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August 13, 2026

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Via Electronic Mail

Re: Annexation of Pajaro Valley Fire Protection District

To Whom it May Concern:

The Howard Jarvis Taxpayers Association (“HJTA”) has been reviewing the proposed dissolution of the Pajaro Valley Fire Protection District (“PVFPD”) and annexation of its territory into County Service Area 48 (“CSA 48”). We have significant concerns about the proposed financing structure under article XIII D of the California Constitution.

In 2024, PVFPD sought approval of a Fire Protection and Emergency Response Services Assessment under Proposition 218. The assessment failed, with 54.42 percent of the weighted ballots cast in opposition. PVFPD later considered another Proposition 218 assessment but discontinued that effort in October 2025.

The proposed reorganization would now dissolve PVFPD, annex approximately 4,200 parcels into CSA 48, and subject those parcels to CSA 48’s two existing benefit assessments. The PVFPD parcels were not within the CSA 48 assessment district when those assessments were established, and the current published reorganization process does not identify an article XIII D assessment-ballot proceeding before the assessments would become applicable to those parcels. That raises issues beyond simply applying an existing assessment formula to additional parcels.

I. The CSA 48 Assessments

HJTA has a threshold concern with the services being financed through the CSA 48 assessments. Article XIII D permits an assessment only for a “particular and distinct benefit over and above general benefits conferred on real property located in the district or to the public at large.” (Cal. Const., art. XIII D, § 2, subd. (i).)

The official Legislative Analyst's analysis of Proposition 218 specifically identified fire assessments as a typical example of assessments providing general benefits. Voters were informed that assessments could recover only the portion of a service attributable to special benefit and that general revenues would have to fund the general-benefit portion. (Ballot Pamp., Gen. Elec. (Nov. 5, 1996) analysis of Prop. 218 by Legis. Analyst, pp. 73-74.)

The California Supreme Court subsequently confirmed that Proposition 218 narrowed the concept of special benefit and broadened general benefit to include benefits conferred generally on property within the assessment district. (*Silicon Valley Taxpayers' Assn., Inc. v. Santa Clara County Open Space Authority* (2008) 44 Cal.4th 431, 451-452.)

The 2020 CSA 48 Engineer's Report states that the assessment principally funds increased firefighter staffing and training and improved maintenance and replacement of fire apparatus and equipment. It identifies the resulting benefit as increased safety and protection of real property throughout the assessment district.

The Engineer's Report characterizes these assessment-funded services as enhancements above the fire protection otherwise supported by existing revenues and reasons that the additional staffing, equipment, and response capacity provide a direct benefit to assessed real property. HJTA recognizes that analysis. The unresolved question is whether an increment of districtwide fire staffing, equipment, and emergency-response capacity constitutes a "particular and distinct" benefit within the meaning of article XIII D, and whether the Report has fully identified and separated the general benefits produced by those same services.

Before either CSA 48 assessment is extended into the PVFPD territory, the County should explain why the special benefits identified in the existing Engineer's Report satisfy article XIII D as applied to the enlarged CSA 48 and identify the analysis supporting the allocation of general and special benefit.

II. Extending The Assessments Through Reorganization

There is a separate constitutional issue with imposing the existing CSA 48 assessments on the PVFPD parcels without an article XIII D ballot.

HJTA is aware of Government Code sections 56886, subdivision (t), and 57330, as well as 82 Ops.Cal.Atty.Gen. 180 (1999). The Attorney General concluded that the voter and landowner approval requirements need not be separately satisfied when a LAFCO reorganization extends previously established charges into annexed territory. The opinion assumed, however, that the assessment methodology would not change, rates would not increase, and the collection period would not be extended.

HJTA does not believe the Attorney General's advisory opinion disposes of the constitutional issue presented here.

Article XIII D provides that, “[n]otwithstanding any other provision of law,” its requirements apply to “all assessments,” including assessments imposed pursuant to state statute. (Cal. Const., art. XIII D, § 1.) Section 4 requires an agency imposing an assessment to identify the parcels receiving special benefit, calculate the amount attributable to each parcel, provide notice to the affected property owners, and conduct a weighted property-owner ballot.

The California Supreme Court has called that vote a “bedrock requirement” of article XIII D. (*Ventura Group Ventures, Inc. v. Ventura Port Dist.* (2001) 24 Cal.4th 1089, 1107.) Even where a project provides a special benefit, the property owners retain the right to decide whether they wish to receive that benefit at the proposed cost. (*Id.* at pp. 1107-1108.)

A LAFCO protest proceeding is not the proceeding described in article XIII D. It asks whether a governmental reorganization should occur. It does not give each affected parcel owner a vote weighted according to the amount of the proposed assessment.

Nor does *Citizens Assn. of Sunset Beach v. Orange County Local Agency Formation Com.* (2012) 209 Cal.App.4th 1182 resolve the issue presented here. *Sunset Beach* broadly stated that Proposition 218 does not apply to annexations, but the case concerned preexisting taxes governed by article XIII C, not benefit assessments governed by article XIII D. It did not decide whether article XIII D’s parcel-specific requirements concerning special benefit, separation of general benefit, proportionality, and supporting engineering remain applicable when a previously authorized assessment is extended for the first time to newly annexed parcels.

