

Jeffrey B Jones

Sebastian Rucci (State Bar #178114)
Law Offices of Sebastian Rucci, P.C.
16400 Pacific Coast Highway, Suite 212
Huntington Beach, CA 92649
Tel: (562) 901-0199
Cell: (760) 989-5100
Sebastian@RucciLaw.com
Attorneys for Petitioner

FILED

6-22-26

SUPERIOR COURT
COUNTY OF IMPERIAL
CLERK OF THE COURT
BY Lizette Hendry, DEPUTY

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

IMPERIAL VALLEY COMPUTER
MANUFACTURING, LLC a
California limited liability company;

Petitioner,

vs.

COUNTY OF IMPERIAL, a general
law county, and IMPERIAL COUNTY
BOARD OF SUPERVISORS,

Respondents,

Case No: ECU004800

Judge Jeffrey B Jones

**VERIFIED PETITION FOR WRIT
OF MANDATE AND
DECLARATORY RELIEF** (Code Civ.
Proc. §§ 1060, 1085)

COUNT 1 Writ of Mandate (Code Civ.
Proc. § 1085); Dec. Relief (Code Civ.
Proc. § 1060)

**VERIFIED PETITION FOR WRIT OF MANDATE
AND DECLARATORY RELIEF**

Petitioner, Imperial Valley Computer Manufacturing, LLC, alleges against the County
of Imperial, and Imperial County Board of Supervisors, as follows:

TABLE OF CONTENTS

1 – INTRODUCTION	1
2 – PARTIES, JURISDICTION AND VENUE.....	3
3 – GENERAL FACTUAL ALLEGATIONS	4
3.1 Petitioner Received Assurances That Data Centers Were Permitted as of Right	4
3.2 The County Confirmed That Data Centers Were Permitted as of Right. . . .	4
3.3 Petitioner Added Setbacks, a Sound Berm, and Equipment Buffers	5
3.4 The County Approved the Lot Merger.	5
3.5 Two Supervisors Sought to Reconsider the Lot Merger.	6
3.6 Economic Report; \$2.95 Billion Economic Output for County	6
3.7 Petitioner Offered to Relocate the Data Center	7
4 – ZONING REGULATIONS	7
4.1 The Code Requires No Setback Between Industrial and Residential Uses .	7
4.2 The County Expressly Added Data Centers as a Permitted Use in 2017 . . .	8
4.3 The Industrial Zones Permit 225 Uses at Zero Setback	8
4.4 The Industrial Zones Permit Heavier Uses at Zero Setback, Yet the Moratorium Reaches Only Data Centers.	10
4.5 The County Permits “Computer Sales, Repair, Manufacturing” at a Zero-Foot Setback; but Freezes the Identical Hardware for Data Processing	10
5 – THE MORATORIUM AND ITS FINDINGS	11
5.1 The County Adopted the Moratorium on June 16, 2026.	11
5.2 The Findings State That Data Centers Are Permitted by Right and That Applications Are Pending	11
5.3 County’s Defective Findings Concerning Alleged Harm from Data Centers	12
5.4 Companion Resolution Created a Data Center Advisory Committee.	13

1	6 – THE MORATORIUM IS INVALID AS A MATTER OF LAW	<u>13</u>
2	6.1 The Court Independently Determines, as a Matter of Law, Whether the Findings	
3	Establish a Current and Immediate Threat	<u>13</u>
4	6.2 The Findings Show Only Awareness of Concerns, Not an Immediate Threat.	
5		<u>14</u>
6	6.3 The Findings Show That Approvals “May” Result in a Threat; Failure to Find	
7	That Approving Data Centers “Would Result in That Threat” is Fatal; the	
8	Moratorium Is Facially Invalid	<u>15</u>
9	6.4 The County’s Finding That Proximity to Residences Creates “Potential Harm”	
10	Fails to Establish a “Current and Immediate” Threat to Public Safety. . . .	<u>16</u>
11	6.5 The Moratorium Reaches Only a Single Permitted Use.	<u>16</u>
12	7 – THE MORATORIUM CANNOT FREEZE PROCESSING OF PETITIONER’S	
13	COMPLETED APPLICATIONS	<u>18</u>
14	7.1 Gov. Code § 65858 Does Not Authorize Freezing the Processing of Pending	
15	Applications	<u>18</u>
16	7.2 The Permit Streamlining Act Requires the County to Continue Processing	
17	Petitioner’s Completed Applications	<u>18</u>
18	FIRST CAUSE OF ACTION	
19	Writ of Mandate and Declaratory Relief (Code Civ. Proc. § § 1060, 1085)	<u>19</u>
20	PRAYER FOR RELIEF	<u>20</u>
21	VERIFICATION.	<u>22</u>

1 – INTRODUCTION

1
2 1. California law does not let a county freeze a use of land whenever it wishes. A
3 moratorium is an emergency measure, and the County “*shall not adopt*” a moratorium
4 “unless the ordinance contains *legislative findings* that there is a *current and immediate*
5 *threat* to the public health, safety, or welfare, and that the approval of [data centers] . . .
6 *would result* in that threat to public health, safety, or welfare.” (Gov. Code § 65858(c)).
7 Whether the stated reasons satisfy § 65858 is a question of law the Court decides for itself.
8 (*Cal. Charter Sch. Assn. v. City of Huntington Park* (2019) 35 Cal.App.5th 362, 368-369.)

9 2. The Moratorium’s (**Exhibit 1**) findings confirm the defect. Section 65858(c)
10 requires a finding that approving data centers “*would result*” in the threat; the Moratorium
11 finds only that permits “*may result*” in a conflict with amendments the County is still
12 studying. (§ 65858(c); Finding 10, emphasis added.) And although one finding recites a
13 “current and immediate threat,” the very next describes the same harm as only “*potential*
14 *harms*,” and a potential harm is not an emergency happening now. (Findings 10, 11.)

15 3. The Moratorium finds only that the “County is *aware of concerns* regarding
16 adverse effects” of the “proximity” of data centers to “residential neighborhoods” –
17 concerns are not the “legislative findings” of a threat the statute demands. It finds that
18 permits “*may result*” in the approval of data centers that conflict with contemplated
19 amendments – but the statute requires a finding that they “*would result*” in a threat. And
20 it points to “*potential harms*” should data centers be “permitted to operate” – yet a potential
21 harm is the opposite of the “current and immediate threat” § 65858(c) requires.

22 4. Facing organized public opposition to Petitioner’s Project, the County froze data
23 centers without ever finding a current and immediate threat. The Moratorium says only that
24 the County is “aware of concerns” about the proximity of data centers to homes, and points
25 to “potential harms” if such facilities are “permitted to operate.” But being aware of
26 concerns, and pointing to potential harm, is the opposite of finding an emergency that exists
27 now. Because the statute commands that a county “shall not adopt” a moratorium without
28 the required findings, and the County made none, the Moratorium is invalid as a matter of
law before the Court reaches anything else.

1 5. Petitioner is the developer of a data center on land in unincorporated Imperial
2 County. That land has been zoned for industry for decades, and the County has confirmed
3 again and again that a data center is allowed there “by right” – meaning automatically
4 permitted, with no special approval required.

5 6. For more than a year Petitioner worked closely with County staff, filing site
6 plans, grading plans, a lot-line merger, and supporting studies, every one of which the
7 County had deemed complete by the time it imposed the freeze.

8 7. County regulations permit industrial uses, including data centers, to be built with
9 no setback – right up to the residential property line. The zero-foot setback applies to 225
10 industrial uses that are allowed by right, with *no* required distance from homes.

11 8. The uses include chemical plants, asphalt and cement plants, fertilizer and
12 pesticide manufacturing, and rail yards, all of which remain legal to build right up to the
13 property line of the very homes the County says it is protecting. The County froze the quiet,
14 low-impact use and left the heavier ones untouched.

15 9. Petitioner did not merely meet the County’s rules; it went far beyond them.
16 Although the code requires zero setback between industrial and residential land, Petitioner
17 set its building back 191 feet from the nearest home, moved all mechanical equipment more
18 than 1,000 feet away, cut its backup generators by 85 percent (to 20 units), and built a 20-
19 foot high acoustic landscaped berm that will leave the neighborhood quieter than it is today.

20 10. Petitioner went further still. To address the neighbors’ proximity concerns, it
21 offered to convey its 75-acre site to the City of Imperial for a public park and relocate the
22 entire Project. The County weighed none of this before declaring an emergency.

23 11. Nor is there anything sudden about the homes built near this industrial land. The
24 County zoned the property industrial decades before the City approved the neighboring
25 homes, which it allowed to be built right to the industrial line without a buffer or separating
26 wall. The neighbors bought into a setting the law had long designated for industry.

27 12. The County’s claim that it needs time to “study” data centers does not withstand
28 scrutiny. The committee it created is charged with studying only how close data centers sit

1 to homes, and is expressly directed to avoid “unnecessary restrictions on appropriate
2 industrial development.” That is not the study of a land-use problem; it is the targeting of
3 a single project, and while the Moratorium freeze reaches “pending applications,”
4 Petitioner’s is the only data center application in the County.

5 13. Petitioner’s applications were deemed complete and pending when the
6 Moratorium issued; § 65858 does not authorize halting complete applications.

7 14. The County approved the Moratorium without proper findings. Being “aware
8 of concerns” about “potential harm” which “may” conflict with future amendments is
9 insufficient as a matter of law, and the County “shall not adopt” a moratorium without
10 proper findings.

11 15. Petitioner therefore asks the Court to declare the Moratorium invalid and to
12 issue a peremptory writ of mandate directing the County to set it aside, and to process
13 Petitioner’s applications as though the Moratorium had never been adopted.

14 **2 – PARTIES, JURISDICTION AND VENUE**

15 16. Petitioner Imperial Valley Computer Manufacturing, LLC (“Petitioner”) is a
16 California limited liability company with its principal place of business in Riverside
17 County. Petitioner is the developer of a 330 megawatt data center (the “Project”), to be
18 located at Aten and Clark Roads in unincorporated Imperial County.

19 17. Respondent County of Imperial is a general law county, responsible for
20 reviewing and approving private development projects in unincorporated areas of Imperial
21 County and County approval is required to construct the Project. Respondent Imperial
22 County Board of Supervisors is the legislative and governing body of the County.

23 18. This Court has jurisdiction over this action pursuant to Code of Civil Procedure
24 §§ 1060, 1085, and Article VI, § 10 of the California Constitution. Venue is proper
25 pursuant to Code of Civil Procedure §§ 393, 394, and 395 because Respondents are public
26 agencies seated in Imperial County, and the property is located in Imperial County.

3 – GENERAL FACTUAL ALLEGATIONS

3.1 Petitioner Received Assurances That Data Centers Were Permitted as of Right.

19. Nearly two years ago, around September 2024, Petitioner identified spare capacity on the high-voltage S-line and determined that, in the City of Imperial (“City”) and Imperial County (“County”), data centers were permitted by right on industrially zoned land. Petitioner acquired site control of 95 acres in the City and 75 contiguous acres in the County. The properties abut railroad tracks, the high-voltage S-line, and have been zoned industrial for decades, making them suitable for data centers in the industrial zones.

20. In October 2024, Petitioner applied to the IID for large-load service. Four successive studies confirmed that the proposed data center’s electrical loads are feasible.

21. In March 2025, Petitioner applied for data center approval in the City. After much delay, and at the County’s urging, Petitioner formally applied to the County on July 29, 2025, for site-plan approval of a 330-megawatt data center on the 75-acre industrial parcel. Petitioner also applied for grading and site-plan permits. The County opened a building permit number, BP 63316, under which these plans are being processed.

3.2 The County Confirmed That Data Centers Were Permitted as of Right.

22. On September 4, 2025, the County issued a determination letter concluding that the “project is consistent with the current zoning . . . a ‘Data Center’ is a permitted use within the M-1 (Light Industrial) zoning district. Ancillary components are likewise permitted uses within the M-1 zoning district.” (**Exhibit 2**). The attached zoning schedules confirm that the 185 uses in the M-1 zone, and 227 in the M-2 zone, are permitted as of right.

23. On October 14, 2025, Petitioner applied for a lot merger. On November 12, 2025, the County provided the zoning history of the 75-acre parcel, which consisted of a 25-acre portion (zoned M-2), a 45-acre portion (zoned M-1) and a 5-acre portion (zoned A-2) as follows: The 25-acre M-2 parcel was zoned industrial over 51 years ago on December 6, 1974, and the 45-acre M-1 parcel was zoned industrial over 35 years ago on May 30, 1991. (**Exhibit 3**).

1 24. On November 16, 2025, the County issued a Notice of Exemption for the
2 grading permit and on December 4, 2025, the City filed a lawsuit challenging the grading
3 permit. Pursuant to indemnity obligations, Petitioner is funding the County’s legal defense.

4 **3.3 Petitioner Added Setbacks, a Sound Berm, and Equipment Buffers.**

5 25. On March 12, 2026, Petitioner submitted revised site and grading plans to
6 address community concerns. (**Exhibit 4**). Petitioner implemented a 191-foot setback from
7 the nearest residential property lines. Petitioner included a 20-foot-high, 90-foot-wide,
8 landscaped acoustic berm. Backup generators were reduced by 85 percent, to just 20 units.
9 Petitioner situated all mechanical equipment over 1,000 feet from residences.

10 26. The 20-foot high berm breaks the line of sight and deflects sound waves
11 upward, away from residential properties. With the 191-foot setback and 20-foot berm, the
12 data center’s cooling-noise levels, which was over 1,000 feet from residences, fell far
13 below the County’s decibel thresholds for residential zones. The sound at the residential
14 property lines, impacted by railroad and airport noise, would be below existing levels.

15 27. Because the noise was engineered out of the project, the Moratorium seeks to
16 study a problem that has already been solved by Petitioner’s engineering mitigation.

17 28. On May 22, 2026, Petitioner further revised its grading plans to isolate a one-
18 acre area of soil contamination, after the California Department of Toxic Substances
19 Control determined that the “area outside the fence has been cleared for commercial use.”

20 **3.4 The County Approved the Lot Merger.**

21 29. On April 7, 2026, the County Board of Supervisors adopted Resolution No.
22 2026-056, vacating Leimgruber Road, and Resolution No. 2026-057, approving Petitioner’s
23 lot merger application, which left the existing zoning in place.

24 30. During the April 7, 2026 public hearing, Supervisors asked Planning Director,
25 Jim Minnick, about the historical compatibility for data centers within the industrial zone.

26 “Jim Minnick: Okay, so back in 2017, the county approved the . . .
27 modifications to our zoning code, which included the . . . inclusion of data
28 centers. Data centers at the time were being looked at as allowable uses . . .

1 We compared the uses of what a data center was in relationship to the other
2 uses that we have by right in those zones and *found that to be compatible or*
3 *actually less [impactful] than some of the uses that are by right.* So that’s what
4 was presented to the board, uh, and the board approved it back in 2017.”
(Exhibit 5).

5 31. At the April 7, 2026 hearing, Supervisor John Hawk explicitly observed on the
6 record: “We are a nation of laws . . . I had to take an oath of office to uphold the
7 constitution [T]hat’s why I think it’s important that . . . we obey its laws and every
8 function of this government. And I think we have done that here today.”
9

10 **3.5 Two Supervisors Sought to Reconsider the Lot Merger.**

11 32. On May 19, 2026, six weeks after the lot merger was approved, two members
12 of the Board sought to undo the Project’s approvals. As reflected in the public record and
13 contemporaneous press coverage (Exhibit 6), Supervisor Escobar, joined by Supervisor
14 Singh, asked the Board to amend its Rules of Conduct governing motions to reconsider so
15 that the Board could reopen and rescind the April 7, 2026 approval of the lot merger.

