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County of Imperial
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Assigned for All Purposes Including Trial To:

Hon. L. Brooks Anderholt

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF IMPERIAL**

Tom Dubose, Kevin Smith, Ryan
Dickerson, Daryl Dickerson and
Carl Stills

Petitioners

vs.

County of Imperial and
Linsey Dale, in Her Official Capacity as
Imperial County Registrar of Voters

Respondents

Kristian Salgado, Francisco Leal,
Christopher Scurries, James Tison and
Jacob Rodriguez

Real Parties in Interest

Case No: ECU004709

Judge: L. Brooks Anderholt

**VERIFIED PETITION FOR WRIT
OF MANDATE, DECLARATORY
AND INJUNCTIVE RELIEF**
(Code of Civil Proc §§ 1085 and 1060)

(1) Initiative violates the Single-Subject
Rule (Cal. Const., art. II, § 8(d));
(2) Initiative exceeds local initiative
power by regulating administrative,
ministerial, and quasi-judicial functions;
(3) Section 6 violates Elec. Code § 9122;
(4) Sect. 13 violates First Amendment;
(5) Sect. 13 is preempted by the Political
Reform Act (Gov Code 81000 et seq.);
(6) Section 13.D violates Due Process;
unconstitutional bill of attainder;
(7) Sections 8 and 11 violate Separation
of Powers

**VERIFIED PETITION FOR WRIT OF MANDATE AND
COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**
(Code of Civil Proc §§ 1085 and 1060)

Petitioners Tom Dubose, Kevin Smith, Ryan Dickerson, Daryl Dickerson, and Carl
Stills allege as follows:

INTRODUCTION

1. This action seeks pre-election writ, declaratory, and injunctive relief concerning a proposed county initiative entitled the “Imperial County Data Center Prohibition Act” (the “Initiative” or “proposed measure”) attached as EXHIBIT A.

2. The proposed measure is facially defective in seven independent respects. FIRST, it violates the single-subject rule (Cal. Const., art. II, § 8(d)) by combining a land-use prohibition with a separate ethics, liability, criminal-enforcement, disclosure, and elector-enforcement regime. SECOND, it exceeds the local initiative power by attempting to regulate administrative, ministerial, and quasi-judicial functions that may not be controlled through the initiative process. THIRD, the initiative’s retroactivity clause is void because it purports to give the ordinance legal effect before voter approval and its statutory effective date. FOURTH, Section 13 violates the First Amendment by burdening core political speech and the right to petition government. FIFTH, Section 13 is preempted by the Political Reform Act (Gov. Code §§ 81000 et seq.). SIXTH, Section 13.D violates due process and constitutes an unconstitutional bill of attainder by disqualifying identifiable persons from public office and employment based solely on past lawful conduct. SEVENTH, Sections 8 and 11 violate separation of powers by constraining judicial authority and predetermining the effect of court orders.

3. Article II, section 8, subdivision (d) of the California Constitution expressly prohibits submission to the electors of any initiative measure embracing more than one subject. Article II, section 11 limits the initiative power of county electors to those procedures and limitations provided by law.

4. The proposed measure violates these constitutional limitations. It combines at least two distinct subjects: (a) a countywide general-plan and zoning prohibition on data centers in unincorporated Imperial County, and (b) a separate governmental ethics, liability, disclosure, criminal-enforcement, and private-enforcement regime directed at county officers, employees, paid representatives, bonding companies, and electors.

5. The Initiative also impermissibly commandeers county administration. It forbids county officers and employees from accepting, processing, reviewing, recommending, approving, signing, issuing, recording, or otherwise acting on data-center applications (including pending applications and ministerial approvals). It further dictates recusal procedures, disclosure filings, County Counsel forms, public registers, bond liability, personal liability, and the litigation consequences of future administrative acts. These provisions are administrative and quasi-judicial in substance, not legislative.

6. Because the defects are apparent on the face of the proposed initiative, Petitioners seek a writ directing Respondents not to further process, certify, circulate, or submit the Initiative to the voters.

PETITIONERS

7. Petitioners Tom Dubose, Kevin Smith, Ryan Dickerson, Daryl Dickerson, and Carl Stills (collectively, “**Petitioners**”) are residents, taxpayers, registered voters, and property owners in Imperial County, California. As registered voters and taxpayers, Petitioners are entitled to insist that measures presented to the electorate comply with the California Constitution and the Elections Code. They also seek to prevent the unlawful expenditure of public resources on an invalid initiative process.

RESPONDENTS AND REAL PARTIES IN INTEREST

8. Respondent, Linsey Dale, is the Imperial County Registrar of Voters and is sued in her official capacity. She is the local elections official charged with receiving, processing, and taking official action with respect to county initiative submissions.

9. Respondent County of Imperial is a political subdivision of the State of California and acts through its officers, departments, and agencies in processing local initiative measures.

10. Real Parties in Interest Kristian Salgado, Francisco Leal, Christopher Scurries, James Tison, and Jacob Rodriguez (collectively, “**Proponents**”) are the proponents of the proposed initiative identified as such in the notice of intention.

1 **JURISDICTION AND VENUE**

2 11. This Court has jurisdiction under Code of Civil Procedure §§ 1085 and 1060
3 and article II, §§ 8 and 11 of the California Constitution.

4 12. Petitioners seek writ and declaratory relief to prevent official action on a
5 proposed measure that is invalid on its face.

6 13. Venue is proper in Imperial County because Respondents perform their
7 official duties in Imperial County, the proposed measure concerns Imperial County law and
8 elections, and the acts complained of occurred and continue to occur in Imperial County.

9 14. The controversy is ripe. The proposed measure was submitted to the County
10 elections official on or about April 2, 2026, with a request that County Counsel prepare the
11 official ballot title and summary. Pre-election relief is necessary to prevent an invalid
12 measure from proceeding further.

13 **FACTUAL ALLEGATIONS**

14 15. On or about April 2, 2026, Proponents submitted an initiative entitled the
15 “Imperial County Data Center Prohibition Act” to the Imperial County Registrar of Voters
16 and requested preparation of a ballot title and summary.

17 16. The proposed measure states in its title that it would: (a) amend the Imperial
18 County general plan and zoning ordinance to prohibit data centers in unincorporated
19 Imperial County; (b) establish misdemeanor penalties; (c) prohibit the unlawful expenditure
20 of County resources; (d) establish official bond liability for nonfeasance; (e) establish a
21 supplemental conflict-of-interest and paid-representative disclosure policy; and (f) create
22 a private right of action for electors.

23 17. As the initiative’s title confirms the proposed measure goes well beyond a
24 zoning prohibition of data centers and includes criminal penalties, restrictions on County
25 expenditures, conflict-of-interest and paid-representative disclosure requirements, official
26 bond liability, and a private enforcement mechanism for electors.

27 18. Section 2, the findings and purpose section, emphasizes Colorado River water
28 scarcity, Imperial County agriculture, Salton Sea toxic dust, asthma rates, diesel backup
generators, pollution, and strain on the power grid. (§§ 2.C, 2.D, 2.E, 2.G, 2.H, 2.P.)

1 19. The initiative states that it is a “general and neutral regulation of land use”
2 and is “not directed at any particular property owner, developer, applicant, or pending
3 project.” (§ 2.M.) At the same time, the findings identify a supposed regulatory gap by
4 asserting that the existing “industrial designation that applies to a server room in a
5 warehouse applies to a 75-acre AI training campus drawing tens of millions of gallons of
6 water per year.” (§ 2.I.) That acreage matches the pending Aton Road data center.

7 20. Section 3 broadly defines “Data Center” as a facility using five megawatts
8 or more of electrical power. (§ 3.A.) The initiative defines “Land Use Entitlement” as
9 including any “building permit,” “grading permit,” “certificate of occupancy,” or any
10 **“ministerial approval”** for a data center. (§ 3.C.) The initiative defines a “Pending
11 Application” as any application for a Land Use Entitlement for a data center that has been
12 received by the County but has not been finally approved, with all applicable appeal and
13 review periods fully exhausted, as of the ordinance’s effective date. (§ 3.E.)

14 21. Sections 4 and 5 amend the General Plan and Zoning Ordinance to prohibit
15 data centers in all zoning districts in unincorporated Imperial County.

16 22. Section 6 prohibits the County from processing data center applications and
17 states that it “applies to all Pending Applications as of the effective date of this Ordinance.”
18 . (§ 6.B.) Section 6.C, entitled “Retroactivity and Pending Initiative Notice,” provides:

19 “This Ordinance **applies retroactively to all Pending Applications**
20 regardless of the date on which such applications were filed. No vested right
21 to develop a Data Center shall be deemed to have arisen from the filing,
22 pendency, or processing of any application that was not finally approved,
23 with all applicable administrative appeal periods, CEQA challenge deadlines,
24 and judicial review periods fully exhausted, before the effective date of this
25 Ordinance. Any application for a **Land Use Entitlement for a Data Center**
26 **filed on or after the date on which the [April 2, 2026] Notice of Intention**
27 **to circulate** this initiative petition is filed with the Imperial County Elections
28 is filed with actual and constructive knowledge that a pending initiative
measure seeks to prohibit Data Centers in unincorporated Imperial County.
No person or entity filing such an application may claim any reliance
interest, vested right, equitable estoppel, or investment-backed expectation
arising from that filing, the County’s receipt of that filing, or any action
taken by the County on that filing prior to the effective date of this
Ordinance.” (§ 6.C.)

1 23. Section 7 provides limited exceptions for pre-existing, lawfully operating
2 data centers. Section 8 prohibits the County from repealing, weakening, or circumventing
3 the ordinance except through minor technical corrections or court-required changes.
4 Section 9 declares the ordinance exempt from CEQA. Section 10 requires the ordinance
5 to be construed broadly to achieve its purposes and includes severability, competing-
6 measures, and cumulative-remedies provisions.

7 24. Section 11 makes any violation of the ordinance a misdemeanor punishable
8 by up to six months in jail, a fine of up to \$1,000, or both. Each day a violation occurs
9 constitutes a separate offense. (§ 11.A.) Section 11 also makes the expenditure of County
10 resources in violation of the ordinance unlawful and provides that any County officer or
11 employee who authorizes such an expenditure is “**personally liable**” for the amount,
12 recoverable through a taxpayer or elector lawsuit. (§ 11.C.) The ordinance provides any
13 violation constitutes a public nuisance subject to abatement, and any Land Use Entitlement
14 issued in violation of the ordinance is “void ab initio” and “**confers no vested rights** upon
15 any applicant, developer, contractor, owner, or operator.” (§§ 11.G, 11.H.)

16 25. Section 12, creates official bond liability, and places financial pressure on
17 County officials by allowing any elector to sue an officer and the officer’s bonding
18 company to recover penalties or damages. Specifically, “Any Elector may bring an action”
19 against an officer’s official bond to recover “damages, penalties, or forfeitures arising from
20 that officer’s violation of this Ordinance.” (§ 12.D.) County employees who are not
21 required to maintain an official bond remain subject to “**personal criminal liability**” and
22 “**personal civil liability**” for violations. (§ 12.E.)

23 26. Section 13 creates a supplemental conflict-of-interest, recusal, and paid-
24 representative disclosure policy. It declares that matters involving data centers require
25 additional rules to protect the integrity of the County administrative process and asserts that
26 any effort to influence County officers or officials is, in practical effect, an attempt to
27 influence the conditions of a future election. (§ 13.A.)
28

1 27. Section 13 establishes enhanced conflict-of-interest and disclosure rules
2 designed to protect the integrity of “the county administrative process.” It creates a
3 **“supplemental conflict of interest, recusal, and paid representative disclosure policy”**
4 for matters involving data centers and declares that any “effort to influence” County
5 officials is “an attempt to influence the conditions of a future election.” (§ 13.A.) Any
6 County employee who processes a Land Use Entitlement for a data center must disclose
7 in writing any relationships with any data center developer. (§ 13.B.) Any County officer
8 or employee with a conflict must be recused from all participation in official action,
9 including “deliberation, discussion, recommendation, and any vote.” (§ 13.C.)

10 28. Any County officer or employee who, within the preceding five years, served
11 as a paid representative for any data center developer must also be recused from all
12 participation in official action, and this “revolving door” recusal requirement is made a
13 condition of holding public office or employment. (§ 13.D.) Section 13 requires a recused
14 County officer to “physically leave the room during any deliberation, discussion, or vote”
15 and to file a “written recusal statement.” (§ 13.E.) “Any Paid Representative” must
16 “disclose on the public record” the “general nature of the compensation arrangement.” (§
17 13.F.) The County “shall maintain a publicly accessible register of all disclosures.” (§
18 13.G.) “Any person who knowingly makes a materially false” disclosure “is guilty of a
19 misdemeanor.” (§ 13.H.) “Any Land Use Entitlement that “failed to comply with the
20 mandatory recusal” is “voidable” and “any elector may seek to void such action.” (§ 13.I.)

21 29. Section 14 creates a private right of action allowing any registered voter to
22 enforce the ordinance, void improper actions, and seek attorney’s fees. An elector may
23 bring an action challenging the “acceptance, processing, recommendation of approval,
24 approval, or issuance of any Land Use Entitlement for a Data Center”; any violation of the
25 conflict-of-interest, disclosure, recusal, revolving-door, or paid-representative disclosure
26 requirements; any unlawful expenditure of County resources; and “any other material
27 violation of any provision of this Ordinance.” (§ 14.B.) Available relief includes “an order
28 voiding any Land Use Entitlement.” (§ 14.C.) The ordinance further provides that the
“court shall award reasonable attorney’s fees and costs to the prevailing Elector.” (§ 14.D.)

30. The proposed measure thus creates multiple independent enforcement mechanisms, including voter lawsuits, court-ordered relief, criminal penalties, public nuisance abatement, official bond liability, personal civil liability, and attorney-fee awards. The Initiative enforcement structure goes far beyond typical local zoning restrictions and is designed to prevent any administrative implementation of the pending data center.

FIRST CAUSE OF ACTION

(Initiative Violates the Single-Subject Rule - Cal. Const., art. II, § 8(d))

31. Petitioners incorporate by reference each preceding paragraph of this Petition as though fully set forth herein.

32. Article II, section 8, subdivision (d) of the California Constitution provides that “[a]n initiative measure **embracing more than one subject may not be submitted to the electors** or have any effect.” California courts apply the “reasonably germane” test, asking whether the provisions of a challenged measure are reasonably germane to a common theme, purpose, or subject. The single-subject rule is not satisfied by defining the subject at an excessively general level that would permit unrelated provisions to be combined in one measure. (*Senate of the State of California v. Jones* (1999) 21 Cal.4th 1142; *Chemical Specialties Manufacturers Assn., Inc. v. Deukmejian* (1991) 227 Cal.App.3d 663; *California Trial Lawyers Assn. v. Eu* (1988) 200 Cal.App.3d 351.)

