua closed the nominations for Chair.

Chairman Villapudua asked for a roll call vote.

Roll Call Vote:

Ayes: Commissioner Breitenbucher, Diallo, Johnson, Lincoln, Morowit, Patti, Winn and Chairman Villapudua

Nos: None

Absent: None

Chairman Villapudua opened the nominations for Vice-Chair. Commissioner Breitenbucher nominated Chairman Winn but he declined. Commissioner Winn then nominated Commissioner Patti.

With no other nominations, Chairman Villapudua closed the nominations for Vice-Chair. Chair Pro Tem Patti asked for a roll call vote.

Chairman Villapudua asked for a roll call vote

Roll Call Vote:

Ayes: Commissioner Breitenbucher, Diallo, Johnson, Lincoln, Morowit, Winn and Chairman Villapudua

Nos: Commissioner Patti

Absent: None

### SPECIAL MATTERS

#### TRANSMITTAL OF THE STATEMENT OF DECISION AND JUDGMENT REGARDING EXISTING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(a)

Name of Case: Pacific Gas and Electric Company v. San Joaquin Local Agency Formation Commission, Defendant and Appellant; South San Joaquin Irrigation District, Real Party in Interest and Appellant (San Joaquin County Superior Court Case No. STK-CV-YJR-2015-0001266)

Name of Case: South San Joaquin Irrigation District, Plaintiff and Appellant v. Pacific Gas and Electric Company, Defendant and Respondent v. Pacific Gas and Electric Company, Defendant and Respondent.  
(San Joaquin County Superior Court Case No. STK-CV-UED-2016-0006638)

Mr. James Glaser, Executive Officer informed the Commission of the history of this case.

In December 2014, LAFCo approved the SSJID application to provide electric service subject to several conditions. Condition No. 2 sought to replace lost tax revenue currently paid by PG&E by requiring SSJID to pay 2.5 percent of its gross revenue from retail service as payment in lieu of taxes (PILOT) that would fund approximately 160 agencies in San Joaquin County. Condition No. 4 barred SSJID from taking final action to acquire PG&E's electrical infrastructure until SSJID could show it could provide retail electric service at a 15 percent discount from PG&E's forecasted rates for the next decade. Both conditions were the subject of the appeal.

LAFCo and SSJID prevailed on all of the issues. The Court ruled that the transfer of monies from SSJID to the other agencies in the county was not unconstitutional, did not require a vote and was not a gift of public funds. They reasoned that since the money doesn't come directly from taxpayers (they had other sources of funding), it was not considered a tax and therefore not subject to any vote. They also reasoned that since the money was being used for a public

purpose it was not a gift of public funds. A gift of public funds, in their opinion, refers to monies that are being used for a private purpose.

PG&E has filed a Petition for Review by the Supreme Court of California (copy attached). The Supreme Court must decide if they will hear the case. Special recognition was given to Dan Truax and Rod Attebery of the law firm of Neumiller and Beardslee for their efforts in this matter.

### **PUBLIC COMMENTS**

No one came forward.

### **EXECUTIVE OFFICER COMMENTS**

James Glaser, Executive Officer, informed the Commission that staff is currently working on the Comprehensive Fiscal Analysis (CFA) for the Incorporation of Mountain House. This can be a lengthy process and we are hopeful that we can get this done before July. Manteca is working on their Municipal Service Review. The Cities of Lodi and Escalon are currently working on their Municipal Service Reviews and Spheres of Influence. Stockton has several annexation projects.

Rod Attebery, Legal Counsel, addressed the Commission regarding an update on the Ad Hoc Committee to oversee the recruitment for a new Executive Officer. The Ad Hoc Committee have selected Bob Murray and Associates. He also informed the Commission that Mr. Gary Phillips from Bob Murray and Associates will be calling each Commissioner. There will be a closed session in the near future to discuss the complete process of hiring a new Executive Officer.

Commissioner Patti stated that he has had inquiries for this position.