16 33. Supervisor Escobar acknowledged that he “voted in favor” of the lot merger
17 because it was “a by-right proposal” and he “was following the law,” and that approving
18 “a lot merger for a proposed data center at a specific location” was “in essence, in favor of
19 a data center.” He stated that his objective was to “bring this back and rehear this lot
20 merger and *put the data center at this specific location to rest.*” (emphasis added.) County
21 Counsel Geoffrey Holbrook cautioned that the proposed change “directly conflicts with one
22 of the county’s current ordinances” and could conflict with state law, and the Board
23 directed staff to study the proposal and report back on June 2, 2026. (Exhibit 6.)

24 **3.6 Economic Report; \$2.95 Billion Economic Output for the County Over 30 Years.**

25 34. On April 24, 2026, the County published an independent economic impact
26 analysis of the Project. (Exhibit 7; summary attached). The County’s economic analysis
27 projects that the Project will generate \$2.95 billion in total economic output for the Imperial
28 Valley over 30 years, create more than 1,688 construction jobs and hundreds of permanent

1 technical positions, and deliver \$481.22 million in net county tax revenue over the Project's
2 30-year life. By comparison, a typical farm provides \$35 per year per acre in taxes. The
3 data center's \$16 million in yearly taxes is equivalent to a half million acres of farming.

4 **3.7 Petitioner Offered to Relocate the Data Center.**

5 35. Over the course of the year, Petitioner provided the County with studies
6 confirming the site's environmental and infrastructure suitability, including independent
7 air quality assessments, health risk evaluations, environmental impact reviews, soils and
8 geotechnical reports, traffic impact analyses, biological surveys, multiple water supply
9 studies, a half dozen electrical infrastructure studies, natural gas capacity verifications, and
10 telecommunications fiber connection approvals. All completed studies were systematically
11 reviewed and demonstrated no unmitigated impacts from the Project.

12 36. Three days before adopting the Moratorium, the County had before it a good-
13 faith proposal from Petitioner to relocate the Project to a site removed from residences, and
14 to convey the 75 acres to the City for a public park. This mooted the proximity concern on
15 which the Moratorium is founded; yet the County adopted the Moratorium without acting
16 on that proposal. (**Exhibit 8.**)

17 **4 – ZONING REGULATIONS**

18 **4.1 The Code Requires No Setback Between Industrial and Residential Uses.**

19 37. County zoning code § 90515.06 provides that the side and rear yards in the M-1
20 zone are "*None required*," and § 90516.06 provides that the side and rear yards in the M-2
21 zone are also "*None required*." The zero-setback rule between residential and industrial
22 uses has been in place for decades. The justification for the Moratorium is predicated on
23 a professed concern over the "proximity" of data centers to "residential neighborhoods."
24 However, the industrial zoning, with its zero setback, predated the neighboring homes by
25 29 years (the 25-acre parcel) and 12 years (the 45-acre parcel).

26 38. The City built the homes right up to the industrial property line, without any
27 buffer or separating wall — only a wood fence. Those same neighbors tolerate the zero
28 setback for 225 other industrial uses; only the data center, set back 191 feet, draws their

1 objection. And the advisory committee the County created is instructed to review only the
2 proximity of data centers, while “avoiding unnecessary restrictions on appropriate
3 industrial development.” (**Exhibit 9.**)

4 **4.2 The County Expressly Added Data Centers as a Permitted Use in 2017.**

5 39. Data centers are an enumerated permitted use that the County deliberately added
6 to its industrial zones nearly a decade ago. The County Land Use Ordinance lists “Data
7 center (within enclosed building)” as a use permitted by right in the M-1 (Light Industrial)
8 zone (§ 90515.01(bbb)), and “Data centers” as a use permitted by right in the M-2 (Medium
9 Industrial) zone (§ 90516.01(w)). (See Exhibit 2.) Petitioner’s data center is explicitly
10 permitted in the M-1 and M-2 zones.

11 40. During the April 7, 2026 public hearing, Supervisors asked Planning Director
12 Jim Minnick about the County's treatment of data centers in its 2017 zoning code
13 amendments. (Exhibit 5.)

14 41. The County added data centers deliberately, on the strength of its own
15 assessment. In 2017 the County compared data centers to other industrial uses, found them
16 “compatible or actually less [impactful] than some of the uses that are by right,” and added
17 data centers as a permitted use. (Exhibit 5; April 7, 2026 statement of County Planning
18 Director.)

19 42. The County reaffirmed data centers as a permitted, compatible industrial use in
20 successive amendments to its industrial zoning spanning nearly a decade — including on
21 October 15, 2019, December 15, 2020, February 8, 2022, and November 21, 2023 — each
22 time finding the use consistent with the public health, safety, and general welfare. Nothing
23 in the record identifies any change in circumstances since those determinations.

24 **4.3 The Industrial Zones Permit 225 Uses at Zero Setback.**

25 43. In the M-1 (Light Industrial) zone, there are 185 enumerated permitted uses. In
26 the M-2 (Medium Industrial) zone, there are 227 permitted uses. “Data center (within
27 enclosed building)” is explicitly listed as a permitted use in the M-1 (Light Industrial) zone
28 under § 90515.01(bbb). Similarly, “Data centers” are a standard permitted use in the M-2
(Medium Industrial) zone under § 90516.01(w).

COMPARISON OF PERMITTED USES IN THE M-1 AND M-2 ZONES		
Permitted Industrial Land Use (Code Citation)	Localized Environmental, Noise and Safety Impact Profile	County Setback
Petitioner's Data Center Project § 90515.01(bbb) § 90516.01(w)	Noise mitigated by 191-foot setback; 20-foot high berm; cooling-equipment 1,000 feet from residences	191 Feet
Asphalt Manufacturing § 90516.01(c)	Petroleum fumes, high-decibel noise, truck traffic	0 Feet
Cement Manufacturing § 90516.01(q)	Silica dust, mixer truck traffic, continuous drum noise	0 Feet
Fertilizer Manufacturer § 90516.01(aa)	Chemical processing, hazardous storage, severe odor	0 Feet
Boiler or Tank Works § 90516.01(j)	Impulsive metal-on-metal noise, industrial vibration	0 Feet
Brick Manufacturing § 90516.01(k)	Particulate emissions, heavy material-handling	0 Feet
Welding 90515.01(zzzzzzz)	Arc-flash, percussive noise, hazardous fumes	0 Feet
Oil Reclamation Plant § 90516.01(kk)	Processing waste petroleum, spill risk, volatile fumes	0 Feet

44. By actively maintaining a zoning code that allows the above manufacturing uses to build right up to the property line (zero setback), the County has itself treated heavy industrial uses adjacent to residential property as acceptable and safe.

45. An audit of the 185 uses permitted in the M-1 zone reveals that the County allows many pedestrian-dense, late-night, high-traffic, and noise-generating commercial operations to build right up to a residential fence line with a zero setback:

High-Occupancy & High-Traffic Comparison Matrix			
Permitted M-1 Use Code Citation	Permitted Uses in M-1 Zone	Localized Operational & Neighborhood Impact Profile	County Setback
Petitioner's Enclosed Data Center § 90515.01(bbb)		Zero public visitors, no retail traffic, entirely self-contained, and acoustically isolated by a 191-foot setback and a 20-foot high earth berm	191 Feet
Auditoriums § 90515.01(h)		Large gatherings, concentrated traffic, event noise	0 Feet
Bars/Taverns § 90515.01(y)		Late-night alcohol service, loitering, amplified noise	0 Feet
Dance Halls § 90515.01 (aaa)		Late-night crowds, high-decibel music, late traffic	0 Feet
Hotel / Motel § 90515.01(III)		24-hour operation, guest turnover, and pool noise.	0 Feet
Colleges § 90515.01(ww) / (ggg)		Daily commuters, parking-lot noise, athletic events	0 Feet
Fast Food sales § 90515.01(sss)		Drive-through idling, speaker noise, odor, traffic	0 Feet
Wedding Chapel § 90515.01(yyyyyyy)		Large gatherings, car congestion, celebration noise	0 Feet

1 46. By actively maintaining a zoning code that allows 225 permitted uses — many
2 far more intensive than a data center — to build right up to the property line (zero setback),
3 the County has itself treated heavy industrial uses adjacent to residential property as
4 acceptable and safe.

5 **4.4 The Industrial Zones Permit Heavier Uses at Zero Setback, Yet the Moratorium**
6 **Reaches Only Data Centers.**

7 47. A data center is a low impact, fully enclosed industrial use. By contrast, the
8 County’s industrial zoning permits, at zero setback, far more intensive uses than the
9 Moratorium leaves untouched: in the M-2 zone, asphalt and asphalt-products
10 manufacturing, carbon manufacturing, cement, fertilizer and insecticide manufacturing, fish
11 and meat packing, grain elevators, oil reclamation, and petroleum-products storage (§
12 90516.01); and, in the M-1 zone itself, the high-traffic and late-night uses set out above.
13 None of the 225 uses, which can be built with zero setback, are subject to the Moratorium.

14 48. The heavier uses the County permits by right may be built to the property line,
15 with no setback and no urgency declaration, while the enclosed data center, which
16 voluntarily provides a 191-foot buffer, is the only use the Moratorium reaches.

17 **4.5 The County Permits “Computer Sales, Repair, Manufacturing” at a Zero-Foot**
18 **Setback; but Freezes the Identical Hardware When Used for Data Processing.**

19 49. The pretextual nature of the Moratorium is laid bare by the County’s own use
20 list. In the identical M-1 and M-2 zones, the County permits “Computer sales, repair,
21 manufacturing” as a use by right at a zero-foot setback. (§ 90515.01(xx).) Under the
22 County’s current rules, a business may build right up to the residential property line, fill the
23 building with thousands of computers, servers, and hardware components, host hundreds
24 of customers a day, and the County finds no threat to public health or safety whatsoever.

25 50. However, take those same computers, stack them in the same building, plug
26 them into the wall, and run data through them, and the County suddenly declares them a
27 “current and immediate threat to public health,” and freezes the use entirely. Nothing about
28 the hardware has changed; only its operational status has. A land-use distinction that turns
solely on whether identical equipment is sold, rather than used to process data, is not
planning — it is pretext.

1 51. A retail or wholesale “computer sales, repair, manufacturing” operation
2 generates customer parking, delivery trucks, heavy daily traffic, signage, and constant
3 public turnover — all permitted at a zero-foot setback.

4 52. Petitioner’s data center, by contrast, sits behind a 191-foot setback and a
5 20-foot-high acoustic berm, generates zero public traffic, and operates as a secure, quiet
6 facility with minimal staff. The County has singled out the quieter, more heavily buffered,
7 lower-impact use for prohibition while leaving the noisier, traffic-generating retail use
8 untouched at the fence line. That the County tolerates the identical hardware directly on the
9 property line under one label, yet treats it as an “emergency” requiring a prohibition from
10 the same industrial zoning under another, confirms that the Moratorium is not a product of
11 orderly planning. It is pretext and directed at Petitioner’s Project.

12 **5 – THE MORATORIUM AND ITS FINDINGS**

13 **5.1 The County Adopted the Moratorium on June 16, 2026.**

14 53. During the one-year application process, the County engaged in collaborative,
15 solution-oriented dialogue as Petitioner repeatedly committed to enhanced safeguards
16 exceeding all code requirements. On June 12, 2026, the Moratorium was placed on a Friday
17 evening agenda at 5:00 p.m. It was adopted less than 72 hours later.

18 54. On June 16, 2026, the Board of Supervisors adopted the Moratorium Ordinance
19 as an interim urgency ordinance under Gov. Code § 65858(a). It took effect immediately
20 upon adoption and, by its terms, remains in effect for 45 days unless extended. The
21 four-page Moratorium Ordinance makes fifteen findings in Section I. (“In enacting this
22 ordinance,” the Board “makes the following findings.”)

23 **5.2 The Findings State That Data Centers Are Permitted by Right and That** 24 **Applications Are Pending.**

25 55. The Ordinance finds that “Data Center Facilities are permitted by right on light
26 and medium industrial land in the unincorporated area of the County” and that data centers
27 “generally include buildings, structures or yards that house computer systems designed for
28 the processing and storage of digital information.” (Findings 3, 6.)

1 56. The Ordinance finds that the “County currently has applications pending for
2 Data Center Facilities that would be affected by changes in the regulations, ordinances, or
3 General Plan that the County is currently contemplating” and the “County anticipates
4 increased applications for Data Center Facilities.” (Findings 8, 9.)

5 57. The County finds that it has “applications pending” — but Petitioner’s is the
6 only data center proposed in the County.

7 **5.3 County’s Defective Findings Concerning Alleged Harm from Data Centers.**

8 58. The Moratorium finds that the “County is *aware of concerns* regarding adverse
9 effects of Data Center Facilities, including the *proximity of such uses to residential*
10 *neighborhoods*” and the “County is in the process of studying the regulation” of data
11 centers and potential amendments “regarding the *proximity of such uses to residential*
12 *neighborhoods*.” (Findings 4, 5; emphasis added.)

13 59. The Moratorium finds that “[t]here is a current and immediate threat to public
14 health, safety, and welfare if permits or entitlements for construction of new Data Center
15 Facilities are issued. Such permits or entitlements *may result* in the development of
16 facilities that conflict with the contemplated amendments” and the “moratorium will give
17 the County time” to adopt revisions to its “regulations.” (Finding 10; emphasis added.)

18 60. The Moratorium further finds that, “[i]n light of the . . . *potential harms* to the
19 safety, health, and welfare of the County residents should Data Center Facilities be
20 permitted to operate,” the moratorium will allow the County to “proceed with studying
21 revisions to the Zoning Ordinance and policies that most effectively regulate Data Center
22 Facilities.” (Finding 11; emphasis added.)

23 61. The Moratorium states that the County considers it necessary to “explicitly
24 prohibit Data Center Facilities” while the regulations are “developed” (Finding 14), and the
25 County “intends that this temporary prohibition and moratorium *apply to all currently*
26 *pending applications* for Data Center Facilities.” (Finding 15; emphasis added.)
27
28

1 **5.4 Companion Resolution Created a Data Center Advisory Committee.**

2 62. Simultaneously with the data center Moratorium, the County adopted a
3 resolution establishing an 18-person Data Center Advisory Committee because of
4 “concerns regarding” the “potential *proximity of data center developments to existing*
5 *residential neighborhoods.*” (Exhibit 9; emphasis added.) The resolution states that the
6 Committee will “evaluate potential land use and zoning options relating to data center
7 development” including proximity to “residential neighborhoods” while “*avoiding*
8 *unnecessary restrictions on appropriate industrial development.*” (Exhibit 9; emp. added.)

9 63. The resolution creates an 18-person committee that is required to “present its
10 findings and recommendations to the Board of Supervisors by October 1, 2026, or as soon
11 thereafter as reasonably practicable.” (Exhibit 9.)

