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County of Imperial
Board of Supervisors
940 West Main Street
El Centro, CA 92243

Dear Board Members:

Requested Action:

Conduct a public hearing and adopt an interim ordinance extension pursuant to Government Code section 65858(b) extending the temporary moratorium on the approval of Data Center Facilities within the unincorporated area of Imperial County to June 16, 2028.

Background:

On June 16, 2026, the Board of Supervisors adopted Ordinance No. 1616, an urgency interim ordinance establishing a temporary forty-five (45) day moratorium on the approval of Data Center Facilities within the unincorporated areas of Imperial County. On July 15, 2026, the Board adopted Ordinance No. 1618 extending the temporary moratorium.

Ordinance Nos. 1616 and 1618 were subsequently challenged in *Imperial Valley Computer Manufacturing, LLC v. County of Imperial*, Imperial County Superior Court Case No. ECU004800. The Superior Court granted the petition and issued a writ directing the County and Board of Supervisors to set aside Ordinance Nos. 1616 and 1618 and cease their enforcement. On October 6, 2026, the Board took action to comply with the writ.

Government Code section 65858 permits a local legislative body to adopt an interim ordinance temporarily prohibiting uses that may conflict with land use regulations the local agency is studying. The interim ordinance remains in effect for 45 days and may be extended once for up to 22 months and 15 days.

On September 26, 2026, the County published a Notice of Public Hearing. (Exhibit A.) At its October 6, 2026 meeting, the Board of Supervisors adopted interim Ordinance No. 1621 pursuant to Government Code section 65858(b) establishing a temporary moratorium on the approval of Data Center Facilities within the unincorporated area of Imperial County.

The proposed ordinance is presented to the Board based upon circumstances and a factual record that have developed since adoption of the prior interim Ordinances Nos. 1616 and 1618. These circumstances include additional information concerning pending and proposed Data Center

Facilities; requests seeking determinations that additional Data Center Facilities may proceed as by-right uses within the Mesquite Lake Specific Plan area; new Operating Guidelines issued by the United States Department of the Interior in August 2026 governing the coordinated operations of Lake Powell and Lake Mead for 2027 and 2028, including reductions in Colorado River deliveries to the Lower Basin States; and a subsequent judicial decision identifying evidence of potentially significant environmental effects associated with the Imperial Data Center project.

In particular, on September 10, 2026, the Superior Court issued a decision in litigation brought by the City of Imperial concerning the environmental review of the Imperial Data Center project. Among other things, the Court determined that an environmental impact report was required and identified evidence of potentially significant effects involving energy and electrical infrastructure; water, wastewater, and drainage; air quality and greenhouse gases; hazardous materials, fire safety, and emergency response; noise, circulation, public services, land use, and agricultural resources. These subsequent findings form part of the factual record now before the Board.

There remain pending applications, proposals, and requests relating to additional Data Center Facilities. Certain Data Center Facilities are presently permitted by right in industrial zoning districts, and requests are pending for determinations that additional Data Center Facilities may qualify as by-right uses under the Mesquite Lake Specific Plan. Consequently, additional projects could become eligible for administrative approval while the County's review of its land use regulations remains underway.

At the same time, the County's Data Center Advisory Committee is evaluating potential amendments to the County's General Plan, Zoning Ordinance, specific plans, and related land use policies. Among the matters identified for consideration are appropriate locations for Data Center Facilities; compatibility with surrounding land uses and sensitive receptors; electrical and water demands; infrastructure requirements; emergency response and public safety; and other operational impacts associated with these facilities. In particular, the Imperial Data Center's proposed location adjacent to two residential neighborhoods conflicts with the contemplated "establishment of location or proximity standards relating to residential neighborhoods, schools, and other sensitive uses" and "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."

The proposed extension to the interim ordinance is intended to preserve the status quo for a limited period while the County completes this work and considers whether amendments to its existing land use regulations are appropriate. The ordinance contains detailed findings concerning the current and immediate threats to the public health, safety, and welfare that the Board may determine would result from the approval and development of additional Data Center Facilities under existing regulations during this review period.

If adopted, the extension to the moratorium ordinance would continue to temporarily prohibit the approval or issuance of use permits, variances, building permits, business licenses, or other entitlements for the establishment, construction, or operation of a Data Center Facility within the unincorporated area of the County, subject to the exemptions contained in the ordinance. Applications may continue to be accepted and processed during the moratorium extension, but no permit or entitlement may be issued during the moratorium or any extension thereof.
Consistent with Government Code Section 65858(d), since the Board of Supervisors adopted Ordinance No. 1621 on October 6, 2026, the County has taken numerous actions to address the

issues posed by the approval of Data Center Facilities. In particular, the County has taken the following actions:

- On October 13, 2026, the County complied with the writ by filing Respondents' Return to Peremptory Writ of Mandate and Declaration of Nathan O. George in Support of Respondents' Return to Peremptory Writ of Mandate.
- The Data Center Advisory Committee (DCAC) has met regularly since its inception, meeting on September 17, September 28, October 5, October 19, and November 2, 2026. At these meetings, the DCAC has (1) selected its officers and established its bylaws, received public comment, (2) received presentations on recently passed state laws regarding data centers, the County's land use regulations, and the County's previous data center moratorium, and (3) received presentations from JobsFirst and Food & Water Watch about topics relevant to communities with Data Centers currently in operation.

Government Code section 65858(b) requires a four-fifths (4/5) vote of the Board to adopt the proposed ordinance extending the moratorium and requires legislative findings that there is a current and immediate threat to the public health, safety, or welfare and that approval of additional entitlements during the interim period would result in that threat.
If adopted, the ordinance will take effect immediately and extend the current moratorium until June 16, 2028.

Fiscal Impact:

Adoption of the extension to the interim ordinance is not expected to result in a direct fiscal impact to the County.

Exhibits

A. September 26, 2026 Public Hearing Notice
B. November 7, 2026 Public Hearing Notice

Sincerely,

Kris Malec Becker
Interim County Counsel