Here, the consequences are substantial. This is not a minor adjustment to CSA 48’s boundary. An entire independent fire district would disappear, and thousands of parcels would become subject to two assessment regimes those property owners never participated in approving. If the County and LAFCO believe Government Code sections 56886 and 57330 permit that result notwithstanding article XIII D, please provide the legal analysis supporting that position.

III. Proportionality And The Enlarged CSA 48

Even assuming the CSA 48 assessments finance cognizable special benefits and may lawfully be extended without a new ballot, the County must still demonstrate that the amounts imposed on the PVFPD parcels satisfy article XIII D.

No assessment may exceed the reasonable cost of the proportional special benefit conferred on the parcel, and the agency bears the burden of demonstrating compliance. (Cal. Const., art. XIII D, § 4, subds. (a), (f); *Silicon Valley, supra*, 44 Cal.4th at pp. 447-449.)

The existing engineering reports show why a fresh look is necessary.

CSA 48’s 2020 report analyzed 9,812 parcels in an approximately 286-square-mile service area served by ten year-round staffed fire stations. Its methodology incorporates property

characteristics, fire-hazard classifications, and GIS-calculated station travel times. The report also attributed a substantial portion of the services to general benefit.

PVFPD is different. Its engineering analysis describes approximately 18,000 residents over 52 square miles, one PVFPD station, and different contractual, automatic-aid, and mutual-aid arrangements. The County may ultimately be able to use portions of the existing CSA 48 methodology. But the factual assumptions underlying special benefit, general benefit, and proportionality cannot simply be carried over from one territory to the other.

LAFCO's draft parcel schedule describes the proposed calculation as the "csa48 rate at 172.70, adjusted by Casserly Rd only." The public record does not explain precisely what that notation means. The existing CSA 48 methodology uses several parcel-specific factors, including fire hazard and GIS-calculated station travel time. Please explain which elements of that methodology were recalculated for the PVFPD parcels, how the applicable parcel and hazard factors were determined, and why the proximity component apparently references Casserly Road only.

The numbers also deserve an explanation.

LAFCO's draft parcel calculations produce approximately \$1,784,346 in combined CSA 48 assessments for the PVFPD parcels. The FY 2026-27 financial projection assumes \$1,855,720 in CSA 48 Fire Flow/Assessment revenue.

$$\$1,784,346 \times 1.04 = \$1,855,719.84.$$

The near-exact mathematical relationship between the two figures suggests that the \$1,855,720 projection may have been derived by increasing the draft parcel calculation by four percent. If so, please identify the basis for that adjustment and the current engineering analysis establishing that the resulting assessment amount reflects the reasonable cost of proportional special benefits to the affected parcels. If not, please explain how the \$1,855,720 figure was derived.

In *Silicon Valley*, the Supreme Court quoted the criticism of an assessment methodology that "works backward by starting with an amount taxpayers are likely to pay and then determines an annual spending budget based thereon." (*Silicon Valley, supra*, 44 Cal.4th at p. 457.) That concern is implicated here. The lawful assessment amount must follow from the cost of the proportional special benefit. It cannot simply be the amount the existing assessment structure is capable of generating.

IV. Requested Materials

Before the reorganization is finalized, please provide or identify:

1. The legal analysis supporting application of the two CSA 48 assessments to the PVFPD parcels without an article XIII D assessment-ballot proceeding.

2. The analysis identifying the particular and distinct special benefits financed by each CSA 48 assessment and distinguishing those benefits from general governmental fire protection and emergency response.
3. The calculation underlying the proposed CSA 48 charges and the \$1,855,720 FY 2026-27 revenue projection, including the applicable rates, escalation factors, and whether the rates used are the maximum rates currently authorized.
4. Any current engineer's report, technical memorandum, workpaper, spreadsheet, GIS analysis, or other work addressing special benefit, general benefit, service geography, response resources, costs, and proportionality for the enlarged CSA 48, including the basis for the notation "adjusted by Casserly Rd only," the station/travel-time assumptions applied to PVFPD parcels, and the underlying parcel-factor calculations.
5. The foundational engineer's report and authorizing documents for the 1997 Fire Flow Unit Assessment, including the original benefit determination, methodology, rate authority, and escalation provisions.

HJTA supports adequately funded fire protection. Our concern is with the financing mechanism.

PVFPD's 2024 proposed assessment was rejected in the article XIII D weighted-ballot proceeding. The proposed reorganization would now dissolve PVFPD and make thousands of those parcels subject to two different fire assessments without an article XIII D ballot. The present record also leaves unresolved whether the services financed by those assessments constitute particular and distinct special benefits and whether the amounts proposed for the PVFPD parcels satisfy article XIII D.

These questions should be addressed before LAFCO acts on the reorganization. If the County believes the existing assessments may lawfully be extended to the PVFPD territory on the present record, please provide the legal and engineering support for that position together with the materials identified above.

Best Regards,

/s/ Gregory A. Thyberg, Jr.

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