12 **6 – THE MORATORIUM IS INVALID AS A MATTER OF LAW**

13 **6.1 The Court Independently Determines, as a Matter of Law, Whether the Findings**
14 **Establish a Current and Immediate Threat**

15 64. Government Code § 65858 authorizes the County to adopt a 45-day moratorium
16 prohibiting uses that may conflict with contemplated plans, but only under strict, narrow
17 conditions designed to prevent abuse of the police power against pending applications.
18 Subdivision (c) is the critical limitation:

19 “(c) The legislative body shall not adopt or extend any interim ordinance
20 pursuant to this section unless the ordinance contains legislative findings that
21 there is a current and immediate threat to the public health, safety, or welfare,
22 and that the approval of additional subdivisions, use permits, variances,
23 building permits, or any other applicable entitlement for use . . . would result in
that threat to public health, safety, or welfare.”

24 65. Gov. Code § 65858(c) is mandatory: the words “shall not” forbid a moratorium
25 unless the required findings are made, and failure to satisfy them renders a moratorium
26 invalid as a matter of law. Those findings must establish both that there is a “current and
27 immediate threat” to the public health, safety, or welfare, and that approving the data center
28 “would result” in that threat.

1 66. The County cannot just issue a moratorium because it changed its mind about
2 Petitioner’s Project. The sudden Moratorium, passed after a year of foot-dragging, without
3 formal, written findings, is the textbook definition of a “manufactured emergency.”

4 67. In *California Charter Schools Assn. v. City of Huntington Park* (2019) 35
5 Cal.App.5th 362, the ordinance “contained . . . findings that a ‘current and immediate
6 threat’ . . . existed,” yet the Court of Appeal invalidated it as a matter of law because the
7 facts recited in support did not constitute such a threat. (*Id.* at 367, 370.) As the court
8 explained, “whether the recited facts may be held to constitute an urgency is a legal
9 question . . . for which we employ our independent review.” (*Id.* at 369.) It held “as a
10 matter of law that the ordinance is invalid because the findings . . . did not amount to a
11 ‘current and immediate threat’ as required by § 65858, subd. (c).” (*Id.* at 365.)

12 **6.2 The Findings Show Only Awareness of Concerns, Not an Immediate Threat.**

13 68. The County’s finding that it is “*aware of concerns* regarding adverse effects”
14 of the “proximity of [data centers] to residential neighborhoods” is not a finding of fact;
15 it is an admission of political awareness — that it has heard the complaints of neighbors.
16 Hearing complaints is not a public emergency.

17 69. Mere “awareness of concerns regarding adverse effects” does not declare that
18 any threat actually exists, nor does it identify what the supposed threat is. Citizen anxiety
19 is not a statutory basis for bypassing normal zoning procedures. California courts have
20 repeatedly held that generalized public fears cannot support legislative action; substantial
21 evidence is required.

22 70. *Huntington Park* is directly on point. There, the court struck down a moratorium
23 whose findings cited inquiries, concerns, and the need to study standards, holding as a
24 matter of law that concerns and a desire to study do not constitute a current and immediate
25 threat. The findings here are weaker still: no specific threat is identified, no evidence shows
26 that Petitioner’s 191-foot setback, 20-foot acoustical berm, and 1,000-foot equipment
27 setback failed any standard, and no analysis was undertaken whatsoever.
28

1 71. The findings do not address Petitioner’s mitigation or identify any standard the
2 Project fails to satisfy. Petitioner engineered mitigation of the very “proximity” concern
3 advanced by the County: a 191-foot setback, a 20-foot-high sound-deflecting landscaped
4 earth berm, and placement of all generators and cooling equipment more than 1,000 feet
5 from residences. (Exhibit 4.) These are concrete, engineered measures that exceed every
6 applicable code requirement — a 191-foot setback where the code requires none. The
7 County ignored these measures in its findings, which never found that the mitigation failed
8 to meet any applicable threshold.

9 72. By relying on “awareness of concerns,” rather than scientific proof of an
10 unmitigated hazard, the County has effectively conceded that it lacks the hard evidence
11 needed to override Petitioner’s existing, as-of-right approvals.

12 73. And the County’s emergency declaration comes after more than a year of
13 cooperative, solution-oriented dialogue in which Petitioner implemented amendments to
14 the site plans, with safeguards exceeding every code requirement. That collaboration stands
15 in stark contrast to any genuine imminent public hazard, particularly where 225 other
16 industrial uses — many far more intensive than a data center — are permitted to build right
up to the residential property line.

17 74. Nor was anything about the asserted threat sudden or immediate. The County
18 processed Petitioner’s site plan, grading plan, and lot merger for more than a year, and has
19 repeatedly found data centers consistent with the public health, safety, and welfare in every
20 amendment since 2017. The residences themselves post-date the industrial zoning by
21 decades. A threat the County studied, approved, and lived beside for years is not current
22 and immediate. Because the findings do not establish a “current and immediate” threat, the
23 County was forbidden to adopt the Moratorium, and the one it adopted is invalid under §
24 65858(c).

25 **6.3 The Findings Show That Approvals “May” Result in a Threat; Failure to Find**
26 **That Approving Data Centers “Would Result in That Threat” is Fatal; the**
27 **Moratorium Is Facially Invalid.**

28 75. This Court independently determines whether the County’s finding that it is
“aware of concerns regarding adverse effects” of the “proximity of [data centers] to

1 residential neighborhoods,” satisfies, as a matter of law, § 65858(c)’s critical limitation, that
2 the “legislative body *shall not adopt*” a moratorium “unless the ordinance contains
3 legislative findings that there is a current and immediate threat . . . *and that* the approval”
4 of the data center “*would result* in that threat to public health, safety, or welfare.”

5 76. As *Building Industry Legal Defense Foundation v. Superior Court* (1999) 72
6 Cal.App.4th 1410 explains, the Legislature “chose to set the bar higher,” restricting §
7 65858 to situations in which an entitlement approval “would result” in the threat. (*Id.* at
8 1418-1419 emphasis added.)

9 77. The County found only that data-center permits “*may result*” in the development
10 of facilities that conflict with the contemplated amendments. (Finding 10; emphasis added.)

11 78. A finding that approval “may result” in a conflict is not a finding that it “would
12 result” in a threat, and the difference is dispositive: § 65858(c) requires the latter. The
13 County’s failure to find that approving data centers “would result in that threat” is fatal.
14 Under Gov. Code § 65858(c), the “legislative body shall not adopt” a moratorium unless
15 the ordinance contains the required findings. The Moratorium is facially invalid.

16 **6.4 The County’s Finding That Proximity to Residences Creates “Potential Harm”** 17 **Fails to Establish a “Current and Immediate” Threat to Public Safety.**

18 79. Finding 11 also contradicts the “current and immediate” threat asserted in
19 Finding 10. It states that the “proximity” of data centers to residences creates “*potential*
20 *harms* [to] the safety, health, and welfare of the County residents” should data centers be
21 “permitted to operate.” (Finding 11; emphasis added.)

22 80. A potential harm is the opposite of a current and immediate one. A “threat” the
23 County itself describes as merely “potential” — resting on a condition it tolerates at zero
24 setback everywhere else — does not satisfy § 65858(c), and absent an actual current and
25 immediate threat, the County “*shall not adopt*” any moratorium. (Gov. Code § 65858(c).)

26 **6.5 The Moratorium Reaches Only a Single Permitted Use.**

27 81. The Moratorium applies by its terms to “all currently pending applications,” but
28 Petitioner’s is the only known data-center application in the County. A measure that

1 reaches “all pending applications” when there is only one is the prohibition of a single
2 project, not regional planning.

3 82. The supervisors’ own statements confirm the target. Supervisor Escobar
4 described the object of the Board’s effort as putting the “*data center at this specific*
5 *location to rest.*” (Exhibit 6, emphasis added.)

6 83. The simultaneously adopted resolution directs the advisory committee to study
7 data-center proximity while “*avoiding unnecessary restrictions on appropriate industrial*
8 *development.*” (Exhibit 9, emphasis added.) The County thus singled out one use for an
9 emergency freeze while expressly protecting every other industrial use from restriction.

10 84. That targeting is irreconcilable with the County’s own zoning. The County
11 permits, at zero setback and by right, far heavier industrial uses than an enclosed data
12 center — asphalt, cement, and fertilizer manufacturing and oil reclamation. By permitting
13 heavy uses adjacent to homes, the County has itself determined that industrial uses at the
14 residential line are acceptable; it cannot declare a proximity emergency as to a particular
15 *light* use while leaving the *heavier* uses untouched.

16 85. The point is sharpest because the County froze the one use that exceeds its
17 requirements. Petitioner’s 191-foot setback, acoustic berm, and placement of all equipment
18 more than 1,000 feet from residences answer the very proximity concern the County
19 invokes. The County restricted the over-complying use — but left the non-complying ones
20 alone. In short, all 225 permitted industrial uses, other than data centers, may still be built
21 at zero setback from residences; only data centers are singled out for prohibition. The text
22 of the zoning ordinance refutes the “emergency.”

23 86. None of this reflects a sudden emergency. The zero-foot setback between
24 industrial and residential uses has stood for decades, the County processed Petitioner’s
25 applications cooperatively for more than a year, yet the “emergency” surfaced only on a
26 Friday afternoon, one working day before the vote — directed at the single pending
27 application it would block. A threat that materializes on that timetable, against that history,
28 is not “current and immediate”; it is manufactured.

1 **7 – THE MORATORIUM CANNOT FREEZE PROCESSING OF**
2 **PETITIONER’S COMPLETED APPLICATIONS**

3 **7.1 Gov. Code § 65858 Does Not Authorize Freezing the Processing of Pending**
4 **Applications.**

5 87. Even apart from its defective findings, the Moratorium is invalid because §
6 65858 does not authorize what the County used it to do. In *Building Industry*, the court held
7 that § 65858 permits a county to suspend the approval of conflicting uses but does not
8 authorize freezing the processing of development applications already in the pipeline.
9 (*Building Industry, supra*, 72 Cal.App.4th at pp. 1413-1414.)

10 88. The Moratorium does exactly what *Building Industry* forbids: it directs that “no
11 permit or entitlement shall be issued until the moratorium . . . has expired” (Ord. § IV) and
12 applies “to all currently pending applications” (Finding 15), including Petitioner’s site plan
13 and grading applications, which the County had already deemed complete.

14 **7.2 The Permit Streamlining Act Requires the County to Continue Processing**
15 **Petitioner’s Completed Applications.**

16 89. The Permit Streamlining Act (Gov. Code § 65920 et seq.) independently
17 requires the County to act. Once an application is deemed complete, the Act imposes
18 mandatory deadlines by which the agency must approve or disapprove the project (Gov.
19 Code § 65950), and a later-enacted moratorium does not toll those deadlines. (*Selinger v.*
20 *City Council* (1989) 216 Cal.App.3d 259, 269 [a § 65858 moratorium does not toll the
21 one-year period to act on a complete application under § 65956].) Petitioner’s site plan and
22 grading applications were deemed complete months before the Moratorium.

23 90. The County’s own outside counsel acknowledged this on the record. At the
24 March 27, 2026 public workshop, counsel Nathan George stated: “[O]nce a permit
25 application has been deemed complete by an agency, the applicable ordinances cannot
26 subsequently be changed for that project. The ordinances that were in place when the
27 application was deemed complete are the ordinances that continue to govern the project as
28 it moves through the County’s review and approval processes.”

91. Because Petitioner's use is permitted by right and its applications were deemed complete, the County has a clear, present, ministerial duty to continue processing them, and an invalid interim ordinance cannot supply a lawful basis to withhold that action. The County has also opened a building-permit number under which the plans are being processed. Petitioner alleges that the Moratorium is facially invalid and, as applied to its completed applications, violates the Permit Streamlining Act.

92. If the County's refusal to process causes it to miss the Act's deadlines, the Act provides remedies, including approval by operation of law upon compliance with the statute's notice requirements. (Gov. Code § 65956(b).)

FIRST CAUSE OF ACTION

Writ of Mandate and Declaratory Relief (Code Civ. Proc. § § 1060, 1085)

93. The previous paragraphs of this Petition are incorporated into this cause of action by this reference as though fully set forth herein.

94. Petitioner has expended in excess of \$5 million on civil engineering, grading plans, and related design work in reliance on the County's written confirmations that the use is permitted as of right. The Moratorium on this singular viable industrial site jeopardizes the project's financing, electrical interconnection position, and contractual commitments. These harms are immediate, ongoing, and not adequately compensable in damages.

95. An actual, justiciable controversy exists between Petitioner and Respondents concerning the validity of the Moratorium Ordinance and its application to Petitioner's pending applications. Petitioner contends, and is informed and believes Respondents dispute, that the Moratorium is void and unenforceable because:

- (a) it lacks the legislative findings of a current and immediate threat required by Government Code § 65858(c);
- (b) § 65858 does not authorize freezing the processing of applications already deemed complete;

- 1 (c) the Moratorium operates as an unlawful, targeted prohibition aimed at a single
2 permitted use; and
3 (d) it violates the mandatory deadlines for action imposed by the Permit Streamlining
4 Act.

5 96. Respondents have a clear, present, and ministerial duty to process and act upon
6 Petitioner's completed applications for a use the County has certified is permitted by right,
7 and possess no lawful discretion to withhold action based on a void interim ordinance. The
8 County's adoption and threatened enforcement of the Moratorium is action in excess of its
9 statutory jurisdiction.

10 97. Petitioner has no plain, speedy, or adequate remedy in the ordinary course of
11 law. Unless the Court intervenes, enforcement of the void Moratorium will continue to
12 freeze the processing of Petitioner's completed, by-right applications and deprive Petitioner
13 of its right to have those applications processed under the laws in effect when they were
14 deemed complete, causing immediate and irreparable harm. Petitioner is entitled to a
15 judgment declaring the Moratorium Ordinance invalid and void, enjoining its enforcement
16 against Petitioner, and a peremptory writ of mandate commanding Respondents to process
17 and act upon Petitioner's applications under the laws in effect when they were deemed
18 complete.

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Petitioner prays for judgment against Respondents as follows:

- 21 1. For a judicial declaration that the Imperial County Interim Urgency Ordinance (the
22 "Moratorium," Exhibit 1) is invalid, void, and unenforceable;
23 2. For a peremptory writ of mandate declaring the Moratorium Ordinance void,
24 enjoining its enforcement against Petitioner, and commanding Respondents to process
25 and act upon Petitioner's site plan, grading permit, and associated entitlements under
26 the zoning laws in effect prior to June 12, 2026, without regard to the Moratorium;
27 3. For a temporary restraining order and preliminary injunction pending hearing on the
28 petition;

- 1 4. For an order awarding Petitioner its reasonable attorneys' fees and costs incurred
2 herein, pursuant to Code of Civil Procedure § 1021.5; and
3 5. For such other and further relief as the Court deems just and proper.

4
5 LAW OFFICES OF SEBASTIAN RUCCI, P.C.