33. The initiative is titled the “Imperial County Data Center Prohibition Act” and its land-use core does amend the Imperial County general plan and zoning ordinance to prohibit data centers in unincorporated Imperial County. Standing alone, that land-use prohibition would present a single legislative question: whether data centers should be allowed as a permissible use in unincorporated Imperial County.

34. The initiative does not stop at banning data centers, it also establishes misdemeanor penalties, prohibits expenditures of County resources, imposes personal liability on County officers and employees, establishes official bond liability, creates supplemental conflict-of-interest and paid-representative disclosure rules, mandates recusal procedures, and creates a private right of action for electors.

1 35. The proposed initiative is not limited to a single land-use question. The
2 initiative’s title announces that the initiative would (1) “Amending the Imperial County
3 General Plan Land Use Element and Zoning Ordinance to Prohibit Data Centers in the
4 Unincorporated” Imperial County; (2) “Establishing Misdemeanor Penalties”; (3)
5 “Prohibiting Unlawful Expenditure of County Resources”; (4) “Establishing Official Bond
6 Liability for Nonfeasance”; (5) “Establishing a Supplemental Conflict of Interest and Paid
7 Representative Disclosure Policy”; (6) “Creat[e] a Private Right of Action for Electors.”

8 36. The initiative combines at least two subjects: (a) a countywide General Plan
9 and zoning prohibition on data centers, and (b) a separate governmental ethics, liability,
10 disclosure, criminal-enforcement, and private-enforcement regime.

11 37. The land-use provisions are readily identifiable. The proposed measure
12 defines “Data Center,” amends the general plan and zoning ordinance to prohibit data
13 centers in all zoning districts, applies that prohibition to pending applications, and restricts
14 repeal or weakening of the prohibition. These provisions concern the land-use policy
15 question whether data centers may be established in unincorporated Imperial County.

16 38. The remaining provisions regulate different actors, different conduct, and
17 different legal relationships. They create criminal exposure for violations of the ordinance,
18 including conduct by County officers and employees who accept, process, recommend,
19 approve, issue, or facilitate land-use entitlements for prohibited data centers. They also
20 declare certain expenditures of County resources unlawful and impose personal liability on
21 County officers or employees who authorize those expenditures.

22 39. The official bond provisions are distinct from land-use regulation. Section
23 12 authorizes any elector to sue a County officer’s official bond to recover “damages,
24 penalties, or forfeitures arising from that officer’s violation of this Ordinance.” (§ 12.D.)
25 County employees without official bonds are subject to “**personal criminal liability**” and
26 “**personal civil liability**” for violations. (§ 12.E.). These provisions do not regulate land
27 use, they instead create a separate remedial and financial-liability scheme directed at public
28 officials and their sureties.

1 40. Section 13 separately establishes an extensive “Supplemental Conflict of
2 Interest, Recusal, and Paid Representative Disclosure Policy.” Section 13 requires written
3 disclosures by County officers and employees, mandates recusal, imposes a five-year
4 “revolving door” recusal rule, requires disclosures by paid representatives of the data center
5 developer, mandates a public register, criminalizes false or omitted disclosures, and makes
6 certain official actions voidable for noncompliance.

7 41. Those ethics and disclosure provisions regulate who may participate in
8 County decision making, what County officials and employees must disclose, when they
9 must recuse, and what paid representatives must disclose before appearing before or
10 communicating with the County. That is a distinct subject from whether data centers are
11 a permissible land use in unincorporated Imperial County.

12 42. Section 14 then creates a private right of action allowing any registered voter
13 to sue to enforce the ordinance, challenge the acceptance or processing of data-center
14 applications, void improper approvals, recover unlawful expenditures, enforce disclosure
15 and recusal obligations, and obtain attorney’s fees. This private-enforcement mechanism
16 is a broad litigation regime empowering private electors to police County officials, County
17 employees, and third-party participants.

18 43. The proposed measure’s own findings confirm that these additional
19 provisions are not incidental. The findings declare that because voter repeal would be the
20 only lawful future path to authorize a data center, efforts to influence County officers or
21 employees concerning repeal, amendment, enforcement, or circumvention are, in practical
22 effect, attempts to influence a future election. On that basis, the proposed measure declares
23 that conflict-of-interest, disclosure, and paid-representative transparency requirements are
24 “necessary” to protect the “integrity of the administrative process.” (§ 2.K.)

25 44. The findings further declare that personal criminal liability, official bond
26 liability, supplemental conflict-of-interest obligations, paid-representative disclosure
27 requirements, and a private right of action for electors are “necessary and proper.” (§ 2.L.)
28

1 Those statements demonstrate that the proposed measure affirmatively creates legal
2 regimes beyond the underlying land-use prohibition.

3 45. California’s single-subject rule does not permit proponents to combine
4 distinct subjects merely by describing all collateral provisions as enforcement. If that were
5 enough, any initiative could combine a substantive policy choice with collateral ethics
6 rules, criminal penalties, civil liability, lobbying disclosures, bond remedies, and private
7 lawsuits by asserting that each collateral regime helps enforce the measure. That approach
8 would eliminate the limiting force of the single-subject rule.

9 46. The proposed measure’s severability clause reinforces the point. The measure
10 states the “People expressly find that this Ordinance fully **accomplishes its core purpose**
11 of prohibiting Data Centers in unincorporated Imperial County **through Sections 4 and 5**
12 **independently.**” (§ 10.C.) If the general plan and zoning ordinance amendments (§§ 4, 5)
13 independently accomplish the initiative’s core purpose of prohibiting data centers, then the
14 criminal, ethics, liability, disclosure, bond, and private-enforcement provisions are
15 additional subjects appended to the core data center ban. This is precisely what the single-
16 subject rule is designed to prevent: “[a]n initiative measure **embracing more than one**
17 **subject may not be submitted to the electors** or have any effect.” (Cal. Const. Art. II, §
18 8, subd. (d)).

19 47. The proposed measure violates article II, section 8, subdivision (d) of the
20 California Constitution by combining a core land-use prohibition of data centers with a
21 separate ethics, liability, disclosure, criminal-enforcement, bond, and private-enforcement
22 code. Because those components are not reasonably germane to a single common subject
23 the proposed measure may not be submitted to the electors or have any effect.

24 **SECOND CAUSE OF ACTION**
25 **(Initiative Exceeds the Local Initiative Power by Commandeering**
26 **Administrative, Ministerial, and Quasi-Judicial Functions)**

27 48. Petitioners incorporate by reference each preceding paragraph of this Petition
28 as though fully set forth herein.

1 49. The proposed measure exceeds the local initiative power because it does not
2 merely enact a legislative land-use policy. Although the measure contains a legislative core
3 - amending the general plan and zoning ordinance to prohibit data centers - it goes much
4 further by attempting to control how County officers, County employees, County Counsel,
5 the Clerk of the Board, paid representatives, and other participants must act in pending and
6 future permitting, enforcement, disclosure, recusal, and adjudicatory proceedings.

7 50. California law distinguishes legislative acts, which may be adopted by
8 initiative, from administrative or quasi-judicial acts, which may not. (*Yost v. Thomas* (1984)
9 36 Cal.3d 561, 570; *San Diego v. Dunkl* (2001) 86 Cal.App.4th 384.)

10 51. The initiative power extends only to legislative acts. It does not authorize
11 voters to direct how executive officers perform existing duties, interfere with the
12 processing of particular permits, or dictate the conduct of administrative or quasi-judicial
13 proceedings. (*City of San Diego v. Dunkl* (2001) 86 Cal.App.4th 384.)

14 52. In *Park at Cross Creek v. City of Malibu* (2017) 12 Cal.App.5th 1196, the
15 Court of Appeal invalidated a measure that required the city to prepare specific plans and
16 submit them to voters. The court explained that “there is a difference between, on the one
17 hand, voter approval of a specific plan and, on the other, requiring a city council to prepare
18 a specific plan and report, to hold a public hearing about the specific plan and report, and
19 then requiring the plan to be submitted to voters for approval. The former is a legislative
20 act; the latter is an adjudicative one.”

21 53. In *Citizens for Jobs & the Economy v. County of Orange* (2002) 94
22 Cal.App.4th 1311, the court invalidated an initiative that imposed procedural restrictions
23 and roadblocks on future county action rather than merely establishing substantive policy.
24 The same defect is present here: the proposed initiative does not simply announce a
25 land-use standard, it commandeers the County’s administrative process.

26 **The proposed measure exceeds the scope of legislative power.**

27 54. The proposed measure crosses the legislative-administrative line repeatedly.
28 Section 6.B prohibits all County officers and employees from accepting, processing,

1 reviewing, recommending, approving, signing, issuing, recording, or otherwise acting upon
2 any data-center application, including pending applications. That is not merely a
3 prospective land-use rule; it is a command governing the handling of specific
4 administrative matters.

5 55. The definition of “Land Use Entitlement” confirms the measure’s
6 administrative reach. It includes “any permit, approval, license . . . **building permit,**
7 **grading permit . . . certificate of occupancy,** or other . . . **ministerial approval** issued by
8 or on behalf of the County that is required for or that materially facilitates the construction,
9 installation, operation, or expansion of a data center.” (§ 3.C.) By sweeping ministerial
10 permits and certificates into the initiative ordinance, the proposed measure attempts to
11 regulate day-to-day administrative implementation of County permitting law.

12 56. The proposed measure also imposes detailed administrative commands on
13 County officials. It requires County Counsel to draft mandatory Data Center Self-
14 Certification Forms within 60 days, requires conforming General Plan and Zoning
15 amendments within 90 days, and requires the Clerk of the Board or other authorized County
16 officer to file a CEQA Notice of Exemption within five days. These are not legislative
17 standards’ they are specific directives to County staff about how and when to perform
18 administrative tasks.

19 57. Section 13 further demonstrates the measure’s administrative and quasi-
20 judicial character. It creates a supplemental ethics and disclosure regime requiring specified
21 disclosures and revolving-door recusals by County officers and employees, mandates
22 physical removal from proceedings, requires written recusal statements, and compels
23 maintenance of a public register. It also imposes parallel on-the-record disclosure
24 obligations on paid representatives. In substance, the initiative rewrites the County’s ethics,
25 hearing, participation, and recusal rules for administrative and quasi-judicial proceedings
26 involving data-center applications.

27 58. The initiative also regulates the conduct of private participants in County
28 proceedings. It requires paid representatives to make specified on-the-record disclosures
at the commencement of appearances, communications, or contacts with County officers

1 or employees concerning covered matters. These provisions do not merely state a land-use
2 policy; they prescribe how participants must behave in administrative proceedings.

3 59. Sections 11 through 14 add an extraordinary enforcement apparatus. They
4 impose criminal, civil, and bond-based liability for conduct relating to the measure's
5 administration and enforcement; authorize criminal prosecution, administrative civil
6 penalties, public nuisance remedies, automatic attachment of obligations to official bonds,
7 and suits against officers and sureties; and create a private right of action allowing
8 registered voters to enforce the ordinance and its administrative requirements.

9 60. These provisions form an integrated anti-circumvention regime designed to
10 dictate how County officers, County employees, County Counsel, the Clerk of the Board,
11 paid representatives, and private parties must conduct themselves in permitting,
12 enforcement, disclosure, recusal, and related proceedings regarding data centers. The
13 proposed measure is therefore not simply a measure to ban data centers. It is a procedural
14 code governing the machinery of County government. The initiative improperly attempts
15 to control administrative, ministerial, and quasi-judicial functions.

16 61. California courts have repeatedly invalidated initiatives that cross this
17 boundary. In *American Federation of Labor v. Eu* (1984) 36 Cal.3d 687, the California
18 Supreme Court rejected an initiative measure that purported to direct the conduct of state
19 officials in their executive functions. The principle is the same here: voters may set policy
20 by initiative, but they may not assume the role of an administrative supervisor over the
21 conduct of executive officers.

22 62. The initiative is also expressly retroactive. It reaches pending applications
23 and treats data-center applications as barred unless finally approved with all applicable
24 administrative appeal periods, CEQA challenge deadlines, and judicial review periods fully
25 exhausted before the ordinance's effective date. That structure attempts to control the
26 handling and legal consequences of specific pending permitting matters, which are
27 administrative or quasi-judicial in character.

Unlawful Retroactivity and Targeting in Violation of the Elections Code

63. The proposed measure compounds the administrative-functions defect by reaching backward to attach legal consequences to applications already pending before the County. Section 6.C purports to apply the ordinance retroactively to all Pending Applications, including specific applications already in active County processing as of April 2, 2026. That is not the establishment of prospective land-use policy; it is direct interference with the County's handling of identified, specific permitting matters.

64. By attempting to attach legal consequences to a date months before any voter action, § 6.C exceeds the County's procedural authority over administrative processing.

65. The proposed measure itself confirms that it seeks to control administrative and quasi-judicial functions. It declares that, upon adoption, “the Board of Supervisors and all County Officers and Employees are divested of any discretionary or **ministerial authority** to approve, permit, or authorize a Data Center,” and that “[n]o administrative, legislative, quasi-judicial, or other county action of any kind may lawfully result in the approval of a Data Center.” That language is not limited to legislative policymaking. It expressly purports to control administrative, ministerial, and quasi-judicial action.

66. The initiative’s retroactivity also violates California Constitution, article II, section 10(a), which provides that state initiatives if “approved by a majority of votes cast thereon takes effect on the **fifth day after** the Secretary of State files the statement of the vote for the election at which the measure is voted on.”

67. These provisions of state law confirm that no initiative may take legal effect before the prescribe post-election date.

68. The proposed measure also attempts to dictate the legal consequences of future permitting disputes by declaring that no vested right, reliance interest, equitable estoppel, or investment-backed expectation may arise from covered applications filed after the Notice of Intention and by declaring that any Land Use Entitlement issued in violation of the ordinance is void ab initio. Those provisions attempt to predetermine the outcome of future adjudicatory disputes and the legal effect of administrative acts.

1 **The Initiative is Pretextual and Targeted at Pending Administrative Matter**

2 69. Although the proposed measure purports in § 2.M to be “a general and
3 neutral regulation of land use applicable to all unincorporated territory of Imperial County”
4 and claims that “[i]t is not directed at any particular property owner, developer, applicant,
5 or pending project,” the measure’s own legislative findings reveal that it was in fact drafted
6 to target the specific pending “75-acre AI training campus drawing tens of millions of
7 gallons of water per year” identified in § 2.I.

8 70. That reference matches the scale, technology, and water-consumption profile
9 of a specific pending data-center proposal that had recently been the subject of County
10 land-use processing. The timing of the Notice of Intention - filed April 2, 2026 - five days
11 before the lot merger for the 75 acre data center was approved further supports the
12 inference that the initiative was designed to affect pending administrative action rather than
13 merely enact prospective land-use policy.

14 71. The targeted and retroactive features of the initiative heighten the
15 administrative and quasi-judicial defect. Instead of establishing only a prospective
16 legislative land-use policy, the measure seeks to alter the legal status, reliance
17 consequences, and administrative processing of pending or imminent entitlement matters.