Mr. Glaser, Executive Officer stated that there might have been a misunderstanding on the actual date of his retirement. Although he had originally said first or second quarter he respects this agency and Commission and will stay during the transition, even if it will go into July. There are several active projects. Mr. Glaser stated that he has not given a specific retirement date.

Rod Attebery, Legal Counsel, stated that he had turned over the one name to Bob Murray and Associates and would do the same for the other recommendation that any Commissioner may have.

Commissioner Winn stated that Jim has been the most effective Executive Officer in the State and he understands Jim's vision to retire, he appreciates Jim's dedication to stay through this transition. His legacy will stand once you have retired. Thank you for your service and dedication throughout these years.

## **COMMISSIONER COMMENTS**

Comments, Reports, or Questions from the LAFCO Commissioners

The meeting adjourned at 9:47 a.m..

# **LAFCo**

44 NORTH SAN JOAQUIN STREET □ SUITE 374 □ STOCKTON, CA 95202

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## **EXECUTIVE OFFICER'S REPORT**

March 3, 2022

TO: LAFCo Commissioners

FROM: James E. Glaser, Executive Officer

SUBJECT: **CITY OF STOCKTON OUT-OF-AGENCY SERVICE REQUEST**

### **Recommendation**

It is recommended that the Commission approve the requests from the City of Stockton to provide out-of-agency sewer service under the Government Code §56133 to the property located at 1859 E. Eleventh Street in Stockton.

### **Background**

Government Code Section §56133 states that the Commission may authorize a city or special district to provide new or extended services outside its jurisdictional boundaries but within its sphere of influence in anticipation of a later change of organization and that prior to providing new or extended service, the city or district must first receive approval from LAFCo. The Commission adopted a policy that conditions their approval for out-of-agency service requiring the recordation of an agreement with the landowner consenting to annexation of their property when annexation becomes feasible.

The City of Stockton submitted requests for approval to extend sanitary sewer services to future commercial building located outside the city limits but within the City's sphere of influence. A vicinity map is attached showing the locations of each out-of-agency request. Connections to City sewer lines are available to the property and the property owners have paid the appropriate connection fees to the City. The requests for out-of-agency service are in compliance with the Government Code §56133 and Commission policies. Staff recommends approval of the attached Resolution 1464 approving out-of-agency services.

Attachment: Resolution No. 1464  
Vicinity Map



**Resolution No. 1464**

**BEFORE THE SAN JOAQUIN LOCAL AGENCY FORMATION COMMISSION  
APPROVING AN OUT-OF-AGENCY SANITARY SEWER SERVICE FROM THE  
CITY OF STOCKTON TO 1859 E. ELEVENTH STREET IN STOCKTON**

WHEREAS, the above-reference requests have been filed with the Executive Officer of the San Joaquin Local Agency Formation Commission pursuant to §56133 of the California Government Code.

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

Section 1. Said out-of-agency service request is hereby approved.

Section 2. The proposal is found to be Categorically Exempt from CEQA.

Section 3. The proposal is subject to the following conditions:

- a. Prior to connection to the city sewer or water, the City of Stockton shall record a covenant and agreement with the property owners to annex to the City of Stockton in a form acceptable to the Executive Officer.
- b. This approval and conditions apply to current and future property owners.

PASSED AND ADOPTED this 3rd day of March 2022, by the following roll call votes:

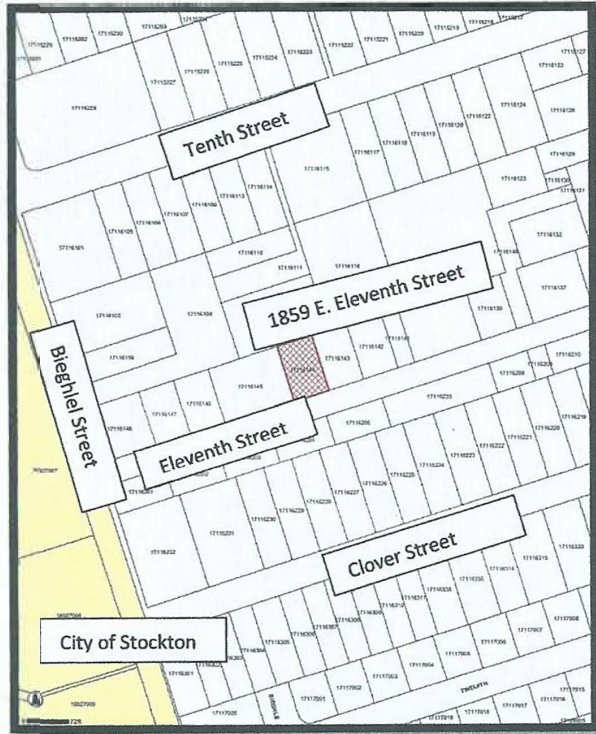
AYES:

NOES:

ABSENT:

DAVID BREITENBUCHER, Chairman  
San Joaquin Local Agency  
Formation Commission

Res. No. 1464  
03-03-21



# LAFCo

44 NORTH SAN JOAQUIN STREET, SUITE 374 □ STOCKTON, CA 95202

## EXECUTIVE OFFICER'S REPORT

DATE: March 3, 2022

FROM: Rod Attebery, General Counsel

**SUBJECT: Discussion and Possible Action Regarding Meetings of the San Joaquin Agency Formation Commission Under AB 361 Using Teleconference During a Proclaimed State of Emergency**

### Recommendation

It is recommended that the Commission approve the attached LAFCo resolution 1465 authorizing Commission to conduct meeting of the San Joaquin Local Agency Formation Commission using teleconferencing pursuant to Government Code 45942 as amended by AB 361 for the period of March 8, 2022 through April 8, 2022.

### Background

On September 16, 2021, Governor Gavin Newsom signed Assembly Bill 361 ("AB 361") into law, amending the Ralph M. Brown Act (Gov. Code, § 54950 *et seq.*) (the "Brown Act"). AB 361 codified certain modified requirements for teleconference meetings held by public agencies, similar to those previously authorized and extended by executive order during the COVID-19 State of Emergency.

AB 361 was introduced to provide a longer-term solution for teleconference meetings during states of emergency, effective until January 1, 2024. AB 361 amends Section 54953 of the Government Code to allow the legislative body of a local agency to meet remotely without complying with the normal teleconference rules for agenda posting, physical location access, or quorum rules. To do so, one of three scenarios must exist, all of which require that the Governor has proclaimed a State of Emergency pursuant to Government Code section 8625:

- A. State or local officials have imposed or recommended measures to promote social distancing;
- B. The agency is holding a meeting for the purpose of determining whether meeting in person would present imminent risks to the health or safety of attendees; or
- C. The agency is holding a meeting and has determined that meeting in person would present imminent risks to the health or safety of attendees.

(Gov. Code, § 54953(e)(1).)

An agency and any committee that is required to comply with the Brown Act, that holds a meeting under either of the three scenarios must continue to post its agenda in the time required by the Brown Act, and ensure that the public is able to address the agency or committee directly through teleconference means. (*Id.* at subd. (e)(2). If a disruption prevents the agency or committee from broadcasting the meeting or receiving public comments in real time, the agency or committee cannot take further action until those functions are restored; any actions taken during such a disruption are subject to legal challenge. (*Id.*)

Assuming the State of Emergency remains in effect, if the San Joaquin Local Agency Formation Commission (“LAFCo” or the “Commission”) or LAFCo committees wish to continue meeting under the modified rules, then the Commission, and each committee that wants to continue to meet using teleconference must each individually adopt an initial resolution within 30 days of the first teleconference meeting, and then must adopt an extension resolution at least every 30 days thereafter. (*Id.* at subd. (e)(3).) The resolutions must contain findings stating that the Commission or committee has reconsidered the circumstances of the State of Emergency and either (1) the State of Emergency continues to directly impact the ability of the members to meet safely in person; or (2) State or local officials continue to impose or recommend measures to promote social distancing. (*Id.*)

Where consecutive regular meetings fall outside the 30-day time frame, the Commission or committee should hold a special “AB 361” remote meeting within the 30-day window simply to reauthorize the AB 361 exceptions. Without the AB 361 exceptions, the Commission or committee will be required to return to normal in-person meetings or provide public access at each remote location under the traditional teleconference rules, as of October 1, 2021. Therefore, if the AB 361 authorization lapses and the Commission or a committee wishes to hold a teleconference meeting, it will be required to post agendas and provide public access at each remote location, identify those locations in the agenda, and maintain a quorum of the Commission within agency boundaries. If a meeting is not held in conformity with AB 361, commissioners may not teleconference from their residences or other locations which are not open and accessible to the public.

**FISCAL IMPACT:**

None.

Attachment: Resolution 1465

**Resolution No. 1465**

**BEFORE THE SAN JOAQUIN LOCAL AGENCY FORMATION COMMISSION  
AUTHORIZING COMMISSION TO CONDUCT MEETINGS OF THE SAN JOAQUIN  
LOCAL AGENCY FORMATION COMMISSION USING TELECONFERENCING  
PURSUANT TO GOVERNMENT CODE 54953 AS AMENDED BY AB 361 FOR THE  
PERIOD MARCH 8, 2022 TO APRIL 8, 2022**

WHEREAS, the San Joaquin Local Agency Formation Commission (“LAFCo”) is committed to preserving and nurturing public access and participation in meetings of the Commission; and

WHEREAS, all meetings of LAFCo’s legislative bodies are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963), so that any member of the public may attend, participate, and watch LAFCo’s legislative bodies conduct their business; and

WHEREAS, the Brown Act, Government Code section 54953(e), as amended by AB 361 (2021), makes provisions for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, a required condition is that a state of emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558; and

WHEREAS, it is further required that state or local officials have imposed or recommended measures to promote social distancing, or, the legislative body meeting in person would present imminent risks to the health and safety of attendees; and

WHEREAS, on March 4, 2020, the Governor proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS, Cal-OSHA adopted emergency regulations (Section 3205) imposing requirements on California employers, including measures to promote social distancing; and

WHEREAS, an Order of the San Joaquin County Public Health Officer acknowledges that close contact to other persons increases the risk of transmission of COVID-19; and

WHEREAS, currently the dominant strain of COVID-19 in the country, is more transmissible than prior variants of the virus, may cause more severe illness, and that even fully vaccinated individuals can spread the virus to others resulting in rapid and alarming rates of COVID-19 cases and hospitalizations, therefore, meeting in person would present imminent risks to the health or safety of attendees.

NOW, THEREFORE, BE IT RESOLVED, that the San Joaquin Local Agency Formation Commission approves

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. Finding of Imminent Risk to Health or Safety of Attendees. LAFCo does hereby find that the current dominant strain of COVID-19 in the country, is more transmissible than prior variants of the virus, may cause more severe illness, and that even fully vaccinated individuals can spread the virus to others resulting in rapid and alarming rates of COVID-19 cases and hospitalizations has caused, and will continue to cause, conditions of peril to the safety of persons, thereby presenting an imminent risk to health and/or safety to LAFCo's employees and attendees of the Commission's public meetings; and

Section 3. Teleconference Meetings. LAFCo does hereby determine as a result of the State of Emergency proclaimed by the Governor, and the recommended measures to promote social distancing made by State and local officials that the Commission may conduct their meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953, as authorized by subdivision (e)(1)(A) and (B) of section 54953, and shall comply with the requirements to provide the public with access to the meetings as prescribed in paragraph (2) of subdivision (e) of section 54953; and

Section 4. Direction to Staff. The Executive Officer and LAFCo staff are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including, conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

Section 5. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED this 3rd day of March 2022, by the following roll call vote:

AYES:

NOES:

ABSENT:

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DAVID BREITENBUCHER, Chairman  
San Joaquin Local Agency  
Formation Commission