6 

7 Sebastian Rucci (State Bar No. 178114)
8 Attorneys for Petitioner

9 Date: June 22, 2026
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT 1

DATA CENTER MORATORIUM

(6-16-2026)

ORDINANCE NO. ____

**AN URGENCY INTERIM ORDINANCE PURSUANT TO GOVERNMENT CODE
SECTION 65858 ADOPTING A MORATORIUM ON THE APPROVAL OF DATA
CENTER FACILITIES IN THE UNINCORPORATED AREA IN THE COUNTY OF
IMPERIAL**

SECTION I

In enacting this ordinance, the Board of Supervisors of the County of Imperial makes the following findings:

1. Government Code Section 65858 allows a county, without following the procedures otherwise required prior to adoption of a zoning ordinance, to adopt, as an urgency measure, an interim ordinance prohibiting any uses which may be in conflict with a contemplated general plan, specific plan, or zoning proposal which the legislative body, planning commission or planning department is intending to study within a reasonable time; and
2. The County of Imperial ("County") regulates land uses in the unincorporated area of the County through various regulations including the General Plan and the Zoning Ordinance, including land uses that permitted by-right or conditionally permitted; and
3. Currently, certain Data Center Facilities are permitted by-right on light and medium industrial land in the unincorporated area of the County; and
4. The County is aware of concerns regarding adverse effects of Data Center Facilities, including the proximity of such uses to residential neighborhoods, schools, and other potentially sensitive uses; and
5. The County is in the process of studying the regulation of Data Center Facilities in the unincorporated area of the County, including potential amendments to the Zoning Code regarding the proximity of such uses to residential neighborhoods, schools, and other potentially sensitive uses; and
6. Data Center Facilities are described in Title 9 of the Imperial County Code as "Data centers", "Data center yard", and "Data center (within enclosed building)" and generally include buildings, structures or yards that house computer systems designed for the processing and storage of digital information and include accessory buildings, structures, facilities, and/or uses for data centers, including but not limited to, backup generators, backup battery energy storage systems, electrical substations, gen-tie lines, water treatment facilities, cooling systems, and transmission lines, when proposed as part of a Data Center Facility; and

7. The County has a compelling interest in protecting the public health, safety, and welfare of its residents within the unincorporated areas of the County by regulating Data Center Facilities as a land use; and
8. The County currently has applications pending for Data Center Facilities that would be affected by changes in the regulations, ordinances, or General Plan that the County is currently contemplating; and
9. The County anticipates increased applications for Data Center Facilities as such technology matures and becomes more cost effective and consumer demand grows; and
10. There is a current and immediate threat to public health, safety, and welfare if permits or entitlements for construction of new Data Center Facilities are issued. Such permits or entitlements may result in the development of facilities that conflict with the contemplated amendments to the County's land use regulations that are under review, and imposition of the moratorium will give the County time to introduce, review, and adopt a comprehensive revision of relevant County land use regulations; and
11. In light of the concerns noted herein, including but not limited to the potential harms to the safety, health, and welfare of the County residents should Data Center Facilities be permitted to operate, it is in the interest of immediately preserving the public safety, health and welfare to adopt this urgency ordinance establishing a moratorium. The moratorium will allow the County to, among other related tasks, immediately proceed with studying revisions to the Zoning Ordinance and policies that most effectively regulate Data Center Facilities.
12. California Government Code section 65858 allows the County to adopt an interim ordinance that prohibits otherwise allowed uses when those uses conflict with a pending land use study. Such a measure requires a four-fifths (4/5ths) vote of the Board of Supervisors; must contain a finding that there is a current and immediate threat to the public health, safety or welfare; and may be adopted without following the notice and adoption procedures required for other zoning ordinances. The interim moratorium has an initial duration of forty-five (45) days and may be extended as specified by Government Code Section 65858; and
13. The Board finds this urgency ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Title 14, California Code of Regulations section 15308 because it is a regulatory action taken to protect the environment, and section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment and therefore the activity is not subject to CEQA; and

14. The Board of Supervisors considers it necessary to adopt this urgency interim ordinance to explicitly prohibit Data Center Facilities while the updates to the Zoning Ordinance and other land use regulations are studied and developed; and
15. The Board of Supervisors intends that this temporary prohibition and moratorium apply to all currently pending applications for Data Center Facilities as well as all applications for Data Center Facilities received by the County during the moratorium period.

NOW, THEREFORE, the Board of Supervisors of the County of Imperial ordains as follows:

SECTION II

The Board of Supervisors of the County of Imperial finds and determines the foregoing recitals to be true and correct and hereby makes them part of this ordinance.

SECTION III

The Board of Supervisors of the County of Imperial hereby directs County staff to study and prepare amendments to the County's land use regulations, including consideration of the draft Data Center guidelines where feasible, as well as recommendations from any advisory committee as directed by the Board of Supervisors, for the purpose of regulating Data Center Facilities within the unincorporated areas of the County.

SECTION IV

The uncodified Imperial County Ordinance Code is hereby amended to add the following interim zoning ordinance:

Temporary Prohibition of Data Center Facilities

From and after the date of enactment of the interim ordinance, no use permit, variance, building permit, business license, or any other entitlement for use shall be approved or issued for the establishment, construction, or operation of a Data Center Facility, as defined herein, for any location or property within the unincorporated territory of the County, subject to the exemptions set forth below.

An application for a Data Center Facility may be accepted and processed during the moratorium and any extension of the moratorium. However, the application shall be accepted and processed at the applicant's sole cost and expense and with the understanding that: 1) no permit or entitlement shall be issued until the moratorium, including any extension of the moratorium, has expired; and 2) that no permit or entitlement will be issued if it is inconsistent with any County laws, ordinances, General Plan, or regulations that are amended or adopted by reason of the review that occurs during the moratorium.

For purposes of this ordinance, a Data Center Facility is defined as a “Data center”, “Data center yard”, or “Data center (within enclosed building)” and generally include buildings or structures that house computer systems designed for the processing and storage of digital information, as well as all accessory buildings, structures, facilities, and/or uses subordinate or ancillary to data centers, including but not limited to backup generators, backup battery energy storage systems, electrical substations, gen-tie lines, water treatment facilities, cooling systems, and transmission lines, when proposed as part of a Data Center Facility.

SECTION V

Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors declares that it would have adopted this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more section, subsection, sentence, clause or phrase be declared invalid.

SECTION VI

Pursuant to Government Code Section 65858, this measure is declared to be an urgency interim ordinance, to take effect and be in force immediately upon its passage.

The Clerk is directed to publish this ordinance within fifteen (15) days in accordance with Government Code section 25124. As an urgency interim ordinance, this ordinance shall be of no further force or effect forty-five (45) days from its date of adoption, unless otherwise extended by the Board of Supervisors pursuant to Government Code Section 65858.

Adopted by the Board of Supervisors of the County of Imperial, State of California, on the 16th day of June, 2026, by the following called vote:

AYES:

NOES:

EXCUSE

EXHIBIT 2

USE VERIFICATION LETTER

(9-04-2025)



Imperial County Planning & Development Services Planning / Building

Jim Minnick
DIRECTOR

September 4, 2025

Imperial Valley Computer Manufacturing, LLC
Attention: Sebastian Rucci
16400 Pacific Coast Highway, Suite 212
Huntington Beach, CA 92649

**SUBJECT: DESIGN REVIEW #25-0006; 291 WEST ATEN ROAD, IMPERIAL, CA 92251
APN: 044-220-046-000**

Dear Mr. Rucci,

On August 1, 2025, the Imperial County Planning & Development Services Department received your initial Design Review submittal for the proposed 950,000-square-foot Artificial Intelligence (AI) Data Center Campus, to be located at the southeast corner of Aten and Clark Roads in Imperial, California. A revised set of plans was subsequently submitted on August 20, 2025.

Staff has completed a review of the proposed project for consistency with the Imperial County Land Use Ordinance (Title 9). Upon review, it has been determined that the proposed project would be located across five existing parcels of which are zoned **M-1-N-U** (Light Industrial, No Residential within Urban Boundaries), **M-2-U** (Medium Industrial within Urban Boundaries), and **A-2-U** (General Agricultural within Urban Boundaries). The proposed project is consistent with the current zoning. (*Exhibit "A"*)

Specifically, Pursuant to Division 5, Section 90515.01, Subsection (bbb) of the Imperial County Land Use Ordinance (Title 9), a "Data Center (within enclosed building)" is a permitted use within the M-1 (Light Industrial) zoning district. Ancillary components directly incidental to the primary data center operation—such as long-term power backup generators, electrical substation, gen-tie lines, short-term power backup battery energy storage system (BESS), water treatment skid, and cooling yard—are likewise considered permitted uses within the M-1 zoning district. Additionally, utility substations and transmission lines are permitted in the A-2 zone. (*Exhibit "B"*)

The proposed project area is bordered by parcels zoned M-2-U (Medium Industrial within Urban Boundaries) to the west, A-2-U (General Agricultural within Urban Boundaries) to the south, and by the jurisdiction of the City of Imperial to the north and east. Additionally, Aten Road and Clark Road abut the northern and western boundaries of the project site, respectively.

The proposed project layout spans multiple existing parcels and crosses the boundaries of three zoning areas. As currently designed, some of the identified uses in the layout are not fully consistent with building code requirements related to construction across property lines. Upon review, Department staff has identified several options for addressing this issue, which you may choose from. Alternatively, you are welcome to propose a different solution for staff to review and consider.

Option 1: You may revise the site layout to ensure that each structure is located entirely within a specific parcel where such use is permitted. This would bring the project into compliance with existing building codes and zoning regulations.

Option 2: Should you wish to maintain the existing layout as depicted in the submitted site plan, you would need to submit a Lot Merger and Lot Line Adjustment applications. Merging the parcels and reconfiguring exiting boundary limits would allow the project to be considered as a unified development site. These actions are necessary to consolidate all four (4) parcels comprising the AI Data Center Campus into a single, unified lot, while also dedicating a separate lot on the southern portion of the project site to accommodate the utility substation, which is intended to be conveyed to the Imperial Irrigation District. Attached, please find copies of the Lot Merger and Lot Line Adjustment applications for your reference.

Additionally, as the majority of the proposed project area is currently zoned M-1 pursuant to Section 90501.01 (Single Base Zoning Area) of the Imperial County Land Use Ordinance, the entire project site may be classified under the M-1 zoning designation following the Planning Director's findings and determinations—subject to the approval of the Lot Merger application. This is consistent with the permitted uses within the M-1 district, as the proposed AI Data Center Campus and its ancillary components are allowable under this zoning classification.

The subject property is currently regulated by Sections 90508.00, 90515.00 and 90516.00 et. al. of the Imperial County Land Use Ordinance Title 9.

Should you have additional questions, please feel free to contact the Imperial County Planning & Development Services Department at (442) 265-1736. You may also contact Gerardo A. Quero, Planner II at extension 1748 or via email at gerardoquero@co.imperial.ca.us.

Sincerely,
Jim Minnick, Director
Planning & Development Services



By: Gerardo A. Quero
Planner II

Exhibits:

- A. Project Parcel Descriptions
- B. Design Review

Attachments:

- a. A-2 Zoning Ordinance
- b. M-1 Zoning Ordinance
- c. M-2 Zoning Ordinance
- d. Lot Merger Application
- e. Lot Line Adjustment Application

CC: Tom DuBose @ tom@dubosedesigngroup.com
Sebastian Rucci @ Sebastian@rucci.law & sebastian@ruccilaw.com
Jim Minnick, ICPDS Director
Michael Abraham, AICP, Assistant Director of ICPDS
Diana Robinson, Planning Division Manager
Applicant @ aapplicant@applicant.com
File: 10.109

TITLE 9

DIVISION 5: ZONING AREA ESTABLISHED

CHAPTER 15: M-1 (LIGHT INDUSTRIAL)

§ 90515.00	PURPOSE AND APPLICATION
§ 90515.01	PERMITTED USES IN THE M-1 ZONE
§ 90515.02	USES PERMITTED WITH A CONDITIONAL USE PERMIT
§ 90515.03	PROHIBITED USES
§ 90515.04	MINIMUM LOT SIZE
§ 90515.05	MINIMUM LOT AREA PER DWELLING UNIT
§ 90515.06	YARDS AND SETBACKS
§ 90515.07	HEIGHT LIMIT
§ 90515.08	MINIMUM DISTANCE BETWEEN STRUCTURES
§ 90515.09	PARKING
§ 90515.10	SIGNS
§ 90515.11	LANDSCAPING

§ 90515.00 PURPOSE AND APPLICATION

The purpose of the M-1 (Light Industrial) Zone is to designate areas for wholesale commercial, storage, trucking, assembly type manufacturing and other similar light industrial uses. Processing or fabrication is limited to activities conducted entirely within a building, that does not emit fumes, odor, dust, smoke or gas, beyond the confines of the building within which the activity occurs, or produces significant levels of noise or vibration beyond the perimeter of the building.

§ 90515.01 PERMITTED USES IN THE M-1 ZONE

The following uses are permitted in the M-1 Zone provided they meet the requirements of this Title:

- a) Accessory Dwelling Unit, Caretakers Residence or Managers Residence per Section 90405.02
- b) Ambulance station
- c) Antique Store
- d) Appliance Repair store
- e) Appliance Store
- f) Art Gallery
- g) Artist Studio
- h) Auditoriums
- i) Auto Body Repair within enclosed facility
- j) Auto Leasing Store
- k) Auto Parking Garages (two (2) stories or less and enclosed)
- l) Auto Rental
- m) Auto Service Station
- n) Auto Service within enclosed facility
- o) Auto Tire Repair
- p) Auto Wash
- q) Auto Wash- self service
- r) Automobile Dealership- New (including parts)
- s) Automobile Dealership- Used (including parts)
- t) Automobile Parts and Accessories Store
- u) Automobile Tire Store including Service
- v) Bakery
- w) Ball Room
- x) Barber/Beauty

y)	Bars
z)	Bath House
aa)	Bicycle Sales and Rental Service
bb)	Bingo Parlor
cc)	Boats sales, including Service and Parts
dd)	Book Store- Adult
ee)	Book Store- General
ff)	Bottled Gas Distributorship (no manufacturing or packaging)
gg)	Bowling Alley
hh)	Bus Depots
ii)	Business or Professional Office
jj)	Cafes
kk)	Card Room
ll)	Cargo Containers (provided they have an approved building permit)
mm)	Carpet Cleaning
nn)	Catering
oo)	Christmas Tree Sales
pp)	Circus or Carnival (not to exceed 5 days)
qq)	Clinic (health maintenance)
rr)	Clothing and Apparel sales, manufacturing, distribution
ss)	Clubs
tt)	Cocktail Lounges
uu)	Coffee Shop
vv)	Cold Storage facilities
ww)	College and Universities
xx)	Computer sales, repair, manufacturing
yy)	Contractors Storage Yard
zz)	Convenience Market
aaa)	Dance Hall
bbb)	Data center (within enclosed building)
ccc)	Department Store
ddd)	Discotheque
eee)	Drapery and Upholstery Store
fff)	Drug and Pharmaceutical sales and manufacturing
ggg)	Educational Institutions
hhh)	Electrical Appliance sales, repair and distribution
iii)	Electrical Equipment repair, assembly within enclosed facility
jjj)	Electronic Equipment Assembly (enclosed)
kkk)	Electrical Generation with rate and capacity not to exceed 15 kilowatts
lll)	Electrical Vehicles Charging Stations as a Primary Use
mmm)	Emergency Shelters
nnn)	Employee Housing
ooo)	Equipment and Building Materials
ppp)	Equipment- Heavy Truck, Trailer Rental
qqq)	Equipment- (small rental facility)
rrr)	Farmers Market
sss)	Fast Food preparation, sales or distribution
ttt)	Feed and fuel facility
uuu)	Financial Institution
vvv)	Fire/Police Station
www)	Floor Covering
xxx)	Florists
yyy)	Food Store
zzz)	Freight Storage Yard
aaaa)	Funeral Parlor