18 72. The electorate may legislate land-use policy. It may not transform itself into
19 the supervisor of pending and future administrative and quasi-judicial proceedings, rewrite
20 the executive procedures of County government, or dictate how County officials must carry
21 out day-to-day governmental functions. By regulating the processing of pending
22 applications, the conduct of County officers and employees, the participation of paid
23 representatives, the filing of notices, the maintenance of registers, the use of County
24 resources, and the litigation consequences of future permitting disputes, the proposed
25 measure exceeds the permissible scope of the local initiative power.

26 73. For these reasons, the proposed measure is invalid. It is not merely a
27 legislative ban on data centers; it is an impermissible attempt to commandeer County
28 administration, control quasi-judicial proceedings, predetermine the legal consequences of
pending and future permit disputes, and impose a detailed procedural and enforcement code
beyond the electorate’s initiative authority.

THIRD CAUSE OF ACTION
(Section 6 Retroactivity Provision Violates Elections Code § 9122)

74. Petitioners incorporate by reference each preceding paragraph of this Petition as though fully set forth herein.

75. The initiative’s retroactivity provisions in § 6.C are ultra vires -- they purport to do something the California Constitution and Elections Code do not permit the electorate to do through the initiative process.

76. Specifically, § 6.C declares that the ordinance “applies retroactively to all Pending Applications” and that any Data Center application filed on or after April 2, 2026 (the date the proponents filed their Notice of Intention) was submitted with “actual and constructive knowledge” of the proposed ban. It further purports to strip every such applicant of any vested right, reliance interest, equitable estoppel, or investment-backed expectation.

77. Under California law, an initiative ordinance has no legal force or effect until it is approved by the voters and reaches its statutory effective date. A county initiative becomes effective only ten days after the Board of Supervisors declares the vote (Elections Code § 9122). The California Constitution similarly provides that initiatives take effect on the fifth day after certification of the vote (Cal. Const., art. II, § 10(a)).

78. The initiative cannot lawfully reach backward in time, attach operative legal consequences to a pre-enactment date, or extinguish reliance interests before the measure has even been enacted by the voters. By attempting to do so, the initiative exceeds the limited power granted to the electorate under the initiative provisions of the California Constitution and the Elections Code. Section 6.C is therefore facially invalid.

79. This defect is independent of the measure’s other flaws. Even if the core prohibition on future data centers were valid, the retroactive components in § 6.C are not. They represent an extraordinary and unauthorized attempt by the proponents to exercise legislative power from a date before the ordinance was ever approved or became law.

1 80. The ultra vires retroactivity scheme is particularly egregious because it was
2 deliberately timed to target Imperial Valley Computer Manufacturing, LLC’s pending
3 75-acre AI data center project. The Notice of Intention was filed on April 2, 2026, just five
4 days before the County approved the project’s lot merger, demonstrating that the
5 proponents were actively monitoring and reacting to a specific pending development.

6 **FOURTH CAUSE OF ACTION**
7 **(Section 13 Violates the First Amendment and Article I, Section 2 of the California**
8 **Constitution by Burdening Political Speech and the Right to Petition Government)**

9 81. Petitioners incorporate by reference each preceding paragraph of this Petition
10 as though fully set forth herein.

11 82. California law provides robust protection against legislative repeal of
12 voter-enacted initiatives. Elections Code § 9125 expressly provides that no ordinance
13 proposed by initiative petition and adopted by the voters “shall be repealed or amended
14 except by a vote of the people, unless provision is otherwise made in the original
15 ordinance.” Once enacted, the proposed Imperial County Data Center Prohibition Act
16 would, by operation of state statute, be insulated from repeal or amendment by the Board
17 of Supervisors absent a further vote of the People. Section 8 of the proposed Ordinance
18 acknowledges and reinforces this statutory protection.

19 83. Section 13 of the initiative is therefore not directed at preventing legislative
20 repeal, which is already foreclosed by Elections Code § 9125 and Section 8. By its own
21 terms, Section 13 is directed at the political processes of speech, advocacy, and petitioning
22 by which future voters might be persuaded to consider repeal or amendment of the
23 Ordinance. Subsection 13(A) expressly states that, because voter referendum is the only
24 lawful path to authorize a Data Center after enactment, “any effort to influence County
25 Officers or the Board of Supervisors regarding Data Centers or this Ordinance is, in
26 practical and legal effect, an attempt to influence the conditions of a future election.”

27 84. Building on that finding, Section 13 then imposes a comprehensive regulatory
28 regime on speech and petitioning concerning the Ordinance. Subsection 13.B compels
written disclosure of an extensive list of personal, financial, political, and familial

1 relationships by any County Officer or Employee “called upon to take, recommend, or
2 participate in any official action relating to” the Ordinance, including “any Board
3 proceeding relating to placement of a repeal or amendment measure on the ballot.”
4 Subsection 13.F compels paid representatives to disclose, on the public record at each
5 appearance or contact, identifying information, the identity of the developer represented,
6 the nature of the compensation arrangement, and the matter at issue. Subsection 13.H
7 makes a knowingly false or omitted disclosure under either subsection a misdemeanor
8 punishable by up to six months in jail and a fine of up to one thousand dollars per offense,
9 with each communication constituting a separate offense.

10 85. These provisions regulate core First Amendment activity. The right to
11 petition government for redress of grievances is among the most basic protections of the
12 First Amendment. (*BE&K Construction Co. v. NLRB* (2002) 536 U.S. 516, 524–525;
13 *Borough of Duryea v. Guarnieri* (2011) 564 U.S. 379.) The right to advocate for or against
14 ballot measures is at the heart of political speech and is entitled to the highest level of
15 constitutional protection. (*Citizens Against Rent Control v. City of Berkeley* (1981) 454
16 U.S. 290, 295; *Meyer v. Grant* (1988) 486 U.S. 414, 421–422.) Article I, Section 2 of the
17 California Constitution provides protections for speech and petitioning that are at least as
18 broad as those provided by the First Amendment, and in some respects broader. (*Gerawan*
19 *Farming, Inc. v. Lyons* (2000) 24 Cal.4th 468, 491–493.)

20 86. Section 13 imposes content-based and speaker-based restrictions on this
21 protected activity. Its disclosure, registration, recusal, and criminal-penalty provisions are
22 triggered specifically by communications and advocacy concerning Data Centers and the
23 Ordinance, and not by communications on any other subject. They impose distinct burdens
24 on identified categories of speakers, including paid representatives of Data Center
25 developers and former employees of such developers. Content-based and speaker-based
26 regulations of political speech are presumptively invalid and survive only upon a showing
27 that they are narrowly tailored to serve a compelling governmental interest. (*Reed v. Town*
28 *of Gilbert* (2015) 576 U.S. 155, 163–164.)

87. Subsection 13.J sets forth a disclaimer: “Nothing in this Section restricts,
prohibits, or penalizes any person’s right to appear before, petition, or communicate with

1 any County Officer, Employee, or body,” and that the obligations imposed are “disclosure,
2 registration, and recusal obligations only.”

3 88. But that disclaimer cannot save Section 13. The constitutional inquiry looks
4 to the actual operation of the regulation, not to the proponents self-characterization. (See
5 *Sorrell v. IMS Health Inc.* (2011) 564 U.S. 552, 567.) A regime that imposes mandatory
6 written disclosures, registers communications in a public ten-year searchable database,
7 criminalizes inadvertent omissions, and voids governmental actions taken without strict
8 compliance plainly burdens, deters, and chills protected speech, regardless of the label
9 affixed to it, and regardless of any protestation that it is not intended to have that effect.

10 89. The justification asserted for Section 13's, set forth in the findings at Section
11 2.K and incorporated into Section 13.A, is that lobbying County officials about repeal of
12 the Ordinance is, “in practical effect,” an attempt to influence a future election, and is
13 therefore subject to enhanced regulation. That theory is constitutionally untenable.
14 Communications with elected officials and government employees about pending or future
15 legislation are at the core of First Amendment petitioning activity. They do not lose
16 constitutional protection because the legislation in question happens to be a voter-enacted
17 ordinance, or because future modification would require a further vote of the People. To
18 the contrary, the Supreme Court has repeatedly recognized that speech concerning ballot
19 measures and electoral processes is entitled to heightened protection. (*Buckley v. American*
20 *Constitutional Law Foundation, Inc.* (1999) 525 U.S. 182, 192–193.)

21 90. Section 13 is also fundamentally inconsistent with the structure of the
22 California initiative power. Voter initiatives in California may entrench substantive policy
23 choices against legislative repeal under Elections Code § 9125. They may not entrench
24 policy choices against the People themselves. The People retain at all times the
25 constitutional right to amend or repeal initiatives they have previously enacted, through the
26 same initiative and referendum processes guaranteed by Article II, Sections 8 and 11 of the
27 California Constitution. An initiative provision that obstructs, deters, or burdens the
28 political processes by which future voters might consider repeal of the measure exceeds the

1 legitimate scope of the initiative power. It is, in effect, an attempt to entrench voters against
2 themselves--to use the present voter's authority not merely to enact policy, but to disable
3 the future voter's capacity for self-government.

4 91. By imposing criminal sanctions, mandatory disclosures, public registration,
5 recusal obligations, and voidability of governmental actions, on speech and petitioning
6 concerning a future repeal or amendment measure, Section 13 directly burdens the
7 constitutional rights of County residents, developers, paid representatives, and County
8 Officers and Employees. It chills participation in the political processes preceding any
9 future ballot measure relating to Data Centers. It deters County Officers and Employees
10 from undertaking ordinary deliberative functions involving the Ordinance. And it imposes
11 parallel criminal liability for the same conduct that the Political Reform Act already
12 addresses through civil enforcement by the Fair Political Practices Commission,
13 magnifying the chilling effect.

14 92. Section 13 fails strict scrutiny because the asserted interest--protecting the
15 "integrity of the democratic process" against future repeal efforts--is not a compelling
16 governmental interest of the sort that justifies content- and speaker-based regulation of
17 political speech. It is, on its face, an interest in preventing the People from reconsidering
18 their own legislative judgment. Even if the asserted interest were compelling, Section 13
19 is not narrowly tailored. Its restrictions sweep broadly across all communications
20 concerning the Ordinance, all paid representatives of any data center developer, all County
21 Officers and Employees, and all stages of governmental deliberation. The measure does not
22 even purport to identify any specific abuse it is calibrated to address.

23 93. Pre-election relief from Section 13 is appropriate. The provisions impose
24 burdens on speech and petitioning that begin to operate immediately upon enactment,
25 including upon County Officers and Employees presently engaged in routine deliberation
26 concerning pending data center applications that would be retroactively affected. Permitting
27 Section 13 to proceed to the voters without judicial review invites the chilling effect to
28 extend through the circulation, campaign, and post-election periods, during which the very

1 advocacy Section 13 is designed to suppress would otherwise occur. (See *Independent*
2 *Energy Producers Assn. v. McPherson* (2006) 38 Cal.4th 1020, 1029.) Petitioners therefore
3 seek a writ of mandate, declaratory relief, and injunctive relief preventing further
4 processing of Section 13 of the proposed initiative.

5 **FIFTH CAUSE OF ACTION**
6 **(Section 13 is Preempted by Government Code §§ 81000 *et. seq.*)**

7 94. Petitioners incorporate by reference each preceding paragraph of this Petition
8 as though fully set forth herein.

9 95. California has enacted a comprehensive statutory and regulatory scheme
10 governing lobbying activity, conflicts of interest of public officials, campaign disclosures,
11 and governmental ethics. The cornerstone of that scheme is the Political Reform Act of
12 1974, codified at Government Code §§ 81000 *et. seq.*, which was itself adopted by the
13 People as Proposition 9 in 1974. The Political Reform Act establishes detailed disclosure
14 obligations for public officials and lobbyists, defines conflict-of-interest standards
15 governing official decisionmaking under Government Code § 87100, and vests primary
16 enforcement authority in the Fair Political Practices Commission. (Gov. Code §§ 83100 *et*
17 *seq.*)

18 96. The Political Reform Act is supplemented by Government Code § 1090,
19 which prohibits public officials from being financially interested in contracts made by them
20 in their official capacity, by the common law doctrine of incompatibility of public offices,
21 and by Government Code § 1126 governing outside employment of public officials.
22 Together, these legal restrictions constitute a comprehensive regulatory scheme intended
23 to occupy the field of governmental ethics regulation in California with respect to the
24 matters covered.

25 97. The California Supreme Court has held that, under the doctrine of state
26 preemption, a local enactment is invalid if it duplicates, contradicts, or enters an area fully
27 occupied by general law, either expressly or by legislative implication. (*Sherwin-Williams*
28 *Co. v. City of Los Angeles* (1993) 4 Cal.4th 893, 897-98; *O'Connell v. City of Stockton*

1 (2007) 41 Cal.4th 1061, 1067–1068.) Local regulation duplicates state law when it is
2 coextensive with the state scheme; it contradicts state law when it is inimical to or cannot
3 be reconciled with the state scheme; and it enters an occupied field when the Legislature
4 has expressly stated, or has impliedly indicated through pervasive regulation, that local
5 regulation is precluded.

6 98. Section 13 of the proposed Ordinance enters areas comprehensively
7 addressed by the Political Reform Act and related state law. Subsection 13.B imposes
8 mandatory disclosure obligations on County Officers and Employees concerning financial
9 relationships, gifts, campaign contributions, ownership interests, and personal relationships,
10 all of which are subjects expressly regulated by the Political Reform Act and Government
11 Code § 87100 et seq. Subsection 13.D imposes a five-year revolving-door recusal
12 restriction on former Paid Representatives, a subject already addressed by the Milton Marks
13 Postgovernment Employment Restrictions Act (Government Code § 87406) and
14 Government Code § 87406.3. Subsection 13.F imposes mandatory on-the-record disclosure
15 obligations on Paid Representatives, a subject regulated by the Political Reform Act’s
16 lobbyist provisions at Government Code §§ 86100 et seq.

17 99. Section 13 not only enters these occupied fields, it actively contradicts the
18 state scheme, in several material respects. First, the Political Reform Act vests primary civil
19 enforcement authority in the Fair Political Practices Commission. (Gov. Code §§
20 83115–83116.) Subsection 13.H imposes parallel criminal liability for the same disclosure
21 conduct that the Act addresses through administrative civil sanctions, creating a
22 punishment regime that the Legislature did not authorize and that conflicts with the Act’s
23 graduated enforcement scheme. Second, subsection 13.D’s five-year revolving-door period
24 substantially exceeds the one-year and two-year periods established by the Legislature in
25 Government Code § 87406, creating a parallel and more restrictive regime in a field the
26 Legislature has expressly addressed by statute. Third, the Political Reform Act’s disclosure
27 thresholds and definitions are uniform statewide; subsection 13.B’s fifty-dollar threshold
28 for reportable gifts is one-tenth the threshold the Legislature has set under Government

1 Code § 89503, and imposes obligations more onerous than those the Legislature has
2 determined to be appropriate.

3 100. Subsection 13.A’s disclaimer that the Section merely “supplements” the
4 Political Reform Act, and that “Where this Section is more restrictive than the Political
5 Reform Act or other law, the more restrictive obligation controls,” does not save Section
6 13 from preemption. A local enactment cannot, by self-declaration, escape the
7 field-occupation doctrine. The question whether state law preempts local regulation is one
8 for the courts, not for the local enactment. (*Big Creek Lumber Co. v. County of Santa Cruz*
9 (2006) 38 Cal.4th 1139, 1149–1150.) Where state law occupies the field, a local enactment
10 that purports to add additional restrictions in the same field is preempted regardless of
11 whether the local enactment characterizes itself as merely supplemental.