bbbb)	Furniture Cleaning, Refinishing & Upholstery
cccc)	Furniture Store
dddd)	Gardening and Landscape Store
eeee)	Gift and Card Store
ffff)	Golf Driving Range
gggg)	Government Buildings
hhhh)	Gun, including Repair Store
iiii)	Hardware- General including Lumber
jjjj)	Health Club
kkkk)	Hobby Supplies
llll)	Home or Office Furnishing
mmmm)	Hotel/Motel
nnnn)	Ice Cream Parlors
oooo)	Ice Vending Machine
pppp)	Industrial Hemp: manufacturing into semi-finished and finished products, subject to Division 4 Chapter 6 of Title 9 Land Use Ordinance and Title 14 of the Imperial County Codified Ordinance
qqqq)	Industrial Storage
rrrr)	Interior Decorator
ssss)	Janitorial
tttt)	Jewelry and Watches
uuuu)	Labor/Union Halls
vvvv)	Laboratory- Medical, Dental, Optical and Biological
wwwv)	Laboratory Testing
xxxx)	Lapidary
yyyy)	Laundromat
zzzz)	Lawnmower (sales/repair)
aaaaa)	Leather Goods, sales and manufacturing
bbbbb)	Libraries
ccccc)	Light Machine Shop Fabrication within enclosed facility
dddd)	Liquor Store
eeee)	Locksmith
ffff)	Lumber
ggggg)	Lumber Yard
hhhhh)	Manager / Caretaker / Security Guard Residence (One only)
iiii)	Medical and Physical Therapy
jjjjj)	Microwave Relay Stations
kkkkk)	Military Surplus store
lllll)	Mini Warehouse (no outside storage)
mmmmm)	Miniature Golf Course
nnnnn)	Mobile Home Sales and Service
ooooo)	Mortuary
ppppp)	Motorcycle Sales and Service
qqqqq)	Movie Theatre
rrrrr)	Moving and Storage Warehouse
sssss)	Museums
ttttt)	Musical Instrument Sales and Service
uuuuu)	Newspaper, Magazine printing, distribution and sales
vvvvv)	Nursery
wwwww)	Office Machine Equipment Sales & Service
xxxxx)	Oil and Gas Exploration
yyyyy)	Paint and Wallpaper Sales & Service
zzzzz)	Pawn Shop
aaaaaa)	Pest Control
bbbbbb)	Pet Grooming
cccccc)	Pet Store

dddddd)	Photographic Processing Plant
eeeeee)	Photographic Supply Store
fffff)	Photography Studio
gggggg)	Picture Framing
hhhhhh)	Plastic Assembly
iiiiii)	Plumbing Supply
jjjjjj)	Pool or Billiard Parlor
kkkkkk)	Post Office
lllll)	Pottery
mmmmmm)	Printing, Lithography or Blue Printing
nnnnnn)	Public Utility Buildings
oooooo)	Real Estate Office
pppppp)	Recreational Vehicle Sales & Service
qqqqqq)	Research and Development Office/Laboratory
rrrrrr)	Resource Extraction and Energy Development
ssssss)	Restaurants
ttttt)	Sheet Metal Shop within enclosed facility
uuuuuu)	Shoe repair and manufacturing
vvvvvv)	Shoe Shine
wwwww)	Sign Fabrication
xxxxxx)	Skating Rink
yyyyyy)	Small Appliance assembly and repair
zzzzzz)	Solar energy extraction generation provided that it is for on-site consumption only.
aaaaaaa)	Specialized Store
bbbbbbb)	Sporting Good
ccccccc)	Stationary
ddddddd)	Tailor or Dress Maker
eeeeeee)	Taverns
ffffff)	Taxi Depots
ggggggg)	Taxidermist
hhhhhhh)	Telegraph
iiiiiii)	Tennis, Swim, Athletic Club
jjjjjjj)	Theatre
kkkkkkk)	Ticket Agency
lllllll)	Tire Re-Treading, Less than 10 employees
mmmmmmm)	Tobacco
nnnnnnn)	Toy manufacturing
oooooooo)	Trade Schools
ppppppp)	Transitional Housing (as defined in Section 50675.2 of the Health and Safety Code)
qqqqqqq)	Transmission Lines
rrrrrrr)	Travel Agency
sssssss)	Truck Fueling Station
ttttttt)	Truck, including Sales, Rental, Service
uuuuuuu)	Used Clothing
vvvvvvv)	Utility Substations
wwwwwww)	Veterinary including Veterinary Hospital (indoor only)
xxxxxxx)	Video Game Arcade
yyyyyyy)	Warehouses
zzzzzzz)	Wedding Chapel
aaaaaaaa)	Welding or Blacksmithing provided it is adequately fenced with obscured fencing
bbbbbbb)	Wholesale Distribution
ccccccc)	Wind Driven Electrical Generator, capacity not to exceed 15 kilowatts

Note: Pre-School, Elementary School, Junior High and High Schools are not permitted in the M-1 Zone.

§ 90515.02 USES PERMITTED ONLY WITH A CONDITIONAL USE PERMIT

The following uses are permitted in the M-1 Zone provided they meet the requirements of this Title:

- a) Airports or aircraft landing fields
- b) Amusement Park
- c) Animal hospitals, kennels and veterinarians
- d) Asphalt production and products
- e) Asphalt/Concrete Batch Plant
- f) Auto Towing/Dismantling
- g) Auto wrecking
- h) Bakery- Large (more than 25 employees)
- i) Battery Storage
- j) Billboards/Off site advertising signs
- k) Bulk fuel storage facilities
- l) Call Center
- m) Cemeteries, columbariums, crematories and mausoleums
- n) Chemical Storage (Non-Toxic, Non-Explosive)
- o) Churches or other places used exclusively for religious worship
- p) Circus
- q) City, County, State and Federal enterprises including buildings, facilities and uses of departments or institutions thereof which are necessary or advantageous to the general welfare of the community
- r) Commercial Cannabis (All Forms), subject to Division 4 Chapter 6 of Title 9 Land Use Ordinance and Title 14 of the Imperial County Codified Ordinance
- s) Communication Towers: including radio, television, cellular, digital, along with the necessary support equipment such as receivers, transmitters, antennas, satellite dishes, relays, etc. (subject to requirements of this zone and Division 24; Section 92401 "Communications Facilities Ordinance" et al).
- t) Cotton gins
- u) Dairies
- v) Data center yard
- w) Dehydration mills
- x) Electrical Power Generation Plants
- y) Equestrian Establishment
- z) Equipment Rental (service, maintenance and repair)
- aa) Establishments or enterprises involving large assemblages of people or automobiles, including amusement parks, circuses, carnivals, exposition, fairground, open air theatres, race tracks, recreational and sport centers
- bb) Farm implement sales and metal fabrication
- cc) Geothermal Test Facilities, intermediate projects and major exploratory wells
- dd) Golf Course
- ee) Grain storage and loading facilities
- ff) Heliport
- gg) Hospitals, sanitariums and rest homes
- hh) Institutions of a philanthropic nature
- ii) Labor camp
- jj) Libraries, museums, private clubs and golf courses
- kk) Major facilities relating to the generation and transmission of electrical energy, provided such facilities are not, under state or federal law, to be approved exclusively by an agency, or agencies of the state and/or federal governments, and provided that such facilities shall be approved subsequent to coordination and review with the Imperial Irrigation District for electrical matters. The maximum allowance of battery shall be in a ratio of 2 to 1 compared to solar. Such uses shall include, but not be limited to, the following:
 - Electrical generation plants
 - Facilities for the transmission of electrical energy (100-200 kV)
 - Electrical substations in an electrical transmission system (500 kv/230 kv/161 kV)

- ll) Meat and fish packing plants
- mm) Mineral Exploration
- nn) Newspaper, Magazine or Book Printing
- oo) Portable Restroom Facilities
- pp) Race Track
- qq) Railroad Station
- rr) Recreational Vehicle Storage Facilities
- ss) Recycling Facility
- tt) Rock shops and related facilities
- uu) Seed mills
- vv) Shooting Range (indoor only)
- ww) Small ethanol plants with a capacity not to exceed one million gallons a year
- xx) Sports Arena- Indoor/Outdoor
- yy) Surface mining operations
- zz) Swap meets
- aaa) Swimming Pool
- bbb) Transfer Station
- ccc) Trucking Services and Terminals; Trucking Firms
- ddd) Waste Energy Facility
- eee) Well Drilling Service

§ 90515.03 PROHIBITED USES

All other uses not permitted by Section 90515.01 or 90515.02 of the Chapter are prohibited in the M-1 Zone.

§ 90515.04 MINIMUM LOT SIZE

The minimum lot size requirement in the M-1 Zone, is 10,000 square feet.

§ 90515.05 MINIMUM LOT AREA PER DWELLING UNIT

There is no requirement for a minimum area per dwelling unit in the M-1 District since it does not allow dwelling units, except as accessory security or caretakers unit to the permitted use. Any residential use must meet R-1 set-back requirements.

§ 90515.06 YARDS AND SETBACKS

Yards and setbacks in the M-1 Zone are as follows.

A. FRONT YARD.

The front yard minimum setback for all buildings shall be as follows.

1. 10 feet from the property line or public right-of-way line.
2. 0 feet if approved by the Planning Director with the written concurrence from Public Works Department and the Fire Marshall.

In no case shall buildings be located in the right-of-way or on the property line, unless it meets the latest edition of the California Building Code.

B. SIDE YARD

None required.

C. REAR YARD

None required.

§ 90515.07 HEIGHT LIMIT

Buildings and structures in the M-1 District shall not exceed six (6) stories or 80 feet.

§ 90515.08 MINIMUM DISTANCE BETWEEN STRUCTURES

There is no requirement for a minimum distance between structures in the M-1 Zone, except that required by the California Building Code.

§ 90515.09 PARKING

Off street parking in the M-1 Zone shall be provided in accordance with Section 90402.01 (f).

§ 90515.10 SIGNS

The following signs shall be permitted in the M-1 Zone; however, all signs shall be subject to Section 90401 as applicable.

1. Temporary real estate signs not exceeding 20 square feet, advertising the property for sale or lease, and meeting requirements of Division 4, Chapter 1.
2. Temporary construction signs related to construction on said property, meeting requirements of Division 4, Chapter 1.
3. Temporary political, religious, civic and campaigning signs not to exceed three (3) months, meeting requirements of Division 4, Chapter 1.
4. Signs approved in conjunction with a Conditional Use Permit approved for the site.

§ 90515.11 LANDSCAPING

Landscaping in the M-1 Zone shall be provided according to Section 90302.03

THIS SPACE INTENTIONALLY LEFT BLANK

TITLE 9

DIVISION 5: ZONING AREA ESTABLISHED

CHAPTER 16: M-2 (MEDIUM INDUSTRIAL)

§ 90516.00	PURPOSE & APPLICATION
§ 90516.01	PERMITTED USES IN THE M-2 ZONE
§ 90516.02	USES PERMITTED WITH A CONDITIONAL USE PERMIT
§ 90516.03	PROHIBITED USES
§ 90516.04	MINIMUM LOT SIZE
§ 90516.05	MINIMUM LOT AREA PER DWELLING UNIT
§ 90516.06	YARDS AND SETBACKS
§ 90516.07	HEIGHT LIMIT
§ 90516.08	MINIMUM DISTANCE BETWEEN STRUCTURES
§ 90516.09	PARKING
§ 90516.10	SIGNS
§ 90516.11	LANDSCAPING

§ 90516.00 PURPOSE & APPLICATION

The purpose of the M-2 (Medium Industrial) zone is to designate areas for wholesale commercial, storage, trucking, assembly type manufacturing, general manufacturing, research and development, medium intensity fabrication and other similar medium intensity processing facilities. The processing or fabrication within any of these facilities is to be limited to activities conducted either entirely within a building or within securely fenced (obscured fencing) areas. Provided further that such facilities do not omit fumes, odor, dust, smoke or gas beyond the confines of the property line within which their activity occurs, or produces significant levels of noise or vibration beyond the perimeter of the site.

§ 90516.01 PERMITTED USES IN THE M-2 ZONE

The following uses are permitted in the M-2 Zone provided they meet the requirements of this Title:

- a) Alcohol and alcoholic beverage manufacturer
- b) All M-1 uses permitted under §90515.01
- c) Asphalt and asphalt products manufacturing
- d) Automobile assembly
- e) Automobile body and fender works
- f) Automobile dismantling for used parts storage, only if operated and maintained entirely within a building
- g) Automobile painting
- h) Automobile upholstery
- i) Bag cleaning
- j) Boiler or tank works
- k) Brick, tile or terra cotta
- l) Building materials and manufacturing
- m) Candle making
- n) Carbon manufacturing
- o) Cargo Containers (provided they have an approved building permit)
- p) Celluloid or pyroxylin manufacturing
- q) Cement and cement product manufacturing
- r) Contractors equipment yards
- s) Contractors general
- t) Contractors storage yards
- u) Cotton gins or oil mills
- v) Crumb rubber processing

- w) Data centers
- x) Disinfectant manufacturing
- y) Electrical Vehicles Charging Stations as a Primary Use
- z) Feed mills
- aa) Fertilizer and insecticide manufacturing
- bb) Fish and meat packing plant
- cc) Grain elevators
- dd) Graphite manufacturing
- ee) Gypsum manufacturing
- ff) House movers or wreckers
- gg) Industrial Hemp: manufacturing into semi-finished and finished products, subject to Division 4 Chapter 6 of Title 9 Land Use Ordinance and Title 14 of the Imperial County Codified Ordinance
- hh) accessory buildings and/or structures necessary to such use located on the same lot or parcel of land as the primary structure or use
- ii) Insulation materials manufacturing
- jj) Mini Storage (outside storage allowed provided it is screened)
- kk) Oil reclamation plant
- ll) Petroleum products storage
- mm) Railroad repair shop
- nn) Railroad yard
- oo) Seed mill
- pp) Solar energy extraction generation provided that it is for on-site consumption only.
- qq) Wool pulling and scouring

§ 90516.02 USES PERMITTED ONLY WITH A CONDITIONAL USE PERMIT

The following uses are permitted in the M-2 Zone provided they meet the requirements of this Title:

- a) Acid manufacturing
- b) Ammonia, chlorine and bleaching powder manufacturing
- c) Animal sales yards
- d) Animal slaughter plant
- e) Animal stock yards
- f) Automobile wrecking yard (operated entirely within a fenced area where all portions of the site are obscure from any adjacent parcel)
- g) Battery Storage
- h) Billboards/Off site advertising signs
- i) Blast furnace
- j) Chemical manufacturing
- k) Commercial Cannabis (All Forms), subject to Division 4 Chapter 6 of Title 9 Land Use Ordinance and Title 14 of the Imperial County Codified Ordinance
- l) Communication Towers: including radio, television, cellular, digital, along with the necessary support equipment such as receivers, transmitters, antennas, satellite dishes, relays, etc. (subject to requirements of this zone and Division 24; Section 92401 "Communications Facilities Ordinance" et al).
- m) Distillation of coal, wood or tar
- n) Fat rendering
- o) Gelatin manufacturing
- p) Glass manufacturing
- q) Incinerators
- r) Junk yards
- s) Labor camps
- t) Major facilities relating to the generation and transmission of electrical energy, provided such facilities are not, under state or federal law, to be approved exclusively by an agency, or agencies of the state and/or federal governments, and provided that such facilities shall be approved subsequent to coordination and review with the Imperial Irrigation District for electrical matters. The maximum

allowance of battery shall be in a ratio of 2 to 1 compared to solar. Such uses shall include, but not be limited to, the following:

Electrical generation plants

Facilities for the transmission of electrical energy (100-200 kV)

Electrical substations in an electrical transmission system (500 kv/230 kv/161 kV)

- u) Recycling Facility
- v) Rubber and rubber products manufacturing
- w) Smelting of tin, copper or iron ore
- x) Solid Waste Facilities
- y) Storage and handling of radio-active materials
- z) Surface mining
- aa) Transportation treatment units (TTU's)
- bb) Trucking firms, truck and automobile storage yards

§ 90516.03 PROHIBITED USES

All other uses not permitted by Section 90516.01 or 90516.02 of this Division are prohibited in the M-2 zone.

§ 90516.04 MINIMUM LOT SIZE

Minimum lot size requirement in the M-2 zone is 20,000 square feet.

§ 90516.05 MINIMUM LOT AREA PER DWELLING UNIT

There is no requirement for a minimum area per dwelling unit in the M-2 zone since it does not allow dwelling units as an outright use except as an accessory and/or security or caretakers unit which may be permitted incidental to the primary use. Any residential use must meet R-1 setback requirements.

§ 90516.06 YARDS AND SETBACKS

Yards and setbacks in the M-2 zone are as follows:

A. FRONT YARD

Minimum front yard setback for all buildings shall be as follows:

1. 10 feet from property line or public right-of-way line
1. 0 feet if approved by the Planning Director with written concurrence from the Public Works Department and Fire Marshall

In no case shall buildings be located in the right-of-way or on the property line unless it meets the latest edition of the California Building Code.

B. SIDE YARD

None required

C. REAR YARD

None required

§ 90516.07 HEIGHT LIMIT

Buildings and structures in the M-2 zone shall not exceed six (6) stories or 80 feet.

§ **90516.08 MINIMUM DISTANCE BETWEEN STRUCTURES**

There is no requirement for minimum distance between structures in the M-2 zone except as required by the Uniform Building Codes.

§ **90516.09 PARKING**

Off-street parking in the M-2 zone shall be as provided in accordance with Section 90402.01 (F).

§ **90516.10 SIGNS**

The following signs shall be permitted in the M-2 Zone; however, all signs shall be subject to Section 90401 as applicable.

1. Institutional Identification Signs
2. Monument Signs not to exceed 100 square feet
3. Pole Signs
4. Signs attached to buildings
5. Temporary Construction Signs
6. Temporary Political Signs, not to exceed 3 months
7. Temporary Real Estate signs, advertising property for sale or lease not to exceed 20 square feet.

§ **90516.11 LANDSCAPING**

Landscaping in the M-2 zone shall be provided according to Section 90302.03.

THIS SPACE INTENTIONALLY LEFT BLANK

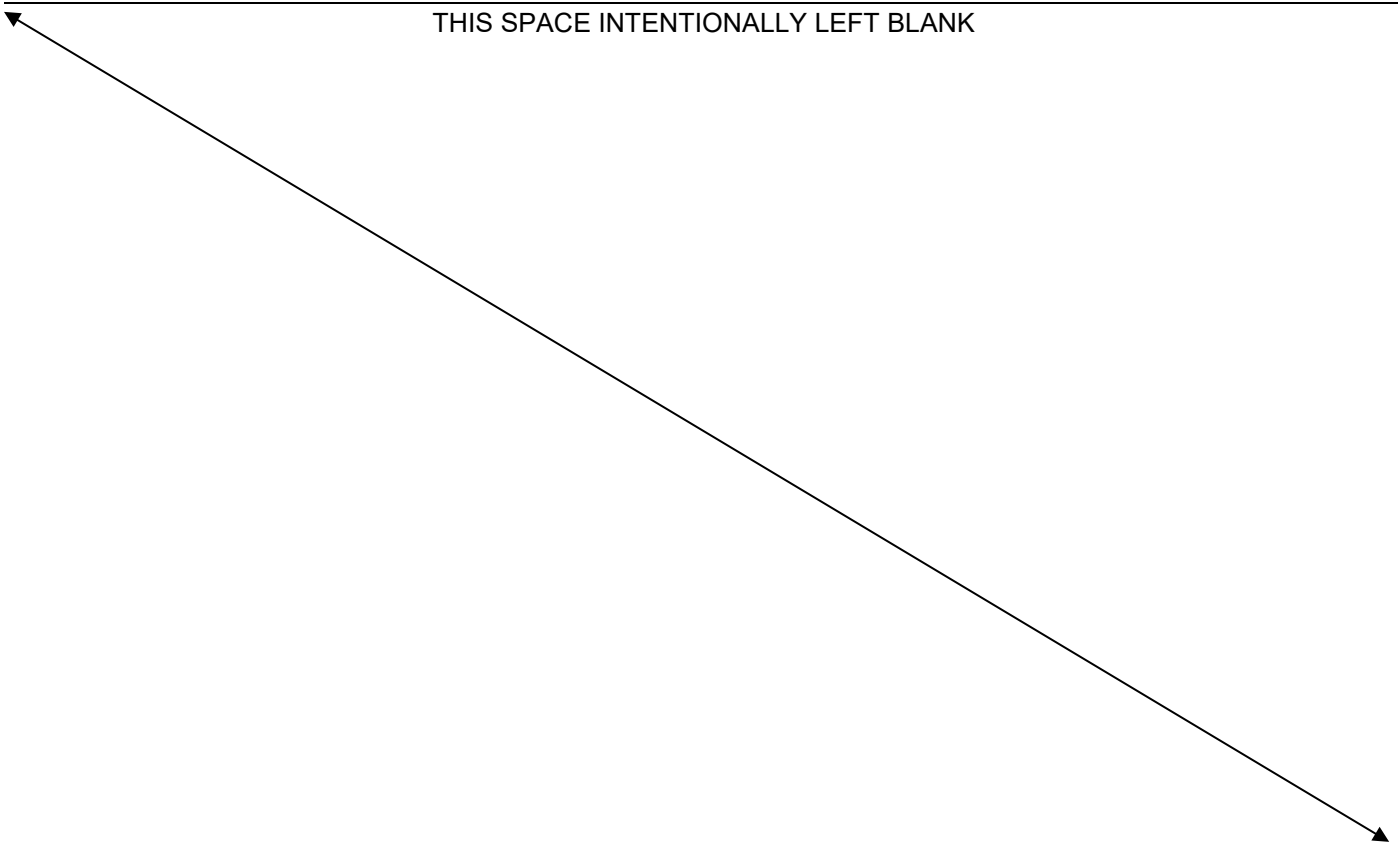


EXHIBIT 3

HISTORY OF INDUSTRIAL ZONING

ATEN ROAD

CLARK ROAD

Zoned A-2

Zoned M-1
Ord. No. 1049 (5-30-91)

Zoned M-2
(Ord. No. 12-06-74)

Zoned M-2
Ord. No. 582 (9-16-76)

Zoned M-2
Ord. No. 523 (12-06-74)

Zoned M-1
Ord. No. 1049 (5-30-91)



Sebastian Rucci <sebastian@ruccilaw.com>

Re: Lot merger for Data Center

2 messages

Tom DuBose <tom@dubosedesigngroup.com>

Wed, Nov 12, 2025 at 4:57 PM

To: Gerardo Quero <gerardoquero@co.imperial.ca.us>

Cc: JimMinnick <JimMinnick@co.imperial.ca.us>, Michael Abraham <MichaelAbraham@co.imperial.ca.us>, Diana Robinson <DianaRobinson@co.imperial.ca.us>, Sebastian Rucci <Sebastian@rucci.law>

Thank you Gerardo,

This is very helpful to understand who was first in regards to zoning. And we appreciate your prompt response to our request. We will be happy to cover the county staff time on this if needed thru one of our existing applications, maybe site plan application? Thanks again.

Tom DuBose
DuBose Design Group Inc
tom@dubosedesigngroup.com
1065 State Street
El Centro, Ca 92243
760-353-8110 (o)
760-554-1468 (m)

On Nov 12, 2025, at 4:52 PM, Gerardo Quero <gerardoquero@co.imperial.ca.us> wrote:

Good afternoon Mr. DuBose,

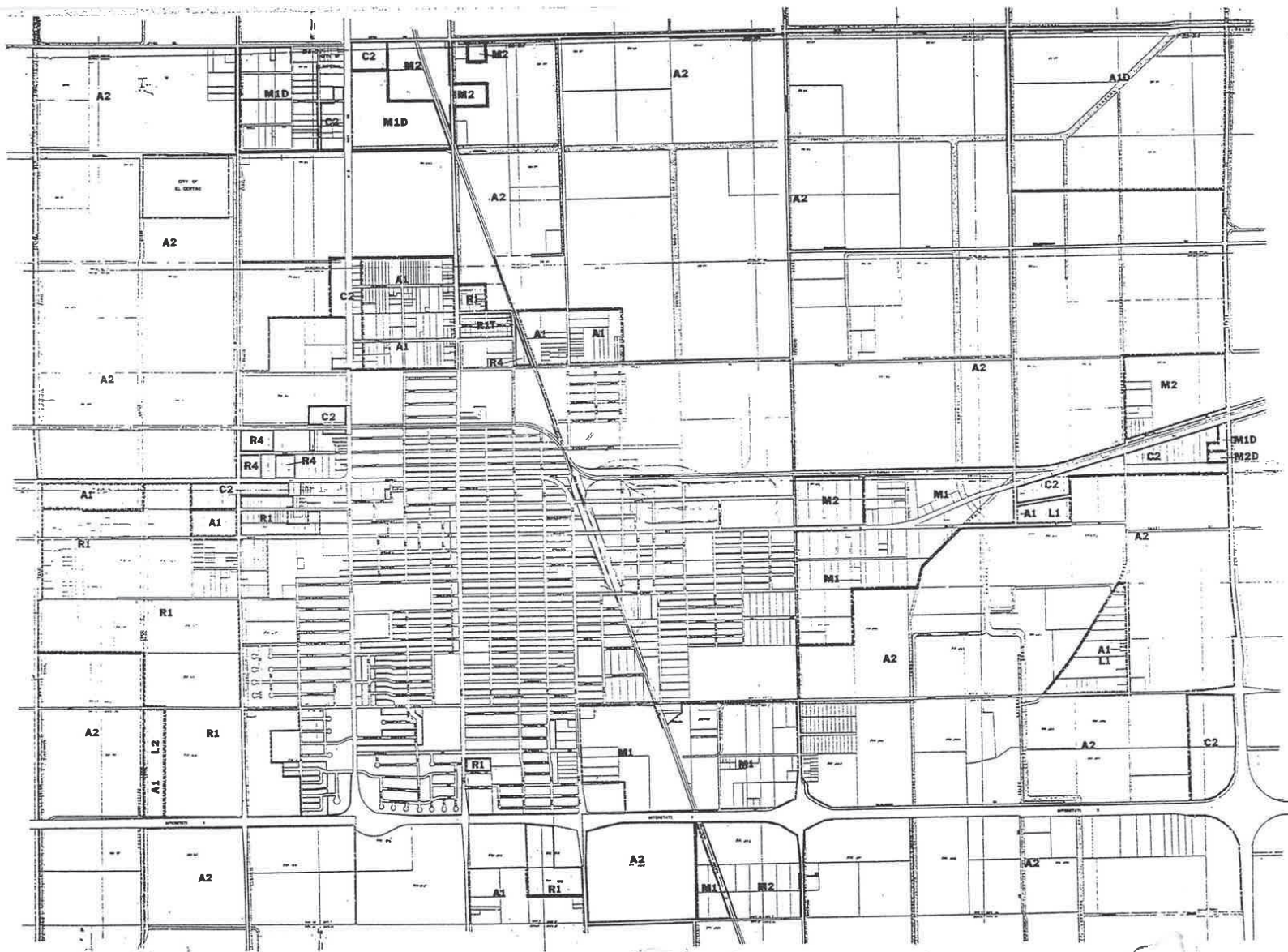
Attached, please find the following:

1. Adoption of Zoning Map #1 (Effective 12-06-74) + Ordinance
2. Zone Change to Zoning Map #1 to one of the subject parcels in the area, from A-2 to M-2 (Effective 09-16-1976) + Ordinance
 - * A fee, to be determined, will be charged for scanning this large Mylar map.
3. Zone Change to Zoning Map #1 to seven distinct lots comprising project area, from A-2 to M-1 (Effective 05-30-1991) + Ordinance
4. Update to Zone Map #1 (1998)

Should you have any questions, please feel free to contact us.

Regards

Gerardo A. Quero
ICPDS



\$83301.

EL CENTRO AREA ZONING
MAP NO. 1
OCTOBER 15, 1974

Zone Maps

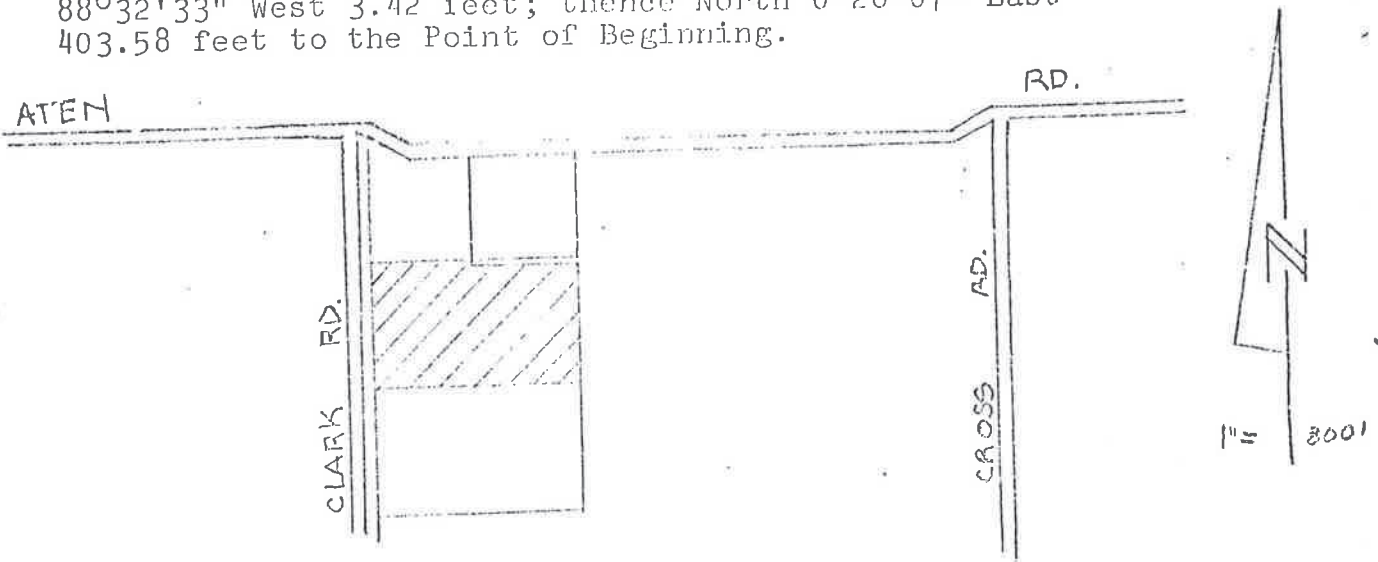
583301.02 Amendment to Zoning Map No. 1, El Centro Area.