12 101. Section 13 is therefore preempted by California's comprehensive statutory
13 scheme governing governmental ethics, conflicts of interest, and lobbying, including
14 without limitation that Political Reform Act of 1974 (Government Code §§ 81000 et seq.),
15 Government Code § 1090, and the Milton Marks Postgovernment Employment Restrictions
16 Act (Government Code § 87406). Petitioners seek a writ of mandate, declaratory relief, and
17 injunctive relief preventing further processing of Section 13 of the proposed initiative.

18 **SIXTH CAUSE OF ACTION**
19 **(Section 13.D Violates Due Process and Constitutes**
20 **an Unconstitutional Bill of Attainder)**

21 102. Petitioners incorporate by reference each preceding paragraph of this Petition
22 as though fully set forth herein.

23 103. Subsection 13.D provides that any County Officer or Employee who, within
24 the five years immediately preceding any official action concerning the Ordinance, served
25 as a Paid Representative for any Data Center Developer in connection with any matter
26 before any California public agency “shall be recused from all participation in any official
27 action described in Section 13.B.” The provision further declares that this revolving-door
28 recusal “is a condition of holding public office or employment with respect to the subject
matter of this Ordinance.”

1 104. On its face, Subsection 13.D imposes a retroactive disqualification on
2 identifiable persons based on prior lawful conduct. The five-year lookback period reaches
3 back to April 2, 2021, well before the proposed Ordinance was drafted, circulated, or
4 proposed. Any current County Officer or Employee who, at any point during that five-year
5 window, performed paid representational work for a data center developer including
6 ordinary land-use, environmental, engineering, financial, or legal consulting work, that was
7 lawful when performed and that did not relate to any pending Imperial County matter is,
8 by operation of the Ordinance, disqualified from a defined category of public service upon
9 the Ordinance’s effective date.

10 105. This disqualification raises serious constitutional concerns. The federal
11 Constitution’s prohibition on bills of attainder, U.S. Const. art. I, § 10, cl. 1, forbids
12 legislative acts that inflict punishment on identifiable persons or readily ascertainable
13 classes without judicial trial. (*Selective Service v. Minnesota Public Int. Res. Group* (1984)
14 468 U.S. 841, 847.) Disqualification from public office or employment is a recognized
15 form of legislative punishment within the bill-of-attainder doctrine. Article I, Section 9 of
16 the California Constitution contains a parallel and equally enforceable prohibition.

17 106. Subsection 13.D targets an identifiable class--persons who served as paid
18 representatives of data center developers within the preceding five years--and inflicts a
19 punishment in the form of disqualification from a defined area of public service. The
20 disqualification is triggered not by any present misconduct, present conflict, or present
21 impropriety, but solely by lawful past conduct. The provision’s assertion that the recusal
22 “is a condition of holding public office or employment, not a restriction on speech or
23 association” does not alter its character. As the Supreme Court has long recognized, the
24 bill-of-attainder inquiry looks to functional effect, not formal label. (*Nixon v. Administrator*
25 *of General Services* (1977) 433 U.S. 425, 472–473.)

26 107. Subsection 13.D also raises substantive and procedural due process concerns
27 under the Fourteenth Amendment to the United States Constitution and Article I, Section
28 7 of the California Constitution. Public employees and officers possess recognized property
and liberty interests in their continued employment and in the lawful exercise of the duties
of their offices. (*Skelly v. State Personnel Bd.* (1975) 15 Cal.3d 194, 207–209.)

1 108. An ordinance that retroactively disqualifies identifiable persons from those
2 duties, without individualized findings of conflict, without notice or hearing, and without
3 any process for case-by-case determination of whether the asserted prior representation in
4 fact creates a present conflict, deprives those persons of liberty and property interests
5 without due process of law.

6 109. The constitutional defect is magnified if any current member of the Imperial
7 County Board of Supervisors, the Imperial County Counsel's Office, the Planning and
8 Development Services Department, or any other office or department of County
9 government falls within the five-year lookback period. Such a person would, upon the
10 Ordinance's effective date, be retroactively disqualified by initiative from a portion of the
11 duties of an office to which the person was lawfully elected or appointed before the
12 Ordinance was proposed. The voters of Imperial County have the constitutional power to
13 legislate by initiative; they do not have the power to remove or restrict the duties of duly
14 elected or appointed officers based on past lawful conduct.

15 110. Subsection 13.D is also unconstitutionally vague and overbroad. The term
16 "Paid Representative" is defined elsewhere in the Ordinance to include attorneys, lobbyists,
17 consultants, and "any other person" providing paid services. The phrase "in connection
18 with any matter before any California public agency" sweeps broadly across thousands of
19 unrelated land-use, environmental, regulatory, and administrative matters statewide,
20 without limitation as to subject matter or geographic relevance. A reasonable person could
21 not determine, with the precision that due process requires before criminal or
22 quasi-criminal sanctions attach, which prior consulting or representational engagements
23 would trigger disqualification.

24 111. Petitioners therefore seek a writ of mandate, declaratory relief, and injunctive
25 relief preventing further processing of Subsection 13.D of the proposed initiative on the
26 grounds that it constitutes a bill of attainder, violates due process, and is unconstitutionally
27 vague and overbroad. Because the constitutional infirmities of Subsection 13(D) operate
28 immediately upon enactment to disqualify identifiable persons from defined areas of public
service, pre-election relief is appropriate.

1 112. The cumulative effect of the provisions challenged above warrants emphasis
2 before turning to the final cause of action. Elections Code § 9125 already protects
3 voter-enacted initiatives against legislative repeal by the Board of Supervisors. Section 8
4 of the proposed Ordinance reinforces that protection and adds further restrictions on the
5 Board's authority. Section 13 of the proposed Ordinance regulates the political processes --
6 the speech, advocacy, and lobbying -- by which future voters might be persuaded to
7 consider repeal or amendment of the Ordinance. Together, these provisions form a
8 comprehensive attempt to lock the Ordinance against essentially every avenue of revision:
9 legislative repeal (already foreclosed by Elections Code § 9125), political reconsideration
10 (foreclosed by Section 13), and administrative correction or prophylactic compliance by the
11 County (foreclosed by Section 8).

12 113. The proposed Ordinance is therefore not merely a substantive land-use
13 prohibition. It is an attempt to construct a self-protective regulatory ecosystem that prevents
14 the ordinary mechanisms of governmental and political self-correction from ever again
15 operating with regard to data centers. This Cause of Action addresses the final element of
16 that ecosystem: the proposed Ordinance's attempt to constrain the judicial branch.

17 **SEVENTH CAUSE OF ACTION**
18 **(Sections 8 and 11 Violate Separation of Powers by Constraining Judicial**
19 **Authority and Predetermining the Effect of Court Orders)**

20 114. Petitioners incorporate by reference each preceding paragraph of this Petition
21 as though fully set forth herein.

22 115. The judicial power of the State of California is vested by Article VI, Section
23 1 of the California Constitution in the Supreme Court, the Courts of Appeal, and the
24 superior courts. The authority to interpret enacted law, to determine its constitutional
25 validity, and to fashion appropriate judicial remedies belongs to the courts. (*People v. Birks*
26 (1998) 19 Cal.4th 108, 134.) Neither the Legislature, nor the People acting by initiative,
27 may exercise the judicial power, direct courts how to rule, or predetermine the legal effect
28 of judicial orders. (*Plaut v. Spendthrift Farm, Inc.* (1995) 514 U.S. 211, 218–219.)

1 116. Two provisions of the proposed Ordinance, among others, plainly violate
2 these foundational principles.

3 117. First, Section 8.B.iii provides that, even in response to a final court judgment,
4 the Board of Supervisors may adopt only “the minimum adjustment expressly directed by
5 a final, non-appealable judgment of a court of competent jurisdiction, as specified in that
6 judgment.” Section 8.B further provides that no such adjustment may “reduce the scope of
7 the prohibition in Section 6,” “expand any exception in Section 7,” narrow the definition
8 of “Data Center,” broaden the definition of “Accessory Data Processing Facility,” or
9 “modify the enforcement provisions of Sections 11 through 14 in any manner adverse to
10 enforcement.” By its terms, Section 8.B purports to declare in advance that certain
11 categories of judicial relief are off-limits to the County, even if a court orders that relief,
12 and to confine the County’s authority to comply with judicial orders to the narrowest
13 possible scope.

14 118. An initiative, to be sure, may establish substantive rules for the future. But
15 it may not direct courts how to rule, restrict the remedies courts may impose, or instruct
16 local government to disregard or minimize judicial mandates. The decision how to fashion
17 a remedy in response to a constitutional or statutory infirmity belongs to the court. (See
18 *Salazar v. Eastin* (1995) 9 Cal.4th 836, 855.) Section 8(B) attempts to constrain the range
19 of the courts’ remedial authority, confining it to a checklist created by the initiative’s
20 drafters, restricting the County to the “minimum” action “expressly” specified by a court,
21 while categorically forbidding broader compliance with the court’s reasoning and
22 judgment. That is an impermissible legislative encroachment on judicial authority.

23 119. Second, Section 11.H provides that any Land Use Entitlement “issued in
24 violation of this Ordinance is void ab initio and confers no vested rights upon any
25 applicant, developer, contractor, owner, or operator.” Section 6.C parallels this declaration
26 with respect to applications pending as of April 2, 2026. But whether a particular Land Use
27 Entitlement confers vested rights is a question of law to be decided by the courts on the
28 facts of each case under established California vested-rights doctrine. (*Avco Community*

1 *Developers, Inc. v. South Coast Regional Com.* (1976) 17 Cal.3d 785; *Santa Margarita*
2 *Area Residents Together v. San Luis Obispo County* (2000) 84 Cal.App.4th 221.) Sections
3 6.C and 11 attempt to predetermine that question by legislative declaration, and to deprive
4 courts of the discretion to recognize vested rights in any case that falls within the
5 Ordinance's sweep. That, too, is an impermissible intrusion on judicial authority.

6 120. These provisions, considered alongside Sections 9125 and 8 (which lock out
7 legislative revision) and Section 13 (which burdens political revision), confirm that the
8 proposed Ordinance is not an ordinary exercise of the local initiative power. It is a
9 coordinated attempt to disable each of the three constitutional mechanisms by which an
10 erroneous, unconstitutional, or unwise local enactment is ordinarily corrected: legislative
11 reconsideration, political reconsideration through future voter action, and judicial review
12 with full remedial discretion. The People, acting by initiative, have authority to enact
13 substantive policy. They do not have authority to disable the courts, nor the other processes
14 established under our system of democratic governance for changing public policy in
15 response to changed conditions or changed public sentiment.

16 121. Petitioners therefore seek a writ of mandate, declaratory relief, and injunctive
17 relief preventing further processing of Section 8.B, Section 6.C, and Section 11 of the
18 initiative on the grounds they violate Article VI, Section 1 of the California Constitution
19 and the separation-of-powers principles inherent in the structure of California government.

20 **Pre-Election Relief Is Appropriate**

21 122. Pre-election review is appropriate for each of Petitioners' theories. The
22 single-subject clause expressly states that a measure embracing more than one subject may
23 not be submitted to the electors or have any effect, which authorizes pre-election judicial
24 intervention where the defect is apparent on the face of the measure.

25 123. The administrative-versus-legislative defect is also a classic basis for
26 pre-election relief because the electorate may not vote on a measure that is beyond the
27 voters' power to enact. Likewise, the baleful effect of the many defects in the initiative's
28 coordinated attempt to disable each of the three constitutional mechanisms by which an

erroneous, unconstitutional, or unwise local enactment is ordinarily corrected require this Court's prompt intervention.

124. Petitioners have a beneficial interest in the performance of Respondents' duties in conformity with the California Constitution and the Elections Code. Petitioners are therefore entitled to writ, declaratory, and injunctive relief preventing Respondents and Real Parties in Interest from taking further action on an invalid proposed measure or, at minimum, on those of its provisions that are facially invalid and not severable from the measure as a whole.

PRAYER FOR RELIEF

WHEREFORE, Petitioners respectfully pray for judgment as follows:

- A. For issuance of an alternative writ of mandate, and after hearing, a peremptory writ of mandate commanding Respondents, and each of them, to refrain from taking any further action to process, certify, circulate, or submit to the voters the proposed "Imperial County Data Center Prohibition Act" in its present form;
- B. In the alternative, for issuance of an alternative writ of mandate, and after hearing, a peremptory writ of mandate commanding Respondents to refrain from processing, certifying, circulating, or submitting to the voters Sections 6.C, 8.B, 11.H, and 13 of the proposed initiative, on the grounds that those provisions are facially invalid and not reasonably severable from the remainder of the measure as currently drafted;
- C. For a judicial declaration that the proposed initiative violates Article II, Section 8, subdivision (d) of the California Constitution because it embraces more than one subject, and may not be submitted to the electors or have any effect;
- D. For a judicial declaration that the proposed initiative exceeds the scope of the local initiative power and is invalid because it regulates administrative, ministerial, and quasi-judicial functions of County government, and impermissibly attaches operative legal consequences to applications and conduct preceding the effective date prescribed by Elections Code § 9122;

- 1 E. For a judicial declaration that the initiative's retroactivity provisions, § 6.C, are
2 invalid because they purport to give operative legal effect to a pre-enactment date
3 in violation of the California Constitution and Elections Code § 9122;
- 4 F. For a judicial declaration that Section 13 of the proposed initiative violates the First
5 Amendment to the United States Constitution and Article I, Section 2 of the
6 California Constitution by burdening political speech, advocacy, and the right to
7 petition government with content-based and speaker-based restrictions, mandatory
8 disclosures, public registration, recusal obligations, and criminal penalties not
9 narrowly tailored to any compelling governmental interest;
- 10 G. For a judicial declaration that Section 13 of the proposed initiative is preempted by
11 California's comprehensive statutory scheme regulating lobbying, conflicts of
12 interest, and governmental ethics, including without limitation the Political Reform
13 Act of 1974 (Government Code §§ 81000 et seq.), Government Code § 1090, the
14 Milton Marks Postgovernment Employment Restrictions Act (Government Code §
15 87406), and related provisions;
- 16 H. For a judicial declaration that Subsection 13.D of the proposed initiative is invalid
17 as a bill of attainder under Article I, Section 10, Clause 1 of the United States
18 Constitution and Article I, Section 9 of the California Constitution; violates
19 substantive and procedural due process under the Fourteenth Amendment to the
20 United States Constitution and Article I, Section 7 of the California Constitution;
21 and is unconstitutionally vague and overbroad;
- 22 I. For a judicial declaration that Section 8.B, Section 6.C, and Section 11 of the
23 proposed initiative violate Article VI, Section 1 of the California Constitution and
24 the separation-of-powers principles inherent in the structure of California
25 government, by purporting to constrain judicial remedial authority, predetermine the
26 legal effect of judicial orders, and resolve by legislative declaration questions of
27 vested rights that belong to the courts;
- 28

- 1 J. For a temporary restraining order, preliminary injunction, and permanent injunctive
2 relief enjoining Respondents from processing, certifying, circulating, or submitting
3 the proposed initiative to the voters in its present form, pending final determination
4 of this action;
- 5 K. For an award of reasonable attorney's fees and costs pursuant to Code of Civil
6 Procedure Section 1021.5 and any other applicable authority; and
- 7 L. For such other and further relief as the Court deems just and proper.
- 8

9 LAW OFFICES OF SEBASTIAN RUCCI, P.C.

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Sebastian Rucci (State Bar #178114)
13 Attorney for Petitioners

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1 VERIFICATION

2 I, Tom Dubose, am one of the Petitioners in this action. I have read the foregoing
3 Verified Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief
4 and know its contents. The same is true of my own knowledge, except as to matters stated
5 on information and belief, and as to those matters I believe them to be true.

6 I declare under penalty of perjury under the laws of the State of California that the
7 foregoing is true and correct.

8 Executed on April 28, 2026, at El Centro, California.

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11 Tom Dubose
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EXHIBIT A

INITIATIVE PETITION THE IMPERIAL COUNTY DATA CENTER PROHIBITION ACT (APRIL 2, 2026)

VIA PERSONAL DELIVERY

April 2, 2026

Mrs. Linsey Dale
Imperial County Registrar of Voters
940 W. Main Street, Suite 206
El Centro, CA 92243

Registrar
of Voters

APR 02 2026

Imperial
County

**RE: Request for Preparation of Ballot Title and Summary for Proposed Initiative for
Imperial County Data Center Prohibition Act**

Dear Mrs. Dale:

Pursuant to Section 9103 of the California Elections Code, we, the undersigned proponents, hereby request that the County Counsel prepare the Official Ballot Title and Summary for the proposed initiative measure referenced above and attached to this request.

Included with this submission are the Proponent Statements of Acknowledgment signed by each proponent of this measure as required by Section 9608 of the Elections Code.

Please direct all correspondence regarding this initiative to:

Phone 619.820.9938

Jaketson@cox.net

JAMES H TISON

1036 S 18th St
El Centro CA
92243

Sincerely,

Kristian Salgado

FRANCO

CL

Jan F Lin

Jan Rodriguez

NOTICE OF INTENTION TO CIRCULATE INITIATIVE PETITION

Notice is hereby given by the persons whose names appear hereon of their intention to circulate the petition within the County of Imperial for the purpose of enacting the Imperial County Data Center Prohibition Act, a proposed ordinance amending the Imperial County General Plan Land Use Element and Zoning Ordinance to prohibit large-scale data centers in the unincorporated territory of Imperial County, and establishing related enforcement provisions including civil remedies and criminal penalties.

A statement of the reasons for the proposed action as contemplated in the petition is as follows:

Imperial County's water comes from the Colorado River. It is already stretched thin by drought, climate change, and competing demands. Every drop sustains our farms, our families, and the Salton Sea.

Large-scale data centers consume hundreds of thousands of gallons of water a day for cooling. These are the facilities that power artificial intelligence, the cloud, and cryptocurrency mining for customers who will never set foot in Imperial County. In a desert that regularly tops 100 degrees for more than three months a year, that demand is enormous. Water that goes to a data center does not go to a farm or a family. And as the Salton Sea loses its inflow, the dry lakebed releases toxic dust that is already measurably damaging children's lungs in communities like Niland, Bombay Beach, Salton City, Desert Shores, Westmorland, and Calipatria. Data centers will worsen this vicious cycle.

Our air is already in crisis. Imperial County is one of only three regions in California that fails federal air quality standards for particulate matter. Children here are hospitalized for asthma at double the state average. This isn't normal, and it isn't right. Data centers bring large diesel backup generators that are tested monthly and run during outages, adding more pollution to an air basin that already cannot meet the law.

Data centers do not belong next to our homes, schools, or parks. They run around the clock. They are loud. They bring heavy truck traffic. They lower property values. Imperial County's communities were not built for industrial neighbors of this scale.

Our power grid, run by the Imperial Irrigation District, was not built for facilities that draw this much electricity continuously. We ratepayers should not bear those costs and risks.

We support responsible economic development that creates lasting, good jobs and respects our community. This is not anti-development. It is about what belongs here, and data centers do not.

Our industrial zoning allows data centers, but that category was written for a different era. A server room in a warehouse and a multi-acre AI campus drawing as much water as a small city are not the same thing, and our current code has no way to tell them apart. There is no size threshold and no real process to weigh what a facility of this scale actually costs the people who live here.

We are asking voters to decide once and for all whether data centers belong in Imperial County. That is what the initiative process is for.

Proponents (Sections 9103(a), 9104 of the Elections Code)

NAME	ADDRESS	SIGNATURE
Kristian Salgado	1049 Playa Del Norte Calexico, Ca 92231	Kristian Salgado
Francisco Leal	250 Taylor. Dr Imperial, Ca 92251	Francisco Leal
Christopher Scurries	244 Samantha Ct. Imperial, CA 92251	Christopher Scurries
James Hadley Tison	1036 S. 18th St El Centro CA 92243	James Hadley Tison
Jacob Nicholas Rodriguez	866 Danenberg Dr El Centro, CA 92243	Jacob Nicholas Rodriguez

The original notice and proof of publication will be filed with the Imperial County Registrar of Voters, 940 W. Main Street, Suite 206, El Centro, CA 92243.

PROPONENT STATEMENT OF ACKNOWLEDGMENT

I, Francisco Leal, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.



Signature of Proponent

Dated this 2nd day of April, 2026

PROPONENT STATEMENT OF ACKNOWLEDGMENT

I, Kristian Salgado, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.

Kristian Salgado
Signature of Proponent

Dated this 2 day of April, 2020

PROPONENT STATEMENT OF ACKNOWLEDGMENT

I, Christopher Scurries, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.

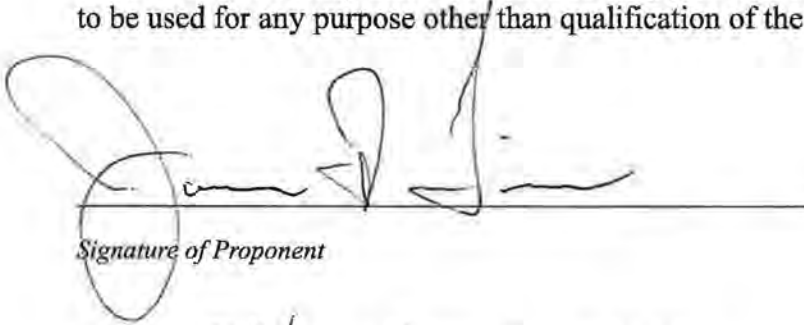
A handwritten signature in black ink, appearing to read 'Christopher Scurries', written over a horizontal line.

Signature of Proponent

Dated this 2nd day of April, 2026

PROPONENT STATEMENT OF ACKNOWLEDGMENT

I, James H Tison, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.

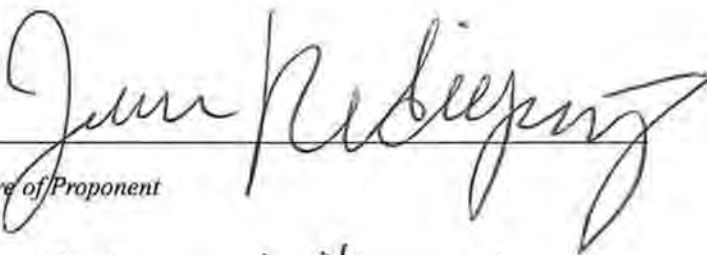
A handwritten signature in black ink, appearing to read 'James H Tison', is written over a horizontal line.

Signature of Proponent

Dated this 2nd day of April, 2026

PROPONENT STATEMENT OF ACKNOWLEDGMENT

I, Jacob Nicholas Rodriguez, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.


Signature of Proponent

Dated this 2nd day of April, 2026

AN ORDINANCE OF THE PEOPLE OF IMPERIAL COUNTY

**AMENDING THE IMPERIAL COUNTY GENERAL PLAN LAND USE ELEMENT
AND ZONING ORDINANCE TO PROHIBIT DATA CENTERS IN THE
UNINCORPORATED TERRITORY OF IMPERIAL COUNTY; ESTABLISHING
MISDEMEANOR PENALTIES AND PROHIBITING UNLAWFUL EXPENDITURE OF
COUNTY RESOURCES; ESTABLISHING OFFICIAL BOND LIABILITY FOR
NONFEASANCE; ESTABLISHING A SUPPLEMENTAL CONFLICT OF INTEREST
AND PAID REPRESENTATIVE DISCLOSURE POLICY; AND CREATING A
PRIVATE RIGHT OF ACTION FOR ELECTORS**

("THE IMPERIAL COUNTY DATA CENTER PROHIBITION ACT")

The People of Imperial County do ordain as follows:

SECTION 1: Title

This Ordinance shall be known and may be cited as the 'Imperial County Data Center Prohibition Act' (the 'Act' or 'Ordinance').

SECTION 2: Findings and Purpose

The People of Imperial County find and declare as follows:

A. AUTHORITY.

The County of Imperial holds all rights and powers established by California law to regulate land uses in unincorporated territory to protect the public health, safety, and welfare. (Cal. Const. Art. XI, Section 7.) The initiative power reserved to the People under Article II, Section 8 of the California Constitution extends fully to local general plan and zoning amendments. (City of Morgan Hill v. Bushey (2018).) All provisions of this Ordinance share the common purpose of prohibiting data centers in unincorporated Imperial County and ensuring that prohibition is faithfully and comprehensively enforced, satisfying the 'reasonably germane' standard applicable to initiative measures. (Senate of the State of California v. Jones (1999) 21 Cal.4th 1142.)

B. GENERAL PLAN AMENDMENT AUTHORITY AND NOTICE TO VOTERS.

The Imperial County General Plan Land Use Element was adopted and has been amended by the Board of Supervisors (last revised October 6, 2015, Board Minute Order #18b). The People, exercising their reserved initiative power, hereby expressly amend the General Plan Land Use Element. This Ordinance is a General Plan amendment, and voters are expressly notified that amendment of the General Plan is a primary purpose of this Ordinance, as required by Leshar Communications, Inc. v. City of Walnut Creek (1990) 52 Cal.3d 531. A voter-approved General Plan amendment has the same legal

effect as a Board-adopted amendment. Upon adoption, the amendment is protected from repeal or modification by the Board of Supervisors without voter approval pursuant to Elections Code Section 9125 and Section 8 of this Ordinance. (*DeVita v. County of Napa* (1995) 9 Cal.4th 763.)

C. WATER SCARCITY AND SALTON SEA DEPENDENCY.

Imperial County is an arid desert region receiving fewer than three inches of annual rainfall. The County's water supply depends almost entirely on Colorado River allocations administered through the Imperial Irrigation District (IID) under the Quantification Settlement Agreement (QSA) and any successor agreements. These allocations are finite and subject to ongoing reductions due to long-term drought, climate change, and competing demands under the Law of the River. Large-scale data centers can consume between one and five million gallons of water per day for cooling systems, depending on size and technology. In Imperial County, which experiences more than 110 days per year above 100 degrees Fahrenheit, with average July highs reaching 107 degrees Fahrenheit, making it the hottest county in California, cooling water demand is substantially greater than figures published from temperate-climate installations. This consumption directly threatens the agricultural water allocations that support the County's farming economy, which generates over two billion dollars annually in agricultural production and supports the region's primary employment base. Approximately 85 percent of the Salton Sea's inflows historically came from IID agricultural return flows. Since the 2003 QSA reduced agricultural water deliveries to the Imperial Valley, the Salton Sea has lost more than a third of its surface area, exposing nearly 20,000 acres of lakebed playa contaminated with decades of pesticide and agricultural runoff. Large-scale data center water consumption directly competes with and reduces the agricultural return flows that are the Salton Sea's primary lifeline, accelerating playa exposure and worsening the region's most severe ongoing public health crisis.

D. AGRICULTURAL ECONOMY.

Imperial County is one of California's most productive agricultural regions. Prime farmland and agricultural water resources are irreplaceable. Large-scale data center facilities require industrial infrastructure, including continuous high-voltage power, cooling water supply and discharge, diesel backup generation, and industrial site preparation, that is incompatible with adjacent agricultural operations. Conversion of agricultural land or diversion of agricultural water to support data center development causes permanent harm to the County's agricultural economy that cannot be adequately mitigated.

E. POWER GRID.

Unincorporated areas of Imperial County are served primarily by the Imperial Irrigation District (IID), a local public agency with constrained transmission capacity and limited interconnection with the broader California grid. Large-scale data centers operate continuously at peak electrical loads, typically 30 to 60 megawatts or more, and require

substantial diesel backup generation for operational continuity. New large-load interconnections would impose significant capital costs and reliability risks on IID's system, affecting electricity rates and reliability for all residential, agricultural, and commercial ratepayers in the district.

F. PUBLIC HEALTH: EXISTING ENVIRONMENTAL BURDEN.

Imperial County bears one of the most severe pollution burdens of any jurisdiction in California. The County is a federal non-attainment area under the Clean Air Act for particulate matter, one of only three regions in California with that designation, alongside the San Joaquin Valley and the South Coast Air Basin that includes Los Angeles County. The state standard for PM10 was exceeded at the Niland monitoring station on 100 days in 2012, 145 days in 2013, and 124 days in 2014, with concentrations reaching ten times the federal limit. Pediatric asthma-related emergency room visits and hospitalizations in Imperial County were, as of 2019, double the California state average, the highest rate in the state. Approximately 20 percent of children in Imperial County are diagnosed with asthma, compared to a national average of approximately 13.7 percent. Over 85 percent of residents identify as Hispanic or Latino, and one in three children lives in poverty. CalEnviroScreen 4.0, a publication of the State of California's Office of Environmental Health Hazard Assessment, consistently ranks nearly all census tracts in Imperial County among the top 20 percent of census tracts most vulnerable to pollution in the state. The People find that Imperial County's communities cannot absorb additional industrial pollution burden without serious harm to public health.

G. PUBLIC HEALTH: THE SALTON SEA CRISIS AND RECEDING LAKEBED DUST.

The Salton Sea is rapidly receding due to reduced agricultural return flows following the 2003 QSA. Between 2003 and 2016, exposed playa around the Salton Sea increased from approximately 862 acres to over 16,452 acres, and estimates now approach 20,000 acres. Without restoration, total annual inflows are projected to fall to approximately 700,000 to 800,000 acre-feet, a reduction of 30 to 40 percent from pre-QSA levels, eventually exposing up to 100,000 acres of playa. The exposed playa is contaminated with pesticide residues, heavy metals including selenium and arsenic, organochlorine compounds, and other agricultural pollutants. A 2025 peer-reviewed study by the University of California, Irvine, funded by the National Institute of Environmental Health Sciences, measured lung function in nearly 500 children and found a clear, statistically significant association: children living near the Salton Sea experienced measurably worse lung function due to dust event exposure. A companion University of Southern California study found that 24 percent of children in the area have asthma, far above the national rate. Data centers drawing millions of gallons per day from the same Colorado River system compete directly with the agricultural return flows that are the Salton Sea's primary lifeline, accelerating playa exposure and the measurable lung damage it causes.

H. PUBLIC HEALTH: GENERATORS COMPOUNDING IN A NON-ATTAINMENT AREA.

Large-scale data centers require multiple onsite diesel or natural gas backup generators, typically ranging from 1.5 to more than 3 megawatts each, to maintain continuous operation. These generators are tested monthly and operated during emergencies, emitting significant quantities of fine particulate matter (PM_{2.5}), nitrogen oxides (NO_x), sulfur dioxide (SO₂), and other criteria air pollutants and toxic air contaminants. A single 2.5-megawatt diesel generator emits over 5 metric tons of nitrogen oxides and 0.3 metric tons of PM₁₀ during 100 hours of annual operation. Diesel generators emit 200 to 600 times more NO_x per unit of electricity produced than natural gas-fired power plants. These emissions, introduced into an air basin already in federal non-attainment for PM₁₀ with documented PM₁₀ concentrations reaching ten times the federal limit at local monitoring stations, compound an already-exceeded pollution load on communities with double-state-average pediatric asthma rates. Introducing industrial-scale diesel generator operations into Imperial County is not an incremental impact. It is the introduction of a concentrated new pollution source into one of the most pollution-burdened, federally non-compliant air basins in California, for a population that is already being measurably harmed by air quality that exceeds legal limits.

I. REGULATORY GAP.

Data centers are a permitted industrial use in the County's M-1 (Light Industrial) and M-2 (Medium-Heavy Industrial) zones under the existing Zoning Ordinance (Title 9, Land Use Ordinance). That industrial use category, however, was written for a different era of computing infrastructure. It contains no definition of data centers, no size thresholds, no water consumption review, no power draw analysis, and no process to evaluate the specific and substantial impacts that large-scale, continuously-operating data center campuses impose on communities. The same industrial designation that applies to a server room in a warehouse applies to a 75-acre AI training campus drawing tens of millions of gallons of water per year. The absence of any distinction between these uses, and the absence of any review mechanism scaled to the actual impacts of modern hyperscale facilities, constitutes a regulatory gap that existing entitlement processes cannot adequately address.

J. SPECULATIVE DEVELOPMENT PRESSURE.

As coastal California regions face data center saturation, developers are actively identifying inland desert counties, including Imperial County, as alternative siting locations because of available large-lot industrial land, proximity to high-voltage transmission infrastructure, and less-developed regulatory environments. Without clear prohibition, the unincorporated territory of Imperial County faces imminent speculative development that would be difficult to reverse once physical construction begins.

K. REFERENDUM AS SOLE RECOURSE AND THE NECESSITY OF DISCLOSURE.

Upon adoption of this Ordinance, the Board of Supervisors and all County Officers and Employees are divested of any discretionary or ministerial authority to approve, permit, or authorize a Data Center in the unincorporated territory of Imperial County. No administrative, legislative, quasi-judicial, or other county action of any kind may lawfully result in the approval of a Data Center. The sole lawful path by which a Data Center could ever be authorized in unincorporated Imperial County after the effective date of this Ordinance is a majority vote of the electorate to repeal or amend this Ordinance. Because repeal or amendment by voter referendum is the only remaining avenue available to any person seeking to authorize a Data Center, any effort to influence County Officers, the Board of Supervisors, or county staff toward placing a repeal or amendment measure on the ballot, weakening enforcement of this Ordinance, declining to enforce its penalties, or otherwise circumventing its terms constitutes, in practical effect, an attempt to influence the conditions and outcome of a future election of the People of Imperial County. The People therefore find that robust conflict of interest, disclosure, and paid representative transparency requirements are necessary and appropriate safeguards under this Ordinance not only to protect the integrity of the administrative process but to protect the integrity of the democratic process itself, which is the only lawful path to any change in the prohibition enacted herein. The provisions of Section 13 are enacted with this finding as their primary legal foundation.

L. OFFICIAL ACCOUNTABILITY.

The People find that the integrity of this Ordinance depends on full and faithful compliance by every officer and employee of the County to whom its duties are assigned. Accordingly, the People find that the establishment of personal criminal liability, official bond liability, supplemental conflict of interest obligations, paid representative disclosure requirements, and a private right of action for electors to enforce this Ordinance are necessary and proper exercises of the People's initiative power to protect the democratic mandate expressed by this Ordinance and to prevent regulatory capture of the land use permitting process.

M. THIS ORDINANCE IS NOT DIRECTED AT ANY SPECIFIC PERSON OR PARCEL.

The People find that this Ordinance is a general and neutral regulation of land use applicable to all unincorporated territory of Imperial County. It is not directed at any particular property owner, developer, applicant, or pending project.

N. CUMULATIVE DATA CENTER DEVELOPMENT PRESSURE.

The People find that Imperial County is currently subject to concurrent large-scale data center development proposals that, even if each might claim individually acceptable impacts, collectively threaten to overwhelm the County's water resources, power grid, agricultural economy, and community health. The cumulative effects of multiple large-scale data centers operating simultaneously must be evaluated and regulated as a whole, not project-by-project in isolation.

O. CUMULATIVE WATER IMPACTS.

The People find that the combined water consumption of the data center proposals currently known to be under consideration for or adjacent to unincorporated Imperial County, even at first-phase operations alone, would impose a burden on Imperial County's Colorado River water allocations that the existing agricultural and residential water users cannot absorb without substantial harm to the farming economy and quality of life.

P. CUMULATIVE POWER GRID IMPACTS.

The People find that the combined peak electrical load of the data center proposals known as of the date of this Ordinance would require transmission infrastructure upgrades, power purchase agreements, and reserve capacity commitments that collectively threaten the reliability and affordability of electrical service for all IID ratepayers.

Q. VOTER APPROVAL REQUIRED FOR FUTURE AMENDMENTS.

The People find that the prohibition enacted by this Ordinance is of such fundamental importance to the public health, water security, agricultural economy, and environmental justice of Imperial County that it should not be reversible or amendable by the Board of Supervisors acting alone. Any amendment, repeal, exceptions to, or weakening of this Ordinance requires a vote of the People.

SECTION 3: Definitions

As used in this Ordinance, the following terms have the meanings set forth in this Section:

A. 'Data Center'

means any building, structure, group of structures, or dedicated space within a building that is used primarily to house networked computer systems for the storage, processing, transmission, or distribution of data for off-site or on-site users, whether operated for commercial colocation, cloud computing services, artificial intelligence model training or inference computation, machine learning infrastructure, cryptocurrency mining, content delivery networks, or any functionally equivalent purpose. Associated infrastructure, including cooling systems, power systems, uninterruptible power supplies, backup diesel or gas generators, battery storage systems, utility substations, switchgear, and security systems, constructed or operated primarily to support such computer systems is included in this definition. A facility is a 'Data Center' subject to this Ordinance if it meets any one or more of the following thresholds:

- (1) Located on one or more contiguous acres of land under unified ownership or control as part of the same project or development, whether developed in a single phase or multiple phases;
- (2) Designed to operate or actually operating at a peak power draw of five (5) megawatts or greater; or
- (3) Containing 10,000 or more square feet of dedicated computer equipment space.

B. 'Accessory Data Processing Facility'

means a room, closet, or equipment space containing computer or networking equipment that meets all of the following criteria: (1) Is entirely contained within an existing building that was not principally designed or constructed for data center use; (2) Operates at less than five (5) megawatts peak power draw; (3) Serves only the internal operational computing needs of the primary occupant of that building; and (4) Is not marketed, leased, licensed, or used for commercial colocation, cloud hosting, or data processing services to parties other than the primary occupant. Accessory Data Processing Facilities are expressly excluded from the definition of 'Data Center' for purposes of this Ordinance.

C. 'Land Use Entitlement'

means any permit, approval, license, certificate, development agreement, conditional use permit, variance, zoning amendment, general plan amendment, specific plan, subdivision map, tentative map, final map, building permit, grading permit, encroachment permit, certificate of occupancy, or other discretionary or ministerial approval issued by or on behalf of the County that is required for or that materially facilitates the construction, installation, operation, or expansion of a Data Center.

D. 'Data Center Application'

means any application for a Land Use Entitlement that the applicant has certified, or that a County Officer or Employee knows or reasonably should know, involves a proposed use that meets any threshold in Section 3(A). Upon submission of any application for a Land Use Entitlement, the applicant shall complete and sign, under penalty of perjury, a Data Center Self-Certification Form, in a form to be drafted by the County Counsel, attesting whether the proposed project meets or may meet any threshold in Section 3(A). The County shall not process any application for a Land Use Entitlement for which the applicant has failed to complete the required Self-Certification Form. Submission of a materially false or misleading Self-Certification Form is a misdemeanor punishable pursuant to Government Code Section 25132(a) and Penal Code Section 19. The obligation to complete the Self-Certification Form and the obligation not to submit a false form attach to the applicant regardless of whether the County has yet reviewed the application. The Board of Supervisors is directed to adopt a form of the Data Center Self-Certification Form within sixty (60) days of the effective date of this Ordinance. The form shall ask, at minimum: (a) whether the proposed project involves any use described

in Section 3(A); (b) whether the project meets any of the three thresholds in Section 3(A)(1) through (3); and (c) the applicant's certification under penalty of perjury that the answers are true and correct to the best of the applicant's knowledge.

E. 'Pending Application'

means any application for a Land Use Entitlement for a Data Center that has been received by the County but that has not been finally approved with all applicable appeal and review periods fully exhausted as of the effective date of this Ordinance.

F. 'County Officer or Employee'

means: any member of the Board of Supervisors; any elected county officer; any appointed department director, department head, manager, or supervisor; any planner, building official, permit technician, zoning administrator, engineer, attorney, or other staff member employed by any county department, office, or agency; any member of the Planning Commission, Board of Zoning Appeals, or any other board, commission, or hearing body exercising land use authority; and any deputy, assistant, agent, or contractor acting on behalf of any of the foregoing in performing county land use functions. The term includes persons serving in acting or interim capacities.

G. 'County Resources'

means any expenditure of county funds; any expenditure of the compensated time of any County Officer or Employee; and the use of any county equipment, facilities, systems, or other county property.

H. 'Data Center Developer'

means any person, entity, partnership, limited liability company, corporation, trust, or agent that proposes, applies for, finances, designs, constructs, operates, or manages a Data Center, or that advocates on behalf of any of the foregoing before any county body or officer, or that has a direct financial interest in any Data Center proposed for unincorporated Imperial County.

I. 'Elector'

means any person who is registered to vote in Imperial County.

J. 'General Plan Land Use Element' or 'Land Use Element'

means the Land Use Element of the Imperial County General Plan, as adopted by the Board of Supervisors on November 9, 1993 (MO#18), last revised on October 6, 2015 (MO#18b), and as further amended by this Ordinance.

K. 'Paid Representative'

means any attorney, consultant, lobbyist, public affairs professional, land use agent, permit expeditor, government relations representative, or other person who: (1) is compensated, directly or indirectly, by money, goods, services, or other thing of value; and (2) appears before, communicates with, or contacts any County Officer or Employee in connection with any matter relating to a Data Center or to this Ordinance, including without limitation any proceeding involving a Data Center Application, any proceeding relating to the enforcement, interpretation, amendment, or repeal of this Ordinance, and any Board of Supervisors proceeding regarding placement of a repeal or amendment measure on the ballot. A person is a 'Paid Representative' for purposes of this Ordinance regardless of whether they are required to register as a lobbyist under any other law. Attorneys appearing solely for purposes of judicial proceedings (as opposed to administrative or legislative proceedings before county bodies) are not Paid Representatives for purposes of this Ordinance.

SECTION 4: Amendment to the Imperial County General Plan Land Use Element

The People hereby expressly amend the Imperial County General Plan Land Use Element as set forth in this Section, effective upon the effective date of this Ordinance. This Section constitutes a voter-adopted General Plan amendment. Voters are expressly notified that amendment of the General Plan is a primary purpose of this Ordinance, as required by *Leshar Communications, Inc. v. City of Walnut Creek* (1990) 52 Cal.3d 531. These amendments are protected from repeal or modification by the Board of Supervisors without voter approval pursuant to Elections Code Section 9125 and Section 8 of this Ordinance.

A. NEW SECTION IV.F: COUNTYWIDE PROHIBITED LAND USES: DATA CENTERS.

The following new section is hereby added to the Land Use Element as Section IV.F, inserted after the existing Section IV.E:

Section IV.F: Countywide Prohibited Land Uses: Data Centers (People's Initiative)

Notwithstanding any other provision of this Land Use Element (including but not limited to any land use designation, permitted use table, conditional use permission, Specific Plan provision, or Compatibility Matrix entry), the following land use is expressly prohibited in all land use designations applicable to the unincorporated territory of Imperial County:

Prohibited Use: Data Centers (as defined in Section 3(A) of the Imperial County Data Center Prohibition Act).

This prohibition applies in all of the following General Plan land use designations:

Urban Areas (UA): Data Centers are prohibited in all Urban Area designations, including areas surrounding the cities of Brawley, Calexico, Calipatria, El Centro, Holtville, Imperial, and Westmorland, and all unincorporated community urban areas including Heber, Niland, Seeley, Winterhaven, and West Shores/Salton City.

Rural Residential (RR): Data Centers are prohibited.

Agricultural (A): Data Centers are prohibited.

Commercial (C): Data Centers are prohibited.

Industrial, Light Industrial, and General Industrial (I/LI/GI): Data Centers are prohibited, notwithstanding any industrial use permission otherwise applicable and notwithstanding any entry in the Compatibility Matrix (Land Use Element Table 4). The Compatibility Matrix is hereby amended to designate 'Data Centers' as Prohibited in all land use designation columns.

Open Space and Conservation (OS/C): Data Centers are prohibited.

Public and Quasi-Public (PQP): Data Centers are prohibited.

All Specific Plan Areas (SPA): Data Centers are prohibited in all currently designated and future Specific Plan Areas, including without limitation the Gateway of the Americas, Mesquite Lake, Rio Bend, Imperial Lakes, McCabe Ranch, River Front, and Lithium Valley Specific Plan Areas. No Specific Plan adopted, amended, or approved after the effective date of this Ordinance may authorize or permit a Data Center.

This prohibition supersedes and controls over any conflicting provision of this Land Use Element, any existing or future Specific Plan, and any entry in the Compatibility Matrix (Table 4).

B. AMENDMENT TO GOALS AND OBJECTIVES.

Section III.B (Goals and Objectives) of the Land Use Element is hereby amended by adding the following new goal and implementing objective, to be inserted after the final existing goal: New Goal LU-DC: Protect Imperial County's finite water resources, prime agricultural land, power grid reliability, and community public health by prohibiting the establishment of large-scale data centers in the unincorporated territory of Imperial County. Implementing Objective LU-DC.1: No Land Use Entitlement shall be accepted, processed, or issued for a Data Center (as defined in the Imperial County Data Center Prohibition Act) in the unincorporated territory of Imperial County.

C. CONFORMING TECHNICAL AMENDMENTS.

The Board of Supervisors is directed to adopt conforming technical amendments to the Land Use Element, including updates to figures, tables, and the Compatibility Matrix,

within ninety (90) days of the effective date of this Ordinance. Such conforming technical amendments shall be strictly ministerial and shall not alter, reduce, weaken, or limit the scope of the prohibition enacted by this Section. Failure of the Board to timely adopt conforming technical amendments is a violation of this Ordinance enforceable under Sections 11 and 14.

SECTION 5: Amendment to the Imperial County Zoning Ordinance

A. PROHIBITED USE IN ALL ZONING DISTRICTS.

The Imperial County Zoning Ordinance (Title 9 of the Imperial County Codified Ordinance, Land Use Ordinance) is hereby amended to add 'Data Centers, as defined in the Imperial County Data Center Prohibition Act,' as an expressly prohibited land use in all zoning districts applicable to the unincorporated territory of Imperial County. This prohibition applies to all base zones and all overlay zones, including without limitation all agricultural zones, all residential zones, all commercial zones, all light industrial zones, all general industrial zones, and all specific plan implementation zones.

B. SUPERSESSION OF EXISTING USE TABLES.

To the extent any current entry in any zoning district use table designates data centers, data processing facilities, computer centers, server facilities, or any functionally equivalent use as permitted outright (P), permitted subject to a conditional use permit (CUP), or otherwise allowable, such designation is hereby superseded and shall be read as 'Prohibited' for any facility meeting the definition of 'Data Center' in Section 3(A), regardless of the size, ownership, or specific operational characteristics of the facility.

C. CONFORMING AMENDMENTS.

The Board of Supervisors is directed to adopt conforming amendments to the Zoning Ordinance, including updates to use tables, definitions sections, and any applicable district development standards, within ninety (90) days of the effective date of this Ordinance. Such amendments shall be ministerial and shall not reduce the scope of the prohibition enacted by this Section.

SECTION 6: Prohibition on Data Centers and Land Use Entitlements

A. GENERAL PROHIBITION.

Data Centers are prohibited in all land use designations and all zoning districts in the unincorporated territory of Imperial County. No person or entity shall construct, install, establish, operate, expand, or reconstruct beyond lawful nonconforming standards any Data Center in the unincorporated territory of Imperial County.

B. ENTITLEMENT PROHIBITION.

A County Officer or Employee who knows or reasonably should know that an application is a Data Center Application shall not recommend approval of, approve, sign, issue,

record, or otherwise take any official act upon that application or any resulting Land Use Entitlement. A County Officer or Employee knows or reasonably should know that an application is a Data Center Application when: (1) the applicant has submitted a Data Center Self-Certification Form pursuant to Section 3(D) disclosing that the project meets any threshold in Section 3(A); (2) the project description, plans, or supporting materials submitted with the application indicate on their face that the project meets any threshold in Section 3(A); or (3) the County Officer or Employee otherwise has actual knowledge that the project is or includes a Data Center. This prohibition applies to all Pending Applications as of the effective date of this Ordinance and to all new applications filed after the effective date of this Ordinance. Ignorance of the requirements of this Ordinance is not a defense if the officer or employee had access to information from which a reasonable person would have concluded that the application involved a Data Center.

C. RETROACTIVITY AND PENDING INITIATIVE NOTICE.

This Ordinance applies retroactively to all Pending Applications regardless of the date on which such applications were filed. No vested right to develop a Data Center shall be deemed to have arisen from the filing, pendency, or processing of any application that was not finally approved, with all applicable administrative appeal periods, CEQA challenge deadlines, and judicial review periods fully exhausted, before the effective date of this Ordinance. Any application for a Land Use Entitlement for a Data Center filed on or after the date on which the Notice of Intention to circulate this initiative petition is filed with the Imperial County Elections Official pursuant to Elections Code Section 9103 is filed with actual and constructive knowledge that a pending initiative measure seeks to prohibit Data Centers in unincorporated Imperial County. No person or entity filing such an application may claim any reliance interest, vested right, equitable estoppel, or investment-backed expectation arising from that filing, the County's receipt of that filing, or any action taken by the County on that filing prior to the effective date of this Ordinance.

D. DEVELOPMENT AGREEMENTS.

No development agreement, whether executed before or after the effective date of this Ordinance, shall be construed to authorize or permit a Data Center in contravention of this Ordinance. To the extent any development agreement executed before the effective date of this Ordinance purports to authorize a Data Center, that authorization is void as of the effective date of this Ordinance, subject to any applicable constitutional limitations.

SECTION 7: Limited Exceptions

The following uses are not prohibited by this Ordinance and are not subject to the prohibition in Section 6:

A. Accessory Data Processing Facilities

as defined in Section 3(B).

B. Existing lawfully operating facilities.

Any facility that: (i) was lawfully operating as a data center under a Land Use Entitlement that was finally approved, with all applicable appeal and review periods fully exhausted, before the effective date of this Ordinance; and (ii) continues to operate within the scope and intensity of that Entitlement. Any expansion of the facility beyond the footprint, power draw, or operational scope of the existing Entitlement is prohibited. This exception does not apply to any facility for which a Land Use Entitlement was issued in violation of this Ordinance.

C. Governmental facilities.

Data processing facilities operated exclusively by a federal, state, or local government agency for the agency's own internal governmental operations, where such facilities are not available for commercial colocation, commercial cloud hosting, or data processing services to private parties.

D. Narrow construction of exceptions.

No facility that meets the definition of 'Data Center' in Section 3(A) shall qualify for any exception under this Section solely on the grounds that it also performs governmental, telecommunications, or other functions, unless the data center use is genuinely incidental and physically and operationally subordinate to the excepted function. The burden of demonstrating eligibility for any exception rests on the party claiming the exception.

SECTION 8: Voter-Only Repeal and Limitation on Board Authority

A. This Ordinance, including the General Plan Land Use Element amendments in Section 4, the Zoning Ordinance amendments in Section 5, and all enforcement provisions in Sections 11 through 14, may not be repealed or amended except by a majority vote of the registered voters of Imperial County at a duly called election. The Board of Supervisors may not repeal, amend, weaken, limit, suspend, or circumvent this Ordinance by ordinance, resolution, administrative directive, administrative policy, development agreement, approval of a Specific Plan, grant of a variance, or any other means, without voter approval.

B. Notwithstanding Section 8(A), the Board of Supervisors may adopt strictly non-substantive ministerial technical amendments to this Ordinance solely for the following limited purposes: (i) correcting typographical or clerical errors that do not affect the substance of any provision; (ii) renumbering sections for codification consistency with the Imperial County Codified Ordinance; or (iii) making the minimum adjustment expressly directed by a final, non-appealable judgment of a court of competent jurisdiction, as specified in that judgment. No ministerial technical amendment may reduce the scope of the prohibition in Section 6; expand any exception in Section 7; modify any definition in Section 3 in a manner that narrows the definition of 'Data

Center' or broadens the definition of 'Accessory Data Processing Facility'; or modify the enforcement provisions of Sections 11 through 14 in any manner adverse to enforcement or to the rights of Electors under Section 14.

C. Elections Code Section 9125 independently provides that an ordinance adopted by voters by initiative petition may not be repealed or amended by the Board of Supervisors. Section 8(A) reinforces and supplements that statutory protection and extends it expressly to the General Plan and Zoning Ordinance amendments enacted by this Ordinance.

SECTION 9: Environmental Review

The People find and declare that adoption of this Ordinance is exempt from further review under the California Environmental Quality Act (CEQA) (Public Resources Code Sections 21000 et seq.) and the CEQA Guidelines (14 California Code of Regulations Sections 15000 et seq.) for each of the following independent and alternative reasons:

A. This Ordinance will not result in a direct or reasonably foreseeable indirect physical change in the environment. A prohibition on data centers prevents construction; it does not authorize any physical development or ground disturbance. (14 Cal. Code Regs. Section 15060(c)(2).)

B. There is no possibility that this Ordinance may have a significant effect on the environment. (14 Cal. Code Regs. Section 15061(b)(3).)

C. This Ordinance establishes temporary or permanent land use limitations and qualifies as a minor alteration in land use limitations categorically exempt from CEQA review. (14 Cal. Code Regs. Section 15305.)

D. This Ordinance is adopted by a regulatory agency to protect natural resources and the environment by preventing environmental impacts associated with large-scale data center uses. (14 Cal. Code Regs. Sections 15307, 15308.)

E. Local land use initiatives adopted by voters are not subject to CEQA review. (Tuolumne Jobs & Small Business Alliance v. Superior Court (2014) 59 Cal.4th 1029.)

MANDATORY NOTICE OF EXEMPTION. The County Counsel and the Clerk of the Board of Supervisors shall file a Notice of Exemption with the Imperial County Clerk and with the California Office of Planning and Research (State Clearinghouse) within five (5) calendar days of the effective date of this Ordinance, pursuant to Public Resources Code Section 21167(d) and 14 California Code of Regulations Section 15062. Timely filing commences a thirty-five (35) day statute of limitations on CEQA challenges to this Ordinance. Failure to timely file is a violation of this Ordinance subject to enforcement under Sections 11 and 14.

SECTION 10: General Provisions

A. BROAD CONSTRUCTION.

This Ordinance shall be broadly construed in every respect to achieve the purposes stated in Section 2. Ambiguities in the scope of any prohibition, definition, or exception shall be resolved in favor of prohibition rather than permission.

B. CONSISTENCY WITH LAW.

This Ordinance shall be interpreted to be consistent with all applicable federal and state laws. To the extent any provision of this Ordinance is held by a court to be preempted by state or federal law, that provision shall be deemed modified only to the minimum extent necessary to avoid preemption, and all remaining provisions shall continue in full force and effect.

C. SEVERABILITY.

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, including any amendment to the General Plan Land Use Element or Zoning Ordinance, is held invalid by a final judgment of a court of competent jurisdiction, such invalidity shall not affect the validity or enforcement of the remaining portions. The People declare that this Ordinance, and each portion thereof, would have been adopted irrespective of whether any other portion is found invalid. The People expressly find that this Ordinance fully accomplishes its core purpose of prohibiting Data Centers in unincorporated Imperial County through Sections 4 and 5 independently. The Board of Supervisors is directed to use its best efforts to cure any invalidated provision consistently with the express and implied intent of this Ordinance.

D. COMPETING MEASURES.

If a competing ballot measure addresses the same subject matter and both this Ordinance and the competing measure receive majority approval at the same election, the provisions of each shall be given full effect except to the extent of any direct conflict between specific provisions. As to directly conflicting provisions, the provisions of the measure receiving the greater number of affirmative votes shall prevail. (*Yoshisato v. Superior Court* (1992) 2 Cal.4th 978.)

E. CUMULATIVE PROVISIONS.

All provisions of this Ordinance are cumulative with any other applicable law, ordinance, regulation, or requirement. The provisions of this Ordinance do not limit any authority the County, any elector, or any other person may have under any other law to regulate, prohibit, or seek redress with respect to data centers or any related land use.

SECTION 11: Misdemeanor Penalties; Prohibition on Unlawful Expenditure of County Resources

A. MISDEMEANOR: GENERAL.

Any person who violates any prohibition of this Ordinance is guilty of a misdemeanor, punishable pursuant to Government Code Section 25132(a) and Penal Code Section 19 by: imprisonment in the Imperial County jail for a period not to exceed six (6) months; a fine not to exceed one thousand dollars (\$1,000); or both such imprisonment and fine. Each day on which a violation occurs or continues constitutes a separate and distinct offense. Each Land Use Entitlement approved or issued in violation of this Ordinance constitutes a separate offense, independent of any day-count.

B. MISDEMEANOR: COUNTY OFFICERS AND EMPLOYEES.

Notwithstanding any other provision of law, any County Officer or Employee who commits any of the following acts is guilty of a misdemeanor under Government Code Section 25132(a), punishable as provided in Section 11(A):

- (1) Knowing or having reasonable basis to know that an application is a Data Center Application, recommends approval of, approves, signs, issues, records, or otherwise takes any official act upon that application or any resulting Land Use Entitlement;**
- (2) Expends, authorizes the expenditure of, or commits any County Resources in connection with recommending, approving, or facilitating any Data Center Application or any resulting Land Use Entitlement;**
- (3) Directs, instructs, authorizes, or permits any other County Officer or Employee to take any action described in paragraphs (1) or (2);**
- (4) Votes as a member of the Board of Supervisors or any county body to accept, process, or approve any Land Use Entitlement for a Data Center; or to adopt any ordinance, resolution, or policy that conflicts with, circumvents, suspends, or purports to supersede this Ordinance other than as strictly permitted by Section 8(B); or**
- (5) Fails to file the Notice of Exemption required by Section 9 within five (5) calendar days of the effective date of this Ordinance.**

C. UNLAWFUL EXPENDITURE.

Any expenditure of County Resources in violation of this Ordinance is an unlawful expenditure of public funds. Any County Officer or Employee who authorizes or makes an unlawful expenditure is personally liable to the County of Imperial for the full amount of such unlawful expenditure, recoverable: (i) by the County through any available legal means; (ii) by any taxpayer through an action under Code of Civil Procedure Section 526a; or (iii) by any Elector through an action under Section 14 of this Ordinance.

D. NO IMMUNITY FOR FOLLOWING ORDERS.

It is not a defense to any criminal prosecution or civil enforcement action under this Ordinance that a County Officer or Employee was directed, instructed, or authorized by any supervisor, department director, the County Administrative Officer, the Board of

Supervisors, County Counsel, or any other person or body to take the act that constitutes the violation. Each individual who personally commits a prohibited act bears individual criminal and civil liability.

E. PROSECUTION.

Violations of this Section may be prosecuted by the Imperial County District Attorney in the name of the People of the State of California pursuant to Government Code Section 25132(a).

F. ADMINISTRATIVE CIVIL PENALTIES.

In addition to criminal prosecution and civil liability, the County may pursue administrative civil penalties under Government Code Section 53069.4 against any person violating this Ordinance, in amounts not exceeding the limits specified by applicable law per violation per day.

G. CIVIL NUISANCE ACTION.

Any violation of this Ordinance constitutes a public nuisance. The County may seek injunctive relief, abatement, civil penalties, and any other remedy available at law or in equity to abate any such nuisance.

H. VOID ENTITLEMENTS.

Any Land Use Entitlement issued in violation of this Ordinance is void ab initio and confers no vested rights upon any applicant, developer, contractor, owner, or operator.

SECTION 12: Liability Upon Official Bond

A. AUTOMATIC ATTACHMENT TO BOND.

This Ordinance imposes duties on County Officers. Pursuant to Government Code Section 1503, the faithful performance condition of every County Officer's official bond is supplemented, automatically and by operation of law, upon the effective date of this Ordinance to include faithful compliance with all obligations imposed on that officer by this Ordinance, as additional duties imposed by law enacted subsequent to the execution of any existing bond.

B. NONFEASANCE AND MALPERFORMANCE.

Pursuant to Government Code Section 1505, any special penalty, forfeiture, or liability imposed by this Ordinance on any County Officer for nonperformance or malperformance of official duties, including without limitation the criminal penalties in Section 11(A) and (B) and the civil liability for unlawful expenditures in Section 11(C), attaches to the official bond of that officer and to the principal and sureties thereon. This attachment operates automatically by statute upon the effective date of this Ordinance.

C. SCOPE OF BOND LIABILITY.

'County Officer' subject to bond liability includes every officer of Imperial County required by law to give or maintain an official bond before entering on the duties of office, including without limitation: members of the Board of Supervisors, County Assessor, County Auditor-Controller, County Clerk of the Board, County Sheriff, District Attorney, County Treasurer-Tax Collector, County Recorder, County Superintendent of Schools, and any other elected or appointed officer of the County who holds an official bond.

D. CIVIL ACTION AGAINST BOND.

Any Elector may bring an action in the Superior Court of Imperial County against any County Officer and the principal and sureties on that officer's official bond or master bond to recover any damages, penalties, or forfeitures arising from that officer's violation of this Ordinance, as authorized by Government Code Section 1505 and Code of Civil Procedure Section 995.010 et seq.

E. EMPLOYEES WITHOUT BONDS.

County employees not required to give or maintain an official bond bear personal criminal liability under Section 11(A) and (B) and personal civil liability under Section 11(C) for violations of this Ordinance.

F. NOTICE TO SURETIES.

Within thirty (30) calendar days of the effective date of this Ordinance, the Clerk of the Board of Supervisors shall send written notice to the surety on each county officer's individual official bond and on each master bond on file with the County, stating that this Ordinance imposes additional faithful performance duties on bonded officers pursuant to Government Code Section 1503 and that liability for nonfeasance or malperformance in connection with this Ordinance attaches to the bond pursuant to Government Code Section 1505. Failure of the Clerk to send such notice does not affect the legal effect of subdivisions (A) and (B), which operate by operation of law regardless of notice.

SECTION 13: Supplemental Conflict of Interest, Recusal, and Paid Representative Disclosure Policy

A. PURPOSE, FOUNDATION, AND SUPPLEMENTAL NATURE.

This Section establishes a supplemental conflict of interest, recusal, and paid representative disclosure policy for County Officers, Employees, and Paid Representatives in connection with Data Centers and this Ordinance. The People enact this Section pursuant to the finding in Section 2(K) that the sole lawful path to authorizing any Data Center after the effective date of this Ordinance is a voter referendum to repeal or amend this Ordinance. Because the only remaining avenue available to any person seeking to authorize a Data Center is an election of the People,

any effort to influence County Officers or the Board of Supervisors regarding Data Centers or this Ordinance is, in practical and legal effect, an attempt to influence the conditions of a future election. This Section is enacted to protect the integrity of both the county administrative process and the democratic process. This Section supplements the obligations of County Officers and Employees under the Political Reform Act (Government Code Sections 81000 et seq.), the common law doctrine of incompatibility of interest, and any other applicable ethics statute or regulation, and in no respect replaces, limits, or satisfies those obligations. Where this Section is more restrictive than the Political Reform Act or other law, the more restrictive obligation controls. Enforcement by the Fair Political Practices Commission of the Political Reform Act is unaffected by this Section. All enforcement of this Section by the District Attorney is grounded in Government Code Section 25132 and this Ordinance, not in the Political Reform Act.

B. MANDATORY DISCLOSURE BY COUNTY OFFICERS AND EMPLOYEES.

Any County Officer or Employee who is called upon to take, recommend, or participate in any official action relating to: the acceptance, processing, review, approval, or denial of any Data Center Application or Land Use Entitlement for a Data Center; the implementation, interpretation, amendment, or enforcement of this Ordinance; any Board proceeding relating to placement of a repeal or amendment measure on the ballot; or any other matter relating to a Data Center shall first disclose in writing to the Clerk of the Board, and affirmatively state on the public record at any proceeding, any of the following relationships with any Data Center Developer or Paid Representative that exists at the time of the action or that existed within the five (5) years preceding the action:

- (1) Any employment, consulting, contractor, agency, or other compensated or uncompensated service relationship;
- (2) Receipt of any gift, contribution, payment, in-kind benefit, loan, or other thing of value with a fair market value exceeding fifty dollars (\$50), whether received directly or indirectly through a third party;
- (3) Any campaign contribution, independent expenditure, or other form of political support provided to the officer, or to any officeholder or candidate actively supported by the officer, from any Data Center Developer, Paid Representative, or any officer, director, owner, investor, agent, lobbyist, or affiliate of a Data Center Developer;
- (4) Any current or prior ownership interest, equity stake, profit-sharing arrangement, stock holding, or other direct or indirect financial interest in any entity that is a Data Center Developer or an investor, parent company, subsidiary company, affiliate, or joint venture partner of a Data Center Developer; or
- (5) Any personal, family, household, or significant business relationship that a reasonable member of the public with full knowledge of the relationship would find creates a substantial appearance of bias or partiality.

C. MANDATORY RECUSAL.

Any County Officer or Employee who has any relationship required to be disclosed under Section 13(B) shall be recused from all participation in any official action described in Section 13(B), including deliberation, discussion, recommendation, and any vote, whether taken at a noticed public meeting or in any other official context.

D. REVOLVING DOOR RECUSAL.

Any County Officer or Employee who, within the five (5) years immediately preceding the action, served as a Paid Representative for any Data Center Developer in connection with any matter before any California public agency shall be recused from all participation in any official action described in Section 13(B). This revolving door recusal obligation applies regardless of whether any other relationship requiring disclosure under Section 13(B) exists. The revolving door recusal is a condition of holding public office or employment with respect to the subject matter of this Ordinance, not a restriction on speech or association.

E. RECUSAL PROCEDURE.

A recused County Officer or Employee shall: (i) promptly notify the Clerk of the Board and the presiding officer of any body before which the matter is pending of the recusal and its basis; (ii) physically leave the room during any deliberation, discussion, or vote on any matter from which the officer or employee is recused, and not return until the matter is concluded; and (iii) file a written recusal statement with the Clerk of the Board within five (5) business days of the date the recusal occurs. The Clerk of the Board shall maintain a public register of all recusal statements filed pursuant to this Section, open to inspection by any person during normal business hours.

F. MANDATORY ON-THE-RECORD DISCLOSURE BY PAID REPRESENTATIVES.

Any Paid Representative appearing before, communicating with, or contacting any County Officer or Employee in connection with any matter within the scope of Section 13(B) shall, at the commencement of each appearance, communication, or contact, disclose on the public record, in writing to the Clerk of the Board if the communication is not at a public proceeding, or under oath at any transcribed or video recorded proceeding:

- (1) Their full legal name and the name of their firm or organization, if any;
- (2) The full legal name of each Data Center Developer on whose behalf they are appearing or communicating;
- (3) The general nature of the compensation arrangement, including whether compensation is on a retainer, hourly, contingency, or other basis, without requiring disclosure of dollar amounts; and
- (4) The specific matter or proceeding with respect to which they are appearing or communicating.

This disclosure obligation applies at each separate appearance, communication, or contact. Submission of a written disclosure form to the Clerk of the Board at or before the time of appearance satisfies the on-the-record requirement for written communications. The disclosure obligation under this subsection does not restrict, limit, or condition the Paid Representative's right to appear, speak, or advocate.

G. PUBLIC REGISTER OF PAID REPRESENTATIVE APPEARANCES.

The Clerk of the Board shall maintain a publicly accessible register of all disclosures filed pursuant to Section 13(F). The register shall include: the name of the Paid Representative; the name of the Data Center Developer represented; the matter before the county body; the date of each appearance or communication; and the nature of the proceeding. The register shall be updated within ten (10) business days of each disclosure and shall be available for public inspection during normal business hours and on the County's public-facing website. The register shall be retained for not less than ten (10) years.

H. FALSE DISCLOSURE: MISDEMEANOR.

Any person who knowingly makes a materially false or misleading disclosure under Section 13(B) or Section 13(F), or who knowingly fails to make a required disclosure under either subsection while taking an action or making an appearance to which the disclosure obligation applies, is guilty of a misdemeanor under Government Code Section 25132(a), punishable as provided in Section 11(A). Each separate false statement and each separate failure to disclose constitutes a distinct offense.

I. VOIDABILITY OF ACTIONS TAKEN IN VIOLATION.

Any Land Use Entitlement approved, or any other official action taken, by a County Officer or Employee who was subject to but failed to comply with the mandatory recusal required by Section 13(C) or the revolving door recusal required by Section 13(D) is voidable. Any Elector may seek to void such action pursuant to Section 14 of this Ordinance.

J. NO RESTRICTION ON APPEARANCE OR SPEECH.

Nothing in this Section restricts, prohibits, or penalizes any person's right to appear before, petition, or communicate with any County Officer, Employee, or body. The obligations imposed by this Section are disclosure, registration, and recusal obligations only. They do not limit speech, advocacy, or the right to petition the government.

SECTION 14: Private Right of Action; Elector Standing; Available Relief; Attorney's Fees

A. CREATION OF PRIVATE RIGHT OF ACTION.

This Ordinance expressly creates a private right of action enforceable by any Elector of Imperial County. Any Elector shall have standing, without the need to demonstrate personal particularized injury beyond status as a registered voter of Imperial County, to bring a civil action in the Superior Court of Imperial County to seek the relief specified in this Section against the County of Imperial, the Board of Supervisors, any County Officer or Employee in his or her individual and official capacity, or any other person or entity violating any provision of this Ordinance.

B. GROUNDS FOR ACTION.

An Elector may bring an action under this Section upon any of the following grounds, which are set forth by way of illustration and not limitation:

- (1) Failure by the Board to adopt the General Plan Land Use Element conforming technical amendments required by Section 4(C) within ninety (90) days of the effective date of this Ordinance;
- (2) Failure by the Board to adopt the Zoning Ordinance conforming amendments required by Section 5(C) within ninety (90) days of the effective date of this Ordinance;
- (3) Acceptance, processing, recommendation of approval, approval, or issuance of any Land Use Entitlement for a Data Center in violation of Section 6;
- (4) Failure by the County Counsel or the Clerk of the Board to file the Notice of Exemption required by Section 9 within five (5) calendar days of the effective date of this Ordinance;
- (5) Adoption by the Board of any purported ministerial technical amendment to this Ordinance that exceeds the narrow scope permitted by Section 8(B);
- (6) Any violation of the conflict of interest disclosure, recusal, revolving door, or paid representative disclosure requirements of Section 13;
- (7) Any failure by the Clerk of the Board to maintain or update the public register required by Section 13(G);
- (8) Any unlawful expenditure of County Resources in violation of Section 11(C);
- (9) Any other material violation of any provision of this Ordinance; or
- (10) Any threat of imminent violation that, unless enjoined, would cause irreparable harm to the purposes of this Ordinance.

C. RELIEF AVAILABLE.

In any action brought by an Elector under this Section, the Superior Court may grant: (1) a temporary restraining order and preliminary or permanent injunction enjoining any violation or threatened violation; (2) declaratory relief; (3) a writ of mandate under Code of Civil Procedure Section 1085 compelling performance of any ministerial duty imposed by this Ordinance; (4) an order voiding any Land Use Entitlement or official action issued or taken in violation of this Ordinance; (5) an order requiring recovery of any

unlawful expenditure of County Resources; (6) an order requiring the filing of any Notice of Exemption not timely filed; (7) an order compelling maintenance or correction of the paid representative register required by Section 13(G); and (8) such other equitable, legal, or declaratory relief as the court deems appropriate to effectuate the purposes and intent of this Ordinance.

D. ATTORNEY'S FEES: PRIVATE ATTORNEY GENERAL.

In any action brought under this Section in which the Elector prevails in whole or in substantial part, the court shall award reasonable attorney's fees and costs to the prevailing Elector pursuant to Code of Civil Procedure Section 1021.5. The People expressly find that: (i) this Ordinance protects an important right affecting the public interest; (ii) enforcement confers significant benefits on the general public; and (iii) the financial burden of private enforcement is such that an award of attorney's fees is necessary to ensure effective enforcement.

E. VENUE.

All actions under this Section shall be filed and maintained in the Superior Court of the State of California, County of Imperial.

F. DEMAND AND OPPORTUNITY TO CURE.

For actions seeking a writ of mandate under Section 14(C)(3) only, the Elector must first deliver written demand to the responsible County Officer and a copy thereof with Clerk of the Board specifying the duty to be performed and allow a reasonable time, not less than ten (10) business days from receipt of the demand, for compliance before filing the writ petition, unless the court finds that immediate relief is warranted to prevent irreparable harm or that demand would be futile. For all other forms of relief under this Section, no prior demand or exhaustion of administrative remedies is required.

G. CUMULATIVE REMEDIES.

All remedies provided in this Section are cumulative and are in addition to all other remedies available to any person at law or in equity, including without limitation the right of any taxpayer under Code of Civil Procedure Section 526a to enjoin any illegal or unauthorized expenditure of public funds; the right of any person to seek a writ of mandate under Code of Civil Procedure Section 1085; and any remedy available under the Political Reform Act (Government Code Sections 81000 et seq.).

SECTION 15: Effective Date and Publication

A. EFFECTIVE DATE.

If approved by a majority of the voters voting on this measure at the election, this Ordinance shall become a valid and binding ordinance of the County of Imperial and shall become effective ten (10) days after the date on which the Board of Supervisors

declares the results of the election, pursuant to Elections Code Section 9122. All prohibitions set forth in Section 6 and all enforcement provisions set forth in Sections 11 through 14 shall take effect on the same date.

B. PUBLICATION.

The Clerk of the Board of Supervisors is directed to publish this Ordinance or a summary thereof in a newspaper of general circulation within Imperial County and to codify this Ordinance in the Imperial County Codified Ordinance within thirty (30) days of the effective date of this Ordinance.