The map entitled to "Zoning Map No. 1, El Centro Area" is hereby amended in the following particular only:

The zone classification of that certain parcel of real property situated in the County of Imperial, State of California, and more particularly described as:

A portion of Tract 57, Township 15 South, Range 14 East, S.B.M., according to the United States General Land Office plat of re-survey thereof approved December 22, 1908 described as follows:

Beginning at the Northwest corner of said Tract 57;
thence East along the North line of said Tract 57
for a distance of 830.89 feet; thence South $0^{\circ}02'00''$
East 116.58 feet to the True Point of Beginning; thence
continuing South $0^{\circ}02'00''$ East 403.67 feet; thence North
 $88^{\circ}32'33''$ West 3.42 feet; thence North $0^{\circ}28'07''$ East
403.58 feet to the Point of Beginning.



Is hereby changed from A-2, General Agriculture to M-2, Heavy Manufacturing.

(Amended by Ord. No. 582, eff. Sept. 16, 1976.)

ZONE MAPS

§83301.30

§ 83301.30 Amendment to Zoning Map No. 01-El Centro Area

The map entitled El Centro Area is hereby amended in the following particular only:

The zone classification of that certain parcel of real property situated in the County of Imperial, State of California, and more particularly described as:

Parcel 1 of PM 653, being a portion of Tract 57,
Township 15 South, Range 14 East, SBB & M

is hereby changed from A-2 (General Agricultural) to M-1-N (Light Industrial/New Zone).

(Amended by Ord. No. 1049, eff. May 30, 1991.)

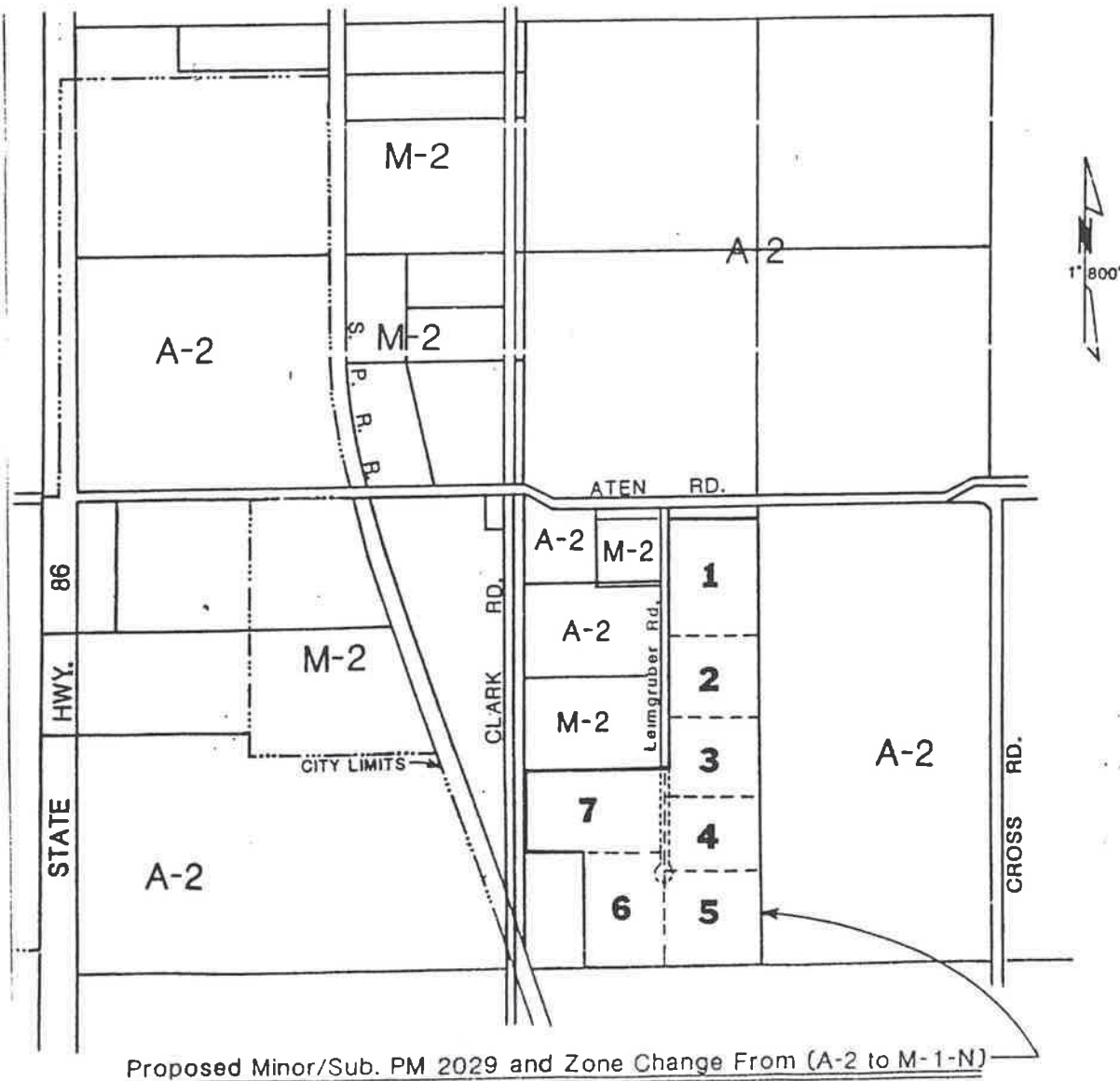




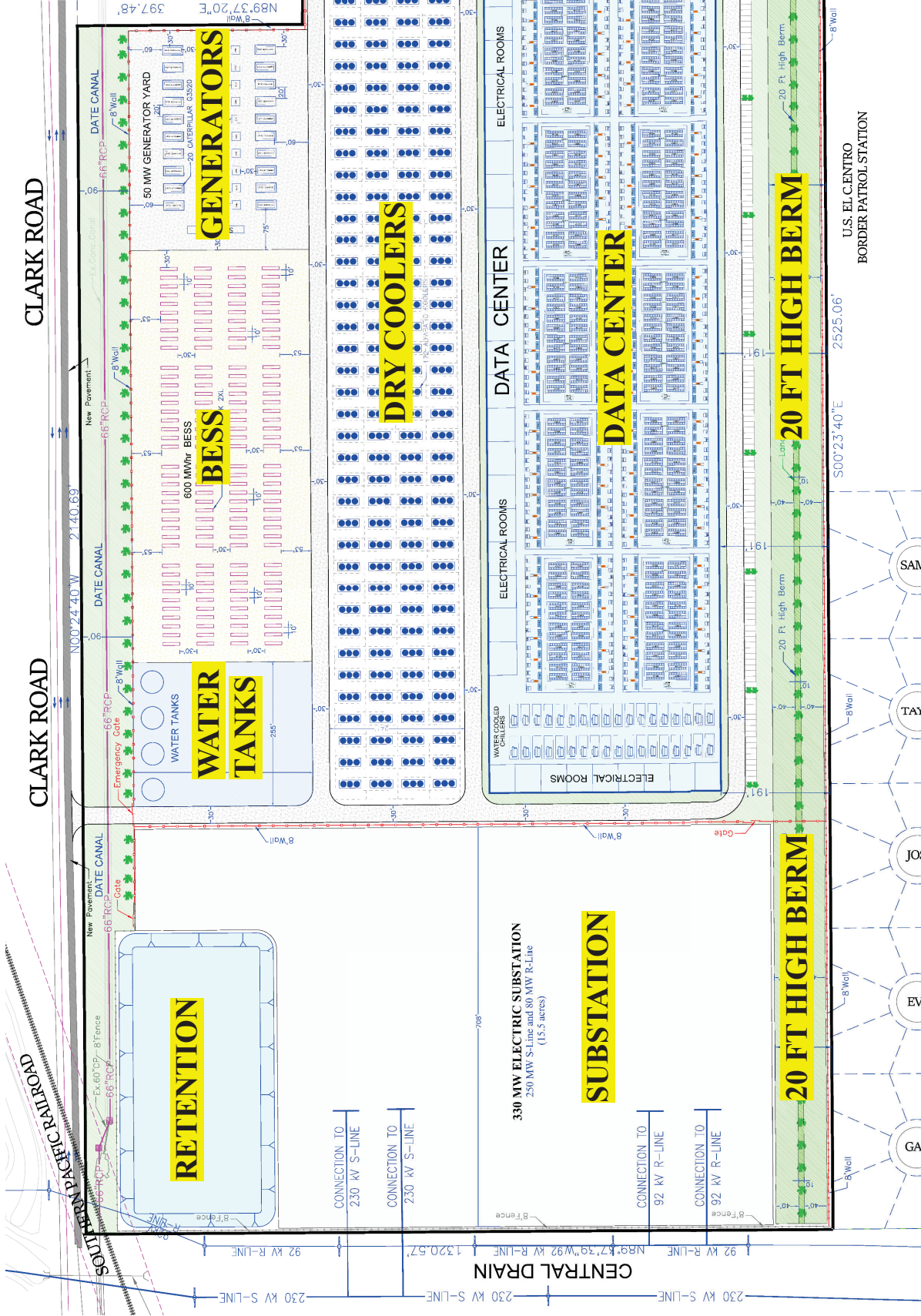
EXHIBIT 4

AMENDED SITE PLAN WITH EXTENSIVE MITIGATION

191-FOOT SET-BACK

20 FOOT HIGH LANDSCAPED ACOUSTIC BERM

COOLING EQUIPMENT OVER 1,000 FEET FROM RESIDENCES



CLARK ROAD

CLARK ROAD

SOUTHERN PACIFIC RAILROAD

ATTEN ROAD

RETENTION

WATER TANKS

BESS

GENERATORS

DRY COOLERS

SUBSTATION

330 MW ELECTRIC SUBSTATION
250 MW S-Line and 80 MW R-Line
(15.5 acres)

DATA CENTER

DATA CENTER

20 FT HIGH BERM

20 FT HIGH BERM

U.S. EL CENTRO
BORDER PATROL STATION

EXHIBIT 5

PLANNING DIRECTORS TESTIMONY

(4-07-2026)

Board-of-Supervisors

1 application, you just have to have permission to go through this process from the property owner.
2 With regards to the other part of the question. Uh, we don't have, nor do we normally get that type
3 of information regarding the, the

4 Martha Cardenas-Singh: Liens.

5 Jim Minnick: ... uh, lenders or liens or things like that. Um, we do however, require, uh,
6 the information that the lenders are aware if we are to merge or do an adjustment to a parcel, uh,
7 prior to. So as I spoke earlier, that the property has to be under one ownership, that ownership
8 would then have to explain to us whether they hone -- own the land in fee title, or whether it's
9 through a lending agency. And we would notify the lending agency that the action is to merge and
10 get their concurrence, so.

11 Martha Cardenas-Singh: All right, thank you. Just one last question. What type of analysis
12 was used or implemented or evaluated to approve a data center in the zoning area?

13 Jim Minnick: Okay, so back in 2017, the county approved the, uh, modifications to our
14 zoning code, which included the, up the inclusion of data centers. Data centers at the time were
15 being looked at as allowable uses, uh, primarily, uh, cloud-based type systems. We compared the
16 uses of what a data center was in relationship to the other uses that we have by right in those zones
17 and found that to be compatible or actually less than some of the uses that are by right. So that's
18 what was presented to the board, uh, and the board approved it back in 2017.

19 Martha Cardenas-Singh: Thank you, Ms. Peggy. That's the last one question.

20 Peggy Price: All right. I have not necessarily any questions. I think most of ours have been
21 answered. Um, but I understand that we are required to apply and follow the provisions of the
22 California Subdivision MAP Act in considering this request. Is that correct?

23 Jim Minnick: Yes.

EXHIBIT 6

TWO SUPERVISORS SOUGHT TO RECONSIDER THE LOT MERGER

(5-19-2026)

https://www.thedesertreview.com/news/escobar-seeks-rule-changes-after-data-center-lot-merger-approval/article_9e36cba8-ed84-41c9-9617-759feec2f00.html

Escobar seeks rule changes after data center lot merger approval

By Hannah Larson

May 21, 2026



District 1 Supervisor Jesus Escobar

File Photo

EL CENTRO — At the request of District 1 Supervisor Jesus Escobar, the Board agreed to discuss potential changes to the board's rules of conduct in order to reconsider the data center lot merger vote. Escobar outlined his request at the regular board meeting on Tuesday, May 19.

"When I voted for the lot merger, I voted because I was shielding myself in the law. I was following the law," Escobar said. "It was a by-right proposal, and as such, I voted in favor of it. I did not vote in favor of the construction of a data center. I voted in favor of a lot merger."

Escobar then acknowledged that “by voting in favor of a lot merger for a proposed data center at a specific location is, in essence, in favor of a data center.” He said that the location of the proposed Imperial AI data center “with no parameters, no delineations between residential development” was the issue at hand.

Escobar then turned to the specific wording of the board’s “motions to reconsider.” The text says, “A motion to reconsider the vote on an agenda item may not be made at the meeting at which the item was acted upon. Such motions may be made at the subsequent Board meeting.”

He requested that the wording be changed to state, “Such motions may be made at a subsequent board meeting” instead.

Escobar made a second recommendation to the board that the following sentence be struck from the rules of conduct: “If the item was a hearing required by law, a motion to reconsider may not be made.”

“I think that it is of utmost importance that we look at our community and we look at the division that is existing because of this development,” he continued. “This is not going to go away.”

Escobar suggested instituting a geothermal plant “that powers the data center that is far and away from residential development, churches and schools, where you can get extraction from rare earth minerals.”

That is the type of generational change that our county needs — not a data center next to a residential development, which is tearing us apart,” he said.

Escobar concluded by reiterating his requests to change “the” to “a” and “strike the last sentence so we can bring this back and rehear this lot merger and put the data center at this specific location to rest.”

The Board plans to continue this discussion about the lot merger vote on Tuesday, June 2.

Hannah Larson

Reporter

https://www.ivpressonline.com/news/supervisors-explore-changing-rules-to-reconsider-controversial-votes/article_65a9ee6f-ddd6-4ee5-aca9-f5e5aac8e90d.html

Supervisors explore changing rules to reconsider controversial votes

KAYLA GUERRERO Special to this Newspaper
May 23, 2026



Imperial County Chief Executive Officer Kathleen Lang.
IVP FILE PHOTO

EL CENTRO — The Imperial County Board of Supervisors provided direction on Tuesday, May 19, to County Executive Officer Dr. Kathleen Lang and County Counsel Geoffrey Holbrook to conduct the necessary research to determine if a request made by Supervisors Jesus Escobar and Martha Cardenas-Singh can be implemented.

Escobar and Cardenas-Singh requested to make two changes to the Board of Supervisors' Rules of Conduct regarding procedural rules as they pertain to motion reconsideration. County staff has been instructed to return on June 2 with information to determine if a motion can be made to amend the rules of conduct.

Escobar initiated the request to amend the rules with support from Cardenas-Singh. His concerns are inspired by the recent heat that has hit the county regarding the lot merger that some members of the public argue paves the way for the major data center project proposed near the residential area of Imperial.

"The issue at hand here is very simple, and I'll speak in the first person. When I voted for the lot merger, I voted because I was shielding myself in the law. I was following the law," he said. "It was a by-right proposal, and as such, I voted in favor of it. I did not vote in favor for the construction of a data center. I voted in favor of a lot merger."

"Having said that, the perception out there and in reality, by voting in favor of a lot merger for a proposed data center at a specific location, is, in essence, in favor of a data center. Bottom line, can't sugarcoat it," he said.

Escobar said his request to amend the rules of conduct is how he hopes to begin addressing the issue of the proposed construction of a data center. Though he is in favor of a data center calling Imperial County home, he does not believe that it should be constructed so near to residential areas, schools, and places of mass gathering. In order to "be prudent in how we appease our community," Escobar proposed the changes to the rules of conduct.

The current rules of conduct, in which Escobar references the state, state, "A motion to reconsider the vote on an agenda item may not be made at the meeting at which the item was acted upon. Such motions may be made at the subsequent Board meeting if the agenda item was not a hearing required by law and the Member making the motion voted on the prevailing side of the agenda item sought to be reconsidered. If the item was a hearing required by law, a motion to reconsider may not be made."

Under Escobar's proposal, the rules of conduct would make seemingly small but possibly mighty changes to county procedure. Current policy states motions to reconsider the vote on an agenda item may be made at "a" subsequent board meeting instead of "the" subsequent

board meeting, implying that the motion to reconsider is not confined to the immediate meeting after the initial vote but rather any meeting after the initial vote.

His proposal would also completely redline the last sentence of the policy, which states, "If the item was a hearing required by law, a motion to reconsider may not be made."

This change directly conflicts with one of the county's current ordinances, leading to some concerns from county counsel regarding the efficacy of the proposed change.

Holbrook stated that there may also be state requirements and laws that could pose further challenges. Following County Counsel's concerns, supervisors collectively agreed to reconsider the proposed changes after Holbrook and Lang have done due diligence.

"Our forefathers basically set the groundwork up knowing that we were going to have to change things down the road," Escobar said.

EXHIBIT 7

COUNTY'S ECONOMIC REPORT

(5-24-2026)

Development Management Group, Inc.

economic development ■ fiscal & economic analysis ■ development management



Imperial Valley Computer Manufacturing, LLC Data Center Project



Economic Impact Analysis (EIA)
Employment (Jobs) Impact Analysis (JIA)
Fiscal Impact Analysis (FIA)

Completed for:



Revised Report of Findings (V4)
April 24, 2026





Development Management Group, Inc.

economic development ■ fiscal & economic analysis ■ development management

April 24, 2026

Dr. Kathleen Lang, County Executive Officer
Ms. Rosa Lopez-Solis, Executive Office Budget and Program Administrator
County of Imperial
940 Main Street, Suite 208
El Centro, CA 92243

**RE: REPORT OF FINDINGS ECONOMIC/EMPLOYMENT (JOB)/FISCAL IMPACT ANALYSIS:
IMPERIAL VALLEY COMPUTER MANUFACTURING, LLC PROPOSED DATA CENTER
AND ANCILLARY/SUPPORTING FACILITIES**

Dear Dr. Lang:

On behalf of Development Management Group, Inc., I am honored to provide you with our independent analysis of the economic, employment and fiscal impacts of the proposed Imperial Valley Computer Manufacturing, LLC energy generation and battery energy storage project in Imperial County, CA. The purpose of this cover letter is to provide you with a brief explanation of each of the three analyses contained in this report and a summary. By review, the proposed project is a 330 MW data center and ancillary/supporting facilities on approximately 234.13 acres of land in an unincorporated portion of the County of Imperial.

An **Economic Impact Analysis** calculates the predicted impact to a community or region as a result of a project or activity. This includes all known direct (and indirect) expenditures as a result of both construction and operation for the projected life of a facility/project. With respect to the Imperial Valley Computer Manufacturing LLC project, we have calculated that the economic impact to the Imperial County region will be approximately \$2.95 billion over the first thirty (30) years of the project (inclusive of both project construction and operations but exclusive of governmental taxes and fees).

An **Employment or Jobs Impact Analysis** calculates the total number of construction and operational jobs specific to the Imperial Valley Computer Manufacturing, LLC facility. The project applicant states that the project will generate 1,688 full-time one-year equivalent construction jobs over the construction period of about two (2) years (or 3,376 total one-year equivalent jobs). The applicant further states the project will generate between 100 and 200 total operational (permanent) jobs (for purposes of analysis, 100 is used).

A **Fiscal Impact Analysis** calculates the amount of revenue a governmental agency is expected to receive and calculates the projected costs they will incur to provide appropriate services to both the project and the additional population/employment generated as a result of such. A comparative model is then produced in order to determine if the project is of economic benefit or cost to the government agency.

41-625 Eclectic Street, Suite D-2 ■ Palm Desert, CA 92260

Office: (760) 346-8820 ■ Mobile: (760) 272-9136

michael@dmgeconomics.com ■ www.dmgeconomics.com

Development Management Group, Inc. has calculated that based on the information provided by Imperial Valley Computer Manufacturing, LLC, the project will generate approximately \$481.22 million in net local (county) tax revenue over the thirty (30) year life of the project. This is derived from an estimated \$164.56 million in sales tax revenue and \$316.67 million in property tax revenue.

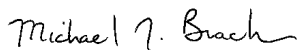
It is projected that it will cost the County about \$107.82 million to provide appropriate services to the project and related employment thus generating a projected ***surplus to the County of Imperial of about \$373.4 million over the thirty (30) year period*** (subject to acceptance of the recommendations provided within the report).

Finally, DMG, Inc. was asked to calculate potential property tax savings to Imperial Valley landowners (residential and commercial) as a result of the development of the IV Data Center. Using an assessed valuation of \$300,000 and the current “mill” rates, a homeowner that is both within Imperial County (aka the Imperial Valley College District) and the Imperial Unified School District will see an annual property tax savings of about \$180 per year for each of the first ten (10) years. A homeowner living within Imperial County, but not within the Imperial Unified School District would see a tax savings of about \$253 over a ten (10) year period (about \$25 per year).

Note that this amount is based solely on the tax laws that are currently in place and does not include any amounts that may be received by the County under a Public Benefits Agreement or similar arrangement.

A complete report of findings along with a list of sources and detailed calculations are contained within the report that follows. We are prepared to answer any questions you may have about our work and conclusions. I can be reached at (760) 272-9136 or by email at michael@dmgeconomics.com.

Sincerely,



Michael J. Bracken
Managing Partner

EXHIBIT 8

PROPOSAL FOR DATA CENTER RELOCATION

(6-13-2026)

Proposal for Imperial Data Center Relocation

Sebastian Rucci <sebastian@ruccilaw.com>

Sat, Jun 13, 2026 at 8:25 PM

To: Peggy Price <peggyprice@co.imperial.ca.us>, Ryan Kelley <ryankelley@co.imperial.ca.us>, johnhawk@co.imperial.ca.us, jesusescoabar@co.imperial.ca.us, iobeso-martinez@imperial.ca.gov, jtucker@imperial.ca.gov, smendoza@imperial.ca.gov, kburnworth@imperial.ca.gov, ramparano@imperial.ca.gov
Cc: Geoffrey P Holbrook <geoffreypholbrook@co.imperial.ca.us>, Bari Bean <baribean@co.imperial.ca.us>, Jim Minnick <jimminnick@co.imperial.ca.us>, Tom DuBose <tom@dubosedesigngroup.com>, Omora@imperial.ca.gov, "Dennis H. Morita" <dmorita@imperial.ca.gov>, Katherine Turner <kturmer@cityofimperial.org>

Dear Imperial County Supervisors and City of Imperial Officials:

I am writing to propose a compromise regarding the proposed data center currently planned near residential homes. This proposal addresses the City of Imperial's concerns about proximity to residences while preserving what may be the largest economic opportunity in Imperial County's history.

The prior 95-acre site at Imperial Avenue and Aten Road is more than one-half mile from residences, surrounded by industrial uses, and would not directly impact nearby homes. That is the logical site and the one we worked on with the City for a long time. We propose that the City of Imperial de-annex that site so it reverts to the County. In exchange, the existing 75-acre site at Aten and Clark Road would be annexed by the City of Imperial, giving the City control over the land near residences.

Upon approval of the data center building permit for the 95-acre site, we would deed the 75-acre Aten and Clark Road site to the City of Imperial for use as a park, soccer fields, or any other public use the City determines appropriate. This gift represents a value of approximately \$7 million.

In a follow-up email, due to file size, I will send a video of the new site over the existing land. The video shows that the 95-acre site is far removed from residences and surrounded by industrial and commercial uses.

As part of this compromise, the County and the City of Imperial would enter into a tax-sharing agreement, with the County receiving 80% and the City receiving 20% of the millions of dollars in tax revenue generated by the data center site. Existing mechanisms allow for such an arrangement, and it could also be incorporated into a settlement of the pending litigation.

Please review this proposal in context. The data center has pursued two zero-impact solutions for water use, including reclaimed water and land following 880 acre-feet, while IID transfers 20% of its total supply, 600,000 acre-feet, outside the Valley. No local jobs or tax benefits come with out-of-valley water. We are now pursuing water by assignment. See Water Code § 22251 ("any landowner may assign for use within the district his right to the whole or any portion of the water apportioned to him.")

IID similarly transfers a majority of its electricity, over 61% outside the Valley, helping fuel growth in Riverside while Imperial County ratepayers face rising costs. There is sufficient energy to serve a data center which is located inside the Valley and provides local jobs, taxes and growth. It is unreasonable that IID uses the public's resources to grow businesses outside the Valley, but puts up roadblocks inside the Valley. This has it backwards!

This compromise relocates the project to a more appropriate industrial area, gives the City of Imperial control over the residential-adjacent property, creates a major public benefit for residents, and preserves substantial tax revenue for both the County and the City.

If this proposal meets with your approval we can move forward on this path. We have always preferred the Imperial Avenue and Aten Road site, and this proposal achieves that result in a way that is a win-win for everyone. This is the largest investment in that area ever and its taxes and jobs have all been disclosed.

I am proposing a better site, public benefits, shared tax revenue, jobs, and growth for Imperial County. I remain willing to sit down at any time and truly hope everyone will sit down and negotiate a resolution and I hope you agree.

Sincerely,
Sebastian Rucci
Imperial Valley Computer Manufacturing, LLC

Law Office of Sebastian Rucci, P.C.
16400 Pacific Coast Highway, Suite 212
Huntington Beach, CA 92649

Office: (562) 901-0199
Cell: (760) 989-5100
Fax: (562) 249-6910
Email: Sebastian@RucciLaw.com
Website: ImperialDataCenter.com

EXHIBIT 9

18-PERSON DATA CENTER ADVISORY COMMITTEE

(6-16-2026)

**RESOLUTION OF THE IMPERIAL COUNTY BOARD OF SUPERVISORS
ESTABLISHING THE DATA CENTER ADVISORY COMMITTEE TO ADVISE
REGARDING DATA CENTER LAND USE, ZONING, AND POLICY OPTIONS WITHIN
THE UNINCORPORATED AREAS OF IMPERIAL COUNTY**

WHEREAS, the Board of Supervisors is responsible for the long-term planning and orderly development of the unincorporated areas of Imperial County through the adoption and implementation of the General Plan, zoning regulations, and related land use policies; and

WHEREAS, the County of Imperial has received public input concerning the development of data centers within the unincorporated areas of Imperial County; and

WHEREAS, members of the public have expressed concerns regarding, among other issues, the potential proximity of data center developments to existing residential neighborhoods, schools, and other potentially sensitive uses; and

WHEREAS, the Board of Supervisors recognizes that data centers may provide economic development opportunities and infrastructure investment within Imperial County; and

WHEREAS, the Board of Supervisors desires to obtain recommendations that balance economic development opportunities, land use compatibility, infrastructure considerations, environmental concerns, and community interests; and

WHEREAS, the Board of Supervisors recognizes that certain areas of Imperial County are characterized by existing industrial, energy, infrastructure, or other large-scale uses and may present different land use compatibility considerations than areas located in proximity to residential neighborhoods, schools, and other sensitive uses; and

WHEREAS, the Board of Supervisors understands that certain data center uses may be permitted within existing zoning classifications under the County's current regulatory framework; and

WHEREAS, the Board of Supervisors recognizes that the existing zoning and regulatory framework may affect the manner in which data center projects are reviewed under applicable state and local laws; and

WHEREAS, the Board of Supervisors desires to further evaluate potential land use and zoning options relating to data center development, including options that may address the proximity of such uses to residential neighborhoods, schools, and other potentially sensitive uses, while avoiding unnecessary restrictions on appropriate industrial development; and

WHEREAS, the Board of Supervisors desires additional information and analysis concerning potential amendments to the Imperial County General Plan, the Imperial County Codified Ordinances, the use of specific plans, and other potential planning or regulatory mechanisms related to data center development; and

WHEREAS, the Board of Supervisors believes that input from a broad range of stakeholders may assist the County in evaluating potential land use and zoning options relating to data center development and therefore desires to establish an advisory committee to provide recommendations regarding such matters.

NOW THEREFORE, BE IT RESOLVED, that the Board of Supervisors finds and directs as follows:

1. The foregoing recitals are true and correct and are incorporated herein by this reference.
2. The Data Center Advisory Committee is hereby established to advise the Board of Supervisors on potential land use and zoning options relating to data center development within the unincorporated areas of Imperial County. The Data Center Advisory Committee shall serve in an advisory capacity only, and all final policy and land use decisions shall remain with the Board of Supervisors.

County staff is directed to take the necessary administrative steps to facilitate the appointment of members to the Data Center Advisory Committee.

The Data Center Advisory Committee shall consist of nineteen (19) members. The members shall be appointed by the Board of Supervisors, unless otherwise indicated. The membership shall be as follows:

- a. Two (2) members of the Board of Supervisors;
- b. Seven (7) members appointed by the seven incorporated cities within the county of Imperial, with each city having one appointment;
- c. One (1) representative from local government that is not an incorporated city.
- d. Two (2) representatives of community interests;
- e. One (1) representative with an environmental background or expertise.
- f. One (1) representative from organized labor;
- g. One (1) representative from the healthcare community;
- h. One (1) representative from the education community;
- i. One (1) representative from a nonprofit organization;
- j. One (1) representative from the business community; and
- k. One (1) representative from the energy industry sector.

County staff is directed to advertise and receive applications for appointment to the Data Center Advisory Committee. County staff is further directed to return to the Board in order to appoint and/or confirm members the committee. County staff is further directed to take those steps necessary to facilitate the work of the Data Center Advisory Committee, which may include the hiring of a consultant with expertise in data center development.

3. The Data Center Advisory Committee shall evaluate and provide recommendations to the Board of Supervisors regarding potential land use, zoning, and policy options relating to data center development within the unincorporated areas of Imperial County. Such recommendations may include, but are not limited to:
 - a. Potential amendments to the Imperial County General Plan;
 - b. Potential amendments to the Imperial County Codified Ordinances;
 - c. The use of specific plans or other planning tools relating to the location and regulation of data center development;
 - d. The establishment of location or proximity standards relating to residential neighborhoods, schools, and other sensitive uses;
 - e. The identification of areas that may be more appropriate for data center development based upon existing land uses, infrastructure, energy resources, and compatibility with surrounding uses;
 - f. Consideration of implementation options and the legal implications associated with any recommended amendments, including whether such amendments should apply prospectively only or, where legally permissible, to projects currently in process; and
 - g. Any other recommendations the committee determines appropriate.

The Data Center Advisory Committee shall present its findings and recommendations to the Board of Supervisors by October 1, 2026, or as soon thereafter as reasonably practicable.

4. Nothing in this Resolution shall be construed as approving, denying, or expressing a position regarding any particular existing or proposed data center project. Nothing in this Resolution shall be construed as directing or predetermining any future amendment to the General Plan, Zoning Ordinance, or other land use regulation.

PASSED AND ADOPTED by the Board of Supervisors, County of Imperial, State of California, this ____ day of _____, 2026, by the following vote: