

# MENDOCINO

## Local Agency Formation Commission

Ukiah Valley Conference Center | 200 South School Street | Ukiah, California 95482  
Telephone: (707) 463-4470 | E-mail: [eo@mendolaferco.org](mailto:eo@mendolaferco.org) | Web: [www.mendolaferco.org](http://www.mendolaferco.org)

### COMMISSIONERS

**Tony Orth, Chair**

Brooktrails Township CSD

**Scott Ignacio, Vice-Chair**

Point Arena City Council

**Gerald Ward, Treasurer**

Public Member

**Matthew Froneberger**

Regular Special District

**Gerardo Gonzalez**

Willits City Council

**Glenn McGourty**

County Board of Supervisors

**Maureen Mulheren**

County Board of Supervisors

**Jenifer Bazzani, Alternate**

Ukiah Valley Fire District

**John Haschak, Alternate**

County Board of Supervisors

**Mari Rodin, Alternate**

City Member

**Richard Weinkle, Alternate**

Public Member

### STAFF

**Executive Officer**

Uma Hinman

**Analyst**

Larkyn Feiler

**Commission Clerk**

Kristen Meadows

**Counsel**

Scott Browne

### REGULAR MEETINGS

First Monday of each month  
at 9:00 AM in the  
Mendocino County  
Board of Supervisors  
Chambers  
501 Low Gap Road, Ukiah

## Policies and Procedures Meeting A G E N D A

May 11, 2021, 3:00pm

Meeting held remotely via Zoom due to pandemic

To join meeting: <https://mendocinocounty.zoom.us/j/82913560576>

### Important Notice

Pursuant to State Executive Order N-29-20 pertaining to the convening of public meetings in response to the COVID-19 pandemic, effective March 20, 2020, the Mendocino Local Agency Formation Commission (LAFCo) meetings will be conducted remotely and will not be available for in person public participation until further notice.

Submit **written comments** electronically to [eo@mendolaferco.org](mailto:eo@mendolaferco.org) by 9:00 a.m. on the day of the meeting. In the subject line, specify the agenda item number for your comments, "To be read aloud" if desired, and in the body of the email include your name. If to be read aloud, please keep your comments to 500 words or less. All written comments will be provided as soon as feasible to the Commission and posted on the [meeting documents](#) page of the website.

Provide **verbal comments** via teleconference with the information provided on the [website](#). Please pre-register by email to [eo@mendolaferco.org](mailto:eo@mendolaferco.org) by 9:00 a.m. the day of the meeting. In the subject line, specify the agenda item number for your comments, "...Live", and your name (Example: Item 3a Public Comment Live, John Doe). Participants will also receive instructions for participation in the meeting. Each participant will have three minutes to provide comments related to the agenda item.

### 1. CALL TO ORDER & ROLL CALL

Commissioners Froneberger, Gonzalez, and Mulheren (Chair)

### 2. PUBLIC EXPRESSION

The Committee welcomes public participation in its meetings. Any person may address the Committee on any subject within the jurisdiction of LAFCo which is not on the agenda. There is a three-minute limit and no action will be taken at this meeting. See public participation information above.

### 3. MATTERS FOR DISCUSSION & POSSIBLE ACTION

#### 3a) Approval of the April 13, 2021 Policies & Procedures Committee Minutes

#### 3b) Workshop on Proposed Sphere of Influence Update Policies

The Committee will hold a Workshop on proposed sphere of influence update policies to inform and receive feedback.

**3c) Proposed Sphere of Influence Update Policy Recommendations**

The Committee will consider feedback received during the Workshop (Item 3a) and develop recommendations for Commission consideration.

**4. INFORMATION AND REPORT ITEMS**

**4a) Executive Officer Report** (verbal)

**ADJOURNMENT**

The next Regular Commission Meeting is scheduled for June 7, 2021  
Meeting to be held remotely via Zoom and teleconference.

# MENDOCINO

## Local Agency Formation Commission

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**Commission Clerk**  
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**Counsel**  
Scott Browne

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at 9:00 AM in the  
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Board of Supervisors  
Chambers  
501 Low Gap Road, Ukiah

## Agenda Item 3a

### Policies and Procedures Committee DRAFT Meeting Minutes

April 13, 2021, 10:00 a.m.

Meeting held remotely via Zoom due to pandemic.

#### 1. CALL TO ORDER & ROLL CALL

The Executive Officer called the meeting to order at 10:01 a.m.

Members Present: Commissioners Froneberger, Gonzalez, and Mulheren

Staff Present: Executive Officer Hinman, Analyst Feiler, Legal Counsel Browne

#### 2. MATTERS FOR DISCUSSION & POSSIBLE ACTION

##### 2a) Selection of a Committee Chair

Upon motion by Commissioner Gonzalez and second by Commissioner Froneberger, the selection of Commissioner Mulheren as Committee Chair was approved by unanimous vote.

Ayes: Commissioners Froneberger, Gonzalez, and Mulheren.

##### 2b) Approval of the December 28, 2020 Policies & Procedures Committee Minutes

Chair Mulheren noted that the composition of the Committee has changed since the last meeting and two of the three current members were not present at the December meeting in order to vote on the minutes. Counsel Browne explained that the new members can vote on the prior minutes based on a review of the draft and conferring with staff and the roll-over member for accuracy since there is no recording of the meeting. The new Committee members did not identify any questions or concerns and the roll-over member did not request any changes to the draft minutes.

Upon motion by Commissioner Gonzalez and second by Commissioner Froneberger, the minutes of the December 28, 2020 Policies & Procedures Committee Meeting were approved by unanimous vote.

Ayes: Commissioners Froneberger, Gonzalez, and Mulheren.

##### 2c) Policy Development to Address Indemnity Limitations

Per prior request, the Committee agreed to hear comments on Agenda items 2c, 2e, and 2f from Philip Williams, Special Counsel for the City of Ukiah, due to a timing conflict with a prior obligation. Mr. Williams expressed concern related to several areas of recent engagement with LAFCo including City applications, City MSR/SOI Update, indemnification, and policy revisions. Mr. Williams noted that the rules need to be made clear, rules have significant policy implications requiring robust dialogue, and expressed disappointment in not receiving more staff engagement than statutory notice for the meeting. Related to Item 2c, Mr. Williams supported Option 4 and the indemnity language in Attachment 2. Related to Item 2e, Mr. Williams noted the heavy involvement of the City of Ukiah in the November and December Committee meetings,

that LAFCo has not provided a written response to comments from the Cities of Ukiah and Fort Bragg or conducted further outreach with stakeholders, and the overall effort to seek a balance of basis in law, cost concerns, and legal liabilities. Related to Item 2f, Mr. Williams explained that there are a number of significant issues that have been stacking up that warrant an efficient, transparent, and constructive forum to hear from all sides on facts, law, and policy implications and requested a Committee Workshop prior to the next Commission meeting on May 3, 2021.

Commissioner Gonzalez explained that LAFCo has been waiting for new members to be seated to hold the next Committee meeting and was not an attempt to undermine the stakeholder engagement process. EO Hinman clarified that the intent of Item 2c was to discuss a workshop option. Mr. Williams expressed concern with the upcoming fire season and the need to move forward with an application to annex City territory to the Ukiah Valley Fire District (UVFD) and EO Hinman offered to connect with Mr. Williams to discuss specific application issues.

Commissioner Froneberger inquired about the applicability of the SOI policy to special districts and EO Hinman confirmed that the policy applies to all local agencies. Craig Schlatter, Community Development Director for the City of Ukiah, expressed concern regarding discrepancies between the application submittal checklist and additional requirements identified during application review resulting in an application being deemed incomplete. EO Hinman encouraged the City to apply for the UVFD annexation application even if it is incomplete to allow LAFCo to initiate the tax exchange process per Revenue and Taxation Code Section 99(b). Chair Mulheren noted the recent creation of a Tax Share Ad Hoc Committee at the County level to address this important process.

Item 2c: EO Hinman presented four options for Committee consideration in response to a recent court case limiting LAFCo's authority to require indemnification agreements for applications. Counsel Browne explained that the Commission has considerable risk of litigation, limited reserves to self-insure, and is not required to defend against every lawsuit. The Committee acknowledged that Option 2 requiring a deposit or bond of \$100,000 places a significant burden on applicants, especially small districts. Discussion ensued regarding the current legal services contract, current legal reserves balance and policy, apportionment fees calculation, and the goal to incrementally build legal reserves from \$35,000 to \$100,000 over time. Commissioner Froneberger noted that LAFCo needs prudent reserves likely closer to \$250,000. Counsel Browne encouraged building legal reserves for situations in which the Commission desires to defend against a lawsuit. Mr. Schlatter noted support for Option 4.

Upon motion by Commissioner Gonzalez and second by Commissioner Froneberger, recommendation of Option 4 (voluntary indemnity agreement) for Commission consideration was approved by unanimous vote.

Ayes: Commissioners Froneberger, Gonzalez, and Mulheren.

## **2d) Electronic Signature Policy Development**

EO Hinman presented the draft electronic signature policy and noted that Counsel has not had an opportunity to review the draft policy language to date.

Upon motion by Commissioner Froneberger and second by Commissioner Gonzalez, recommendation of the draft electronic signature policy, subject to Counsel review and revision, for Commission consideration was approved by unanimous vote.

Ayes: Commissioners Froneberger, Gonzalez, and Mulheren.

## **2e) Policy Development for Spheres of Influence**

EO Hinman presented background on prior meetings and the intent to put current practices into written policy and requested Committee direction regarding next steps for stakeholder outreach and timing of a SOI Policy Development Workshop. Counsel Browne noted in response to the request for clarity on the rules from the City of Ukiah that the more outreach is conducted the longer the process to define the rules will take. Chair Mulheren noted that a workshop offers the most opportunity for the most people to participate. Commissioner Gonzalez explained that it would be difficult to provide sufficient advance notice of the workshop and an opportunity for

agencies to meet with staff prior to the workshop if scheduled before the May 3<sup>rd</sup> Commission meeting. Commissioner Froneberger concurred that more time is needed to prepare for the workshop. Mr. Schlatter requested that a workshop be scheduled as soon as possible per Commission direction at the January meeting. EO Hinman noted that LAFCo has limitations and recent efforts of part-time staff have been focused on budget development. Counsel Browne noted the issue of making major boundary changes based on outdated spheres and the decision of the best service provider is made at the SOI level which then guides boundary changes.

Upon motion by Commissioner Gonzalez and second by Commissioner Froneberger, direction to schedule a SOI Policy Development Workshop the second week of May was approved by unanimous vote

Ayes: Commissioners Froneberger, Gonzalez, and Mulheren.

**2f) Other Policy & Procedure Update Discussions and/or Recommendations**

There were no additional policy and/or procedure topics for future meetings discussed.

**3. INFORMATION AND REPORT ITEMS**

**3a) Executive Officer Report**

EO Hinman had no items to report.

**4. CLOSED SESSION**

**4a) Conference with Legal Counsel – Potential for Exposure to Litigation: 1 case**

A closed session was not held.

**ADJOURNMENT**

There being no further business, the meeting was adjourned at 11:21 a.m. by Chair Mulheren.

**MENDOCINO  
Local Agency Formation Commission**

**Staff Report**

DATE: May 11, 2021  
TO: Mendocino Local Agency Formation Commission Policies & Procedures Committee  
FROM: Uma Hinman, Executive Officer  
SUBJECT: **Workshop on Proposed Sphere of Influence Update Policies**

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**RECOMMENDATION**

The Policies & Procedures Committee hold a workshop on the proposed Sphere of Influence Update policies to inform and receive feedback on the proposed changes.

**BACKGROUND**

**Staff Direction**

On December 7, 2020, the Commission directed staff to bring an item forward at the January 4, 2021 meeting for the Commission to consider adoption of the proposed SOI policies, once further vetted through the Policies and Procedures Committee.

On December 28, 2020, the Policies & Procedures Committee reconvened to discuss the revised SOI policies after LAFCo staff conducted outreach with interested agencies. The meeting was well attended by staff and legal representatives of multiple agencies including the Cities of Ukiah, Fort Bragg, Willits, the Ukiah Valley Sanitation District, and Russian River Flood Control District.

The Committee provided staff direction to postpone the item to allow more time to continue to engage with stakeholders, further refine the SOI policies, and limit unintended consequences. The Committee also directed staff to provide an update at the January 4, 2021 Regular Commission meeting.

On January 4, 2021, the Commission directed staff to perform additional outreach to cities and special districts on the proposed changes.

On April 13, 2021, the Policies & Procedures Committee considered feedback from public attending its meeting and supported staff's intent to host a workshop to both inform and solicit feedback on the proposed changes.

**Policy Intent**

The intent of the proposed policy changes was to put into written policy the current Sphere of Influence (SOI) practices of the Commission. The proposed policy changes were intended to establish uniform treatment and ensure cost recovery from agencies requesting SOI expansion that result in additional costs associated with increased analysis and necessary CEQA review in an effort to keep apportionment fees for all agencies low.

**Current Practice**

The current practice of the Commission has been to establish a coterminous sphere during the MSR/SOI Update process, unless an agency requests a non-coterminous sphere and assumes the costs associated with CEQA review, and prepare MSR/SOI studies in-house at lower staff rates. This approach has allowed

the Commission to keep apportionment fees low. As a result, LAFCo does not have budget sufficient to prepare a non-coterminous SOI Update for growth-inducing or multi-service agencies with CEQA review beyond an exemption within a single fiscal year.

### **Work Plan**

Pursuant to GOV §56425(g), on or before January 1, 2008, and every five years thereafter, the commission shall, as necessary, review and update each sphere of influence. There is not consensus in the LAFCo community regarding this statutory requirement. Some LAFCo's interpret this legislation as requiring an SOI Update every five-years for every agency, and some interpret it to mean that once the first-round SOI Update is completed, subsequent SOI Updates can occur as needed on a five-year basis.

Further, the following existing LAFCo Policy 10.1.3 clarifies that SOIs for municipal service providers be reviewed every five years and SOIs for non-municipal service providers be updated as necessary.

#### *10.1.3 SPHERE UPDATES*

*In updating spheres of influence, the Commission's general policies are as follows:*

*a) The Commission will review all spheres of influences every five years for each governmental agency providing municipal services. Municipal services include water, wastewater, police, and fire protection services.*

*b) Sphere of influence changes initiated by any agency providing a municipal service shall generally require either an updated or new service review unless LAFCo determines that a prior service review is adequate.*

*c) Spheres of influence of districts not providing municipal services including, but not limited to, ambulance, recreation, hospital, resource conservation, cemetery, and pest control shall be updated as necessary.*

Mendocino LAFCo strives to prepare MSR/SOI Updates for agencies providing municipal service on a five-year cycle; however, due to budget limitations this timeframe can be difficult to achieve.

The 5-Year Rolling Work Plan is a schedule and estimated cost plan for conducting MSR/SOI Updates for local agencies under LAFCo jurisdiction (this does not include school districts). The Rolling Work Plan is designed to allow for flexibility in addressing unforeseen changes in the needs and circumstances of local agencies, budget limitations, and to shift priorities accordingly during the year. Consequently, there can be a domino effect of pushing the studies of other agencies to subsequent years.

### **CEQA Review**

There is not consensus in the LAFCo community regarding the appropriate level of CEQA review for changes in SOIs. Some approaches include: relying primarily on CEQA exemptions and deferring further CEQA review until the individual project level; completing CEQA review in conjunction with a land use entitlement process or General Plan Update process as a Responsible Agency; tiering from a General Plan EIR; preparing an Initial Study and Negative Declaration or Environmental Impact Report (EIR) for SOI Updates; and fully considering the reasonably foreseeable indirect impacts of facilitating annexation and the provision of municipal services in an Initial Study at the time of proposed sphere change.

Not all CEQA approaches work in all circumstances and the level of controversy involved in a specific sphere change may result in a higher level of CEQA review than anticipated. Also, the Lead Agency for CEQA can differ depending on which agency is first to act on a project. For a LAFCo-initiated SOI Update that is independent of a change of organization application, land use entitlement permit, and/or General Plan Update, LAFCo would likely be the Lead Agency and responsible for the costs of CEQA review.

The estimated cost of CEQA review for a SOI Update is project specific and cannot be known until the SOI Update is undertaken. However; as a general estimate, Negative Declaration/Mitigated Negative Declaration can cost \$5,000-\$20,000 and Environmental Impact Reports (EIR) can range upwards of \$100,000 and more for a project, depending on the scope of analysis.

### **Proposed Policy Changes**

LAFCo staff revised the SOI policies based on comments received and distributed them to the four City Planning Departments and interested Special Districts on December 2, 2020 for review (Attachment 2). Additional changes have been made in response to comments received during the December 28, 2020 Policies & Procedures Committee meeting. LAFCo staff also met with staff from the City of Ukiah, City of Fort Bragg, City of Willits, and the Ukiah Valley Sanitation District upon request, and concerns/questions raised are summarized in Attachment 2, page .

The following draft language is proposed for consideration of the Policies & Procedures Committee. Proposed amendments to existing policies are indicated with underlined and ~~striketrough~~ formatting.

Attachment 1 Proposed Sphere of Influence Policies

Attachment 2 January 4, 2021 Commission Staff Report



# Attachment 1

## Proposed Sphere of Influence Policy Changes

The following draft language was proposed for consideration of the Policies & Procedures Committee at its December 28, 2020. Proposed amendments to existing policies are indicated with underlined and ~~strikethrough~~ formatting.

### **9.12 BOUNDARIES**

#### **9.12.1 DEFINITE BOUNDARIES REQUIRED**

LAFCo shall not accept as complete any application unless it includes boundaries that are definite, certain, and fully described.

#### **9.12.2 SOI CONSISTENCY REQUIRED**

Proposed changes of organization or reorganization shall be consistent with the Sphere of Influence (SOI) of the local agencies affected by those determinations pursuant to GOV §56375.5. The Commission finds that outdated spheres, as determined under Policy 10.1, do not provide a reliable or relevant basis of information needed by the Commission to carry out its responsibilities in consideration of major applications. Therefore, in situations of outdated spheres, before any major change of organization or reorganization may be deemed complete and a Certificate of Filing issued, the outdated spheres of the subject and/or affected agency must be updated, potentially including a municipal service review.

In consideration of major applications based on outdated spheres, the Commission is likely to deny the proposal and authorizes the Executive Officer to schedule a hearing for recommended denial at the next available regular meeting of the Commission, if feasible. SOI establishment, amendment, and update shall precede consideration of proposed changes of organization or reorganization.

The only exception to subject and affected agency SOI consistency is minor applications that normally would not considerably intensify existing development, generate or facilitate significant new development, or create adverse impacts on the subject agency or affected agencies. Examples of minor proposals include fire service annexations or detachments, annexation of agency-owned property currently used for the provision of municipal services, such as agency municipal service facilities and/or infrastructure, and annexations of developed property with no further development potential.

#### **9.12.23 BOUNDARY CRITERIA**

LAFCo will generally favor applications with boundaries that do the following:

- a) create logical boundaries within the affected agency's sphere of influence, and where possible, eliminate previously existing islands or other illogical boundaries;
- b) follow natural or man-made features and include logical service areas where appropriate; and
- c) place all streets and rights-of-way within the same jurisdiction as the properties which abut thereon and/or for the benefit of which such streets and rights-of-way are intended.

#### **9.12.34 BOUNDARY ADJUSTMENTS**

LAFCo will generally amend proposals with boundaries which:

- a) Split neighborhoods or divide existing identifiable communities, commercial districts, or other areas having a social or economic identity.

- b) Result in islands, corridors, or peninsulas of incorporated or unincorporated territory or otherwise cause or further the distortion of existing boundaries.
- c) Are drawn for the primary purpose of encompassing revenue-producing territories.
- d) Create areas where it is difficult to provide services.

#### 9.12.4-5 BOUNDARY DISAPPROVALS

If LAFCo, in consultation with the applicant, cannot suitably adjust the proposed boundaries to meet the criteria established above, it will generally deny the proposal.

## 10.1 SPHERES OF INFLUENCE

### 10.1.2 DEFINITIONS

The Commission incorporates the following definitions:

- a) ~~a~~ “Establishment” refers to the initial development and determination of a sphere of influence by the Commission;
- b) ~~A~~ “amendment” refers to a limited change to an established sphere of influence typically initiated by a landowner, resident, or agency; and
- c) ~~A~~ “update” refers to a comprehensive change to an established sphere of influence typically initiated by the Commission. An SOI review is not an SOI update.
- d) An “outdated sphere” is an established sphere of influence that has not been updated for ten (10) years or more for municipal service providers or where circumstances have changed significantly since the last SOI update. SOI’s become outdated where substantial changes have occurred in the statutory requirements, agency services, finances, or governance, and/or community or service area, resulting in the most recent MSR/SOI no longer providing a reliable or relevant basis of information needed by the Commission to carry out its responsibilities. The “outdated sphere” determination shall be made by the Executive Officer, subject to confirmation by the Commission in the event the determination is disputed.

### 10.1.3 SPHERE UPDATES

In updating spheres of influence, the Commission’s general policies are as follows:

- a) LAFCo must adopt a Sphere of Influence (SOI) for each city and special district in its jurisdiction and keep it updated in accordance with CKH. Overseeing each SOI is a LAFCo responsibility. LAFCo strongly encourages the participation and cooperation of the subject agency in the SOI process, but the Commission remains the sole authority for establishing and making changes to an agency’s SOI and associated Municipal Service Review. All LAFCo actions must be consistent with the subject agency’s SOI and changes to an agency’s SOI require careful review and consideration.
- ~~a~~b) The Commission will update the SOI of municipal service providers periodically in accordance with the Cortese-Knox-Hertzberg Local Government Act of 2000 (CKH), and only as needed for non-municipal service providers review all spheres of influences every five years for each governmental agency providing municipal services. Municipal services include water, wastewater, road, police, and fire protection services. Non-municipal services include, but are not limited to, ambulance or emergency medical services, park and recreation, health care hospital, resource conservation, cemetery, lighting, landscaping, and pest control.
- ~~c)~~ Spheres of influence of districts not providing municipal services including, but not limited to, ambulance, recreation, hospital, resource conservation, cemetery, and pest control shall be updated as necessary.

- c) The most recent SOI for municipal service providers will be reviewed every five years, as needed, pursuant to CKH for accuracy and relevancy, and may result in the Commission reaffirming the existing SOI to ensure an appropriate sphere remains current. The agency SOI will be scheduled for a MSR/SOI Update when the sphere is deemed outdated or where major changes in the SOI are being considered. Whenever feasible, City MSR/SOI Updates shall be scheduled to coincide with City General Plan Updates.
- d) Sphere actions by the Commission are subject to the provisions of the California Environmental Quality Act (CEQA). The Commission is normally the lead agency for SOI establishment and update, and the agency is normally the lead agency for proposed SOI amendments. The baseline for CEQA review is the current jurisdictional boundary of the agency.
- e) Where an agency requests that a LAFCo-initiated SOI Update include territory outside an agency's current boundary, the agency shall reimburse LAFCo for the cost of the environmental and other review required. Where an agency desires a sphere amendment proposed in a manner to permit additional development, the agency must prepare an appropriate environmental document and/or reimburse LAFCo for the cost of the environmental and other review required. This policy is intended to impose the cost on the agency seeking SOI expansion opportunities in an effort to keep annual apportionment fees lower for the other agencies that contribute to the support of LAFCo.
- f) All costs incurred by LAFCo for preparation of establishing a non-coterminous SOI Update for an agency, or expanding an existing non-coterminous SOI, shall be subject to full cost recovery from the agency. Potential costs include necessary MSR studies, CEQA compliance, staff time, and any additional fees charged by state or local agencies for reviewing, processing, and filing the project. **Nothing in this Policy shall be construed as a requirement for a higher level of environmental review than is necessary.** Sphere changes that are subject to CEQA exemption are intended to be carried out accordingly, and otherwise will involve preparation of an Initial Study to determine the appropriate level of CEQA determination.
- g) In the absence of a legally binding commitment from a subject agency for full cost recovery of establishing or expanding a non-coterminous SOI Update, the Commission will likely prepare a coterminous sphere or may, at the Commission's sole discretion, maintain and/or expand the most recent sphere if subject to CEQA exemption or if funding is otherwise available for the appropriate level of CEQA review.
- h) Sphere of influence changes initiated by ~~application~~ any agency providing a municipal service shall generally require either an updated or new Municipal Service Review unless LAFCo determines that a prior service review is adequate.
- i) A combined Municipal Service Review (MSR) and SOI Update shall be prepared whenever feasible to minimize costs, streamline processing, and to maximize data collection and analysis.

## Attachment 2

### MENDOCINO Local Agency Formation Commission

#### Staff Report

DATE: January 4, 2021  
TO: Mendocino Local Agency Formation Commission  
FROM: Uma Hinman, Executive Officer  
SUBJECT: **SOI Policy Update and Work Plan Budget Discussion**

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#### **RECOMMENDATION**

Receive informational report from staff regarding the Sphere of Influence policy development process and discuss options for the upcoming Fiscal Year 2021-22 Work Plan budget.

#### **BACKGROUND**

##### Staff Direction

On December 7, 2020, the Commission directed staff to bring an item forward at the January 4, 2021 meeting for the Commission to consider adoption of the proposed SOI policies, once further vetted through the Policies and Procedures Committee.

On December 28, 2020, the Policies & Procedures Committee reconvened to discuss the revised SOI policies after LAFCo staff conducted outreach with interested agencies. The meeting was well attended by staff and legal representatives of multiple agencies including the Cities of Ukiah, Fort Bragg, Willits, the Ukiah Valley Sanitation District, and Russian River Flood Control District.

The Committee provided staff direction to postpone the item to allow more time to continue to engage with stakeholders, further refine the SOI policies, and limit unintended consequences. The Committee also directed staff to provide an update at the January 4, 2021 Regular Commission meeting.

##### Policy Intent

The intent of the proposed policy changes was to tap into the institutional knowledge of the outgoing Commissioners to put into written policy the current Sphere of Influence (SOI) practices of the Commission. The proposed policy changes were intended to establish uniform treatment and ensure cost recovery from agencies requesting SOI expansion that result in additional costs associated with increased analysis and necessary CEQA review in an effort to keep apportionment fees for all agencies low.

##### Budget Implications

The level of concern from stakeholders regarding the SOI policy development has resulted in more robust dialogue and will likely lead to better policy development. However, it is important to report that it is also resulting in a large amount of limited staff time dedicated to the effort. It is also noteworthy that smaller local agencies that would pay more without cost recovery policies have not been present in the Committee meetings so far.

In continuing the SOI policy development process, if the Commission decides that agencies requesting SOI expansion should not be required to assist in cost recovery, there will be associated budget

implications. Without cost recovery, the Commission would likely need to increase apportionment fees to carry out its statutory mandate to prepare MSR/SOI Updates and CEQA review in a timely manner.

Discussion of the SOI policy fiscal implications is timely as we commence the Fiscal Year 2021-22 budget development process and will weigh heavily into upcoming work plan budget and schedule considerations. LAFCo staff is seeking guidance from the Commission to provide a roadmap to support future decisions.

#### Current Practice

The current practice of the Commission has been to establish a coterminous sphere during the MSR/SOI Update process, unless an agency requests a non-coterminous sphere and assumes the costs associated with CEQA review, and prepare MSR/SOI studies in-house at lower staff rates. This approach has allowed the Commission to keep apportionment fees low. As a result, LAFCo does not have budget sufficient to prepare a non-coterminous SOI Update for growth-inducing or multi-service agencies with CEQA review beyond an exemption within a single fiscal year.

#### Work Plan

The primary revenue source for the LAFCo annual budget is apportionment fees of member agencies that funds basic staff services, agency operations, and MSR/SOI studies (Work Plan). The current Work Plan budget line item (\$42,500) accounts for approximately a quarter of the overall budget (\$160,248).

Pursuant to GOV §56425(g), on or before January 1, 2008, and every five years thereafter, the commission shall, as necessary, review and update each sphere of influence. There is not consensus in the LAFCo community regarding this statutory requirement. Some LAFCo's interpret this legislation as requiring an SOI Update every five-years for every agency, and some interpret it to mean that once the first-round SOI Update is completed, subsequent SOI Updates can occur as needed on a five-year basis.

Further, the following existing LAFCo Policy 10.1.3 clarifies that SOIs for municipal service providers be reviewed every five years and SOIs for non-municipal service providers be updated as necessary.

#### *10.1.3 SPHERE UPDATES*

*In updating spheres of influence, the Commission's general policies are as follows:*

- a) The Commission will review all spheres of influences every five years for each governmental agency providing municipal services. Municipal services include water, wastewater, police, and fire protection services.*
- b) Sphere of influence changes initiated by any agency providing a municipal service shall generally require either an updated or new service review unless LAFCo determines that a prior service review is adequate.*
- c) Spheres of influence of districts not providing municipal services including, but not limited to, ambulance, recreation, hospital, resource conservation, cemetery, and pest control shall be updated as necessary.*

Mendocino LAFCo strives to prepare MSR/SOI Updates for every agency on a five-year cycle; however, due to budget limitations this timeframe can be difficult to achieve.

The 5-Year Rolling Work Plan is a schedule and estimated cost plan for conducting MSR/SOI Updates for local agencies under LAFCo jurisdiction (this does not include school districts). The Rolling Work Plan is designed to allow for flexibility in addressing unforeseen changes in the needs and circumstances of local agencies and to shift priorities accordingly during the year, and can result in a domino effect of pushing the studies of other agencies to subsequent years.

The current 5-Year Rolling Work Plan for Fiscal Year 2020-21 was intended to cover MSR/SOI study costs for the City of Ukiah (two years), Ukiah Valley Sanitation District (two years), County Service Area 3, Ukiah Valley Fire Protection District, and Covelo Community Services District. Other upcoming agency studies tentatively scheduled for Fiscal Year 2021-22 include the City of Point Arena, Anderson Valley

Community Services District, and 14 water/wastewater agencies in the County. This is an aggressive schedule that has been focused primarily on the targeted five-year schedule and will need to be modified this coming budget cycle.

### CEQA Review

There is not consensus in the LAFCo community regarding the appropriate level of CEQA review for changes in SOIs. Some approaches include: relying primarily on CEQA exemptions and deferring further CEQA review until the individual project level; completing CEQA review in conjunction with a land use entitlement process or General Plan Update process as a Responsible Agency; tiering from a General Plan EIR; preparing an Initial Study and Negative Declaration or Environmental Impact Report (EIR) for SOI Updates; and fully considering the reasonably foreseeable indirect impacts of facilitating annexation and the provision of municipal services in an Initial Study at the time of proposed sphere change.

Not all CEQA approaches work in all circumstances and the level of controversy involved in a specific sphere change may result in a higher level of CEQA review than anticipated. Also, the Lead Agency for CEQA can differ depending on which agency is first to act on a project. For a LAFCo-initiated SOI Update that is independent of a change of organization application, land use entitlement permit, and/or General Plan Update, LAFCo would likely be the Lead Agency and responsible for the costs of CEQA review.

The LAFCo-initiated periodic SOI Update process is not the only time a local agency can request a sphere change. A local agency may apply to LAFCo at any time for a sphere amendment, which typically is associated with a boundary change, and the applicant assumes the Lead Agency role for CEQA review unless the sphere change occurs in conjunction with another discretionary action (e.g., subdivision map, use permit).

The estimated cost of CEQA review for the upcoming SOI Updates is project specific and cannot be known until the SOI Update is undertaken. As preliminary information, our current Fee Schedule requires the following initial deposit for CEQA review of applications: \$100 for a Statutory/Categorical Exemption, \$5,000 for a Negative Declaration/Mitigated Negative Declaration, and \$20,000 in conjunction with payment schedule for an Environmental Impact Report (EIR). The Fee Schedule specifies that these activities are deposits and are billed at cost to the agency. It should be noted that EIRs can range upwards of \$100,000 and more for a project, depending on the scope of analysis.

### Options

The following options have been developed to stimulate discussion and guide next steps, but are not intended to be an exhaustive list of options or limit innovative thinking.

1. Continue SOI policy development for cost recovery of non-coterminous SOIs and CEQA review.
2. Develop multiple apportionment fee scenarios with a range of cost increases for the Fiscal Year 2021-22 budget development process.
3. In pursuing the SOI policy development, perform more outreach to smaller single-service agencies that would pay more without cost recovery policies.
4. Research the estimated CEQA costs for upcoming SOI Updates to identify the funding gap.
5. Continue discussions with agencies regarding ability to contribute toward CEQA costs.
6. Reach out to local agencies and determine which agencies anticipate growth and service area expansions in the near-term and prioritize completion of MSR/SOI Updates for those agencies first.
7. Modify the Rolling Work Plan to establish a 10-year MSR/SOI Update schedule with a midpoint abbreviated or streamlined sphere review process in order to focus limited resources on a comprehensive update each decade for all agencies.
8. Modify the Rolling Work Plan to update the cost estimates and extend the schedule to better align with the current Work Plan budget.
9. Modify the Rolling Work Plan to extend MSR/SOI Updates schedules for non-municipal service providers consistent with existing local Policy 10.1.3.

10. Establish a Work plan reserve account to save for consultant-prepared MSR/SOI Update studies and CEQA review when necessary.

Staff initiates the Fiscal Year 2021-22 Budget and Work Plan development process in January/February and staff is seeking guidance and input from the Commission to provide a roadmap to support that process.

**Attachments:** December 28, 2020 Comments from the Cities of Fort Bragg and Ukiah  
December 28, 2020 Policies and Procedures Committee Meeting Staff Report Item 2b



December 28, 2020

Hon. Members of the Policy and Procedures Committee  
of the Mendocino County Local Agency Formation Commission

c/o Uma Hinman  
Executive Officer  
Mendocino LAFCo  
200 South School Street, Suite F  
Ukiah, CA 95482  
*Sent via email: [eo@mendolafco.org](mailto:eo@mendolafco.org)*

Subject: Written Comments regarding the Mendocino LAFCo Revised Proposed SOI Policies

Dear Mr. Chair, Committee Members, and Ms. Hinman,

We hope this finds you well.

Very recently, the Policy and Procedures Committee (the "Committee") has taken steps to revise certain Mendocino LAFCo policies relating to Spheres of Influence (the "Proposed SOI Policies") as those policies are currently codified in its Policies and Procedures Manual. We representatives of the Cities of Fort Bragg and Ukiah jointly express our concerns about the impact these policies will have on LAFCo's ability to plan for the orderly development of unincorporated areas surrounding our cities, and why we think the Committee should take more time to consult with affected jurisdictions and consider the impacts of the Proposed SOI Policies before submitting them to the full LAFCo Board for consideration and adoption.

***The Cities of Fort Bragg, Ukiah, and Willits Have Proactively Engaged with LAFCo and Have Already Provided Written and/or Verbal Comments on The Proposed SOI Polices which Have Not been Responded To***

On November 24, 2020, the City of Ukiah and the City of Willits provided written comments, summarizing their concerns about the Proposed SOI Policies. Those letters are attached. Though the Committee directed staff to afterward work with the cities, when the respective parties met, LAFCo staff provided limited feedback to the submitted questions and concerns. We urge the LAFCo Policies and Procedures Committee to consider these original concerns further than we believe they have been considered in our meetings with LAFCo staff.



***The Process and Timing of the Proposed SOI Policies Have Not Provided Sufficient Opportunity to Consider Alternatives that would Promote LAFCo's Mission and Avoid Unnecessary Adverse Impacts on the Cities.***

The Committee first entertained the Proposed SOI Policies during a meeting it held the week of Thanksgiving. We understand that the next Committee meeting is scheduled for December 28<sup>th</sup>, the Monday after the Christmas holiday. The choices of Committee meeting dates have forced the cities to react quickly and have significantly hampered our ability to ensure we fully understand the document and communicate to you the basis of our reservations. Therefore, our observations and reservations in this letter likely do not reflect all the concerns we would have had we more time to understand the Proposed Policies. The timing has also precluded our ability to provide alternative language that may be acceptable to all parties.

***We Disagree that the Proposed Policies Will Promote Orderly Development. On the Contrary, the Cities' Believe that the Proposed Policies Will Needlessly Delay LAFCo's Ability to Act on Reorganization Applications and May Prevent Worthwhile Reorganizations by Making the Cost of SOI Reviews and Updates Prohibitively Expensive.***

From past discussions with LAFCo staff, the Cities understand that the Proposed SOI Policies are intended to ensure that SOIs in Mendocino County comply with statutory requirements and are subject to timely review and updates before LAFCo entertains applications for annexations and detachments. The Proposed SOI Policies are also apparently intended to ensure the environmental impacts of SOI revisions are adequately considered in compliance with the California Environmental Quality Act ("CEQA"). We support this intent; however, the draft policies seek to do this by disregarding existing SOIs and mandating costly environmental reviews with the affected local government paying those costs in every case. As is explained in more detail below, the CKH Act does not authorize LAFCo to disregard existing SOIs; and CEQA contemplates individualized determinations, including the application of categorical exemptions.

***The Proposed SOI Policies Contravene the Stated Purposes of LAFCos Generally and Mendocino LAFCo's Own Mission Statement***

The Proposed SOI Policies suffer from a number of policy and legal defects. As the Proposed SOI Policies acknowledge, the duty to maintain updated Spheres of Influence is LAFCo's. However, an effect of the Proposed SOI Policy is that LAFCo will refuse to entertain proposals that are not consistent with current Spheres of Influence, when any so-called "outdatedness" is due to LAFCo's failure to update Spheres of Influence "as necessary." It would therefore impose the consequences of potential nonfeasance on agencies which have no control over LAFCo's performance of its obligations. This is unjust and is untenable policy.

Mendocino LAFCo exists in part to "encourage orderly growth and development which are essential to the social, fiscal, and economic well-being of the state." The Proposed SOI Policies would make the boundaries of an SOI coterminous with an entity's political boundary, unless the entity agrees to assume the cost of an environmental review utilizing in every case the proposed SOI outside the entity's boundaries as the baseline for environmental review. However, in many, if not most, cases, the SOIs for the affected local governments (cities and special districts) do not assure that any reorganizations will occur. Spheres of Influence are merely planning tools, and no environmental changes will occur unless application is made to annex parcels within the SOI. Changes in the allowed

uses of parcels or the extension of public services, such as water or sewer service, may not occur at all or only as a result of an annexation.

How this encourages orderly growth and development is difficult to understand. Rather, the effect of the Proposed SOI Policies appears to work directly against LAFCo's stated Legislative purpose by circumventing the role SOIs play in anticipating and planning for where growth in Mendocino County should and should not occur.

Rather than advancing the stated mission of Mendocino LAFCo, the Proposed SOI Policies undermine LAFCo's ability to accomplish that mission. In direct contravention to your mission statement, the likely results of the Proposed SOI Policies include:

- failing to consider the present and future needs of a community;
- encouraging *disorderly* growth and development in incorporated areas of the County, aggravating already-existing urban sprawl and the deterioration of agricultural and open space resources; and
- preventing the efficient provision of municipal services.

For these reasons, we urge the LAFCo Policies and Procedures Committee to seriously consider these likely consequences and set aside the Proposed SOI Policies. Instead, we urge you to work collaboratively with us to develop Policies that are in line with Legislative purpose and your own mission.

#### ***The Proposed SOI Policies Exceed LAFCo's Statutory Authority***

The Proposed SOI Policies suffer from legal defects as well. While these defects are articulated more clearly in the attached letters, they generally amount to an attempt to exceed the statutory authority granted to LAFCo through the Cortese-Knox-Hertzberg Act. These defects include:

- **The Proposed SOI Policies violate Government Code sections 56427 and 56428**, which require that Spheres of Influence be adopted, amended, or revised only after certain processes have been followed.
- **The Proposed SOI Policies violate Government Code section 56425 (g)**, which requires LAFCo to update Spheres of Influence "as necessary" and precludes imposing arbitrary time limits.
- **The Proposed SOI Policies violate Government Code section 56375 (d)**, which requires that any definitions adopted by LAFCo must not conflict with the Cortese-Knox-Hertzberg Act.
- **The Proposed SOI Policies violate Government Code section 56425 (a), (e), (h), and (i)**, which articulate the standards LAFCo must apply to sphere determinations. Restricting a local government to its existing political boundaries unless it agrees to pay all costs associated with an SOI that extends beyond those boundaries violates these sections. At a minimum it could prevent the extension of public services in the most efficient manner. It leaves no room for LAFCo to pursue such planning, if a city or special district lacks the financial resources to pay more than the annual fees imposed by LAFCO.

#### ***The Proposed SOI Policies Violate CEQA***

The Proposed SOI Policies also violate the California Environmental Quality Act by attempting to craft local guidelines that conflict with the Public Resources Code, the state CEQA Guidelines, and the well-developed body of CEQA case law. These defects include:

- **The Proposed SOI Policies violate CEQA** because not all SOI determinations are CEQA “projects” subject to environmental review.
- **The Proposed SOI Policies conflict with CEQA** because LAFCo is not always the Lead Agency for SOI determinations – or need not be based on consultation with the affected local government.
- **The Proposed SOI Policies conflict with CEQA’s** established principles concerning baseline environmental conditions by attempting to dispense with the agency’s obligation to make a case by case determination of the baseline conditions based on the facts and circumstances presented and supported by substantial evidence – of which there is none.
- **LAFCo staff’s summary of the Proposed SOI Polices misstate and conflict with CEQA**, which requires public agencies to make project-specific findings of fact supported by substantial evidence in the record – of which there is none.

To recapitulate, we have numerous and significant concerns about the Proposed SOI Polices. We believe the process and timing of these Proposed SOI Policies prevent adequate consultation with our affected cities and other interested parties and preclude more thoughtful consideration of the Proposed SOI Policies’ impacts. We believe the Proposed SOI Policies are inconsistent with both stated Legislative purpose and your own policies and mission. Finally, the Proposed SOI Policies violate the Cortese-Knox-Hertzberg Act and the California Environmental Quality Act.

We urge you to set the Proposed SOI Polices aside. We look forward to more constructive and collaborative dialogue in the future.

Thank you for your time and your consideration.

Yours Sincerely,



Tabatha Miller  
City Manager  
City of Fort Bragg



Sage Sangiacomo  
City Manager  
City of Ukiah



111 E. COMMERCIAL STREET  
WILLITS, CALIFORNIA 95490  
(707) 459-4601 TEL  
(707) 459-1562 FAX

November 24, 2020

Mendocino County Local Agency Formation Commission  
Policies and Procedures Committee  
c/o Uma Hinman, Executive Office  
200 School Street  
Ukiah, CA 95482

Re: November 24, 2020 LAFCO Policies & Procedures Meeting  
Agenda Item 2b – City of Willits Comments

Dear Members of the Mendocino LAFCO Policies and Procedures Committee,

The City of Willits respectfully requests additional time to review and comment on the proposed policy change revisions being considered under Agenda Item 2b, Policy Development for Spheres of Influence.

The City would like additional time to allow for the opportunity to meet with LAFCO staff and the other jurisdictions to obtain clarification on the intent of the language and possibly provide suggested language that would prevent any unintended consequences.

For instance, City staff is unclear as to whether the Cities will incur additional charges from LAFCO for the periodic review of our Sphere of Influence (SOI). As a function of its duties and responsibilities given by the Cortese-Knox-Hertzberg Act, LAFCO is required to periodically review and update spheres of influence. Government Code Section 56425 requires the Commission to review and update, as necessary, all spheres of influence for cities and special districts at least once every five years.

Staff is unsure whether the costs associated with the standard SOI review will be included in the annual LAFCO budget and work plan or whether those costs will be removed from the annual budget and converted to a cost recovery fee.

Also, LAFCO's role under the California Environmental Quality Act (CEQA) is typically one of a responsible agency, which means that it does not take the lead in preparing the environmental document for the proposed action. When another public agency, such as the City of Willits, acts as a lead agency and submits a negative declaration or a final environmental impact report certified by resolution as having been completed in accordance with CEQA with an application for approval of a project by the Mendocino LAFCO, such negative declaration or final environmental impact report shall be submitted to the LAFCO. The City is neither aware that Mendocino LAFCO would be required to complete any further environmental review, nor is the

City aware of a requirement to pay additional fees unless Section 15052 of the CEQA Guidelines would require LAFCO to act as the Lead Agency for a project.

The City is unclear as to whether the proposed policy language is consistent with the statement provided above. This is of particular interest to the City of Willits, as the City has secured State funding and is in the process of developing a Sphere of Influence Amendment, including CEQA review, for submission to LAFCO for the purpose of creating a substantial level of new opportunities to construct a variety of housing types. Staff will be working with LAFCO staff as we move forward through the process of completing our SOI amendment application. The City is unsure as to whether the proposed language would introduce new fees to our prospective project.

Thank you for your consideration of the City's request to continue this item and allow for adequate time to analyze the proposed revisions and further speak with LAFCO staff.

Sincerely,



Dusty Duley  
Community Development Director

cc: Stephanie Garrabrant-Sierra, City Manager  
H. James Lance, City Attorney





November 24, 2020

Mendocino County Local Agency Formation Commission  
Policies & Procedures Committee  
C/O Uma Hinman, Executive Officer  
Ukiah Valley Conference Center  
200 S School St  
Ukiah, CA 95482  
VIA EMAIL: [eo@mendolafco.org](mailto:eo@mendolafco.org)

Re: November 24, 2020 Local Agency Formation Commission Policies & Procedures Meeting  
Agenda Item 2b., Policy Development for Spheres of Influence – City of Ukiah comments

Honorable Members of the Policies & Procedures Committee:

The City of Ukiah respectfully submits the following comments for consideration regarding the aforementioned agenda item, Item 2b., Policy Development for Spheres of Influence.

**Affected agencies, including the City of Ukiah, have not been given adequate time to evaluate and respond to the proposed policies under consideration by the LAFCo Policies & Procedures Committee. The City requests a postponement of this agenda item to allow the City and other affected agencies the opportunity to analyze the proposed policy revisions and engage with LAFCo staff.**

The City was first provided a copy of the proposed policy revisions on Saturday, November 21, 2020. From City staff's initial review, the proposed revisions may have significant impacts on the ability of incorporated cities to complete Spheres of Influence (SOI) updates. Such sweeping changes to policy, especially during a pandemic where traditional communication modes are hindered, should be done collaboratively with affected multi-service agencies such as the City of Ukiah, City of Fort Bragg, City of Willits, and City of Point Arena- and with as much advance notice as possible.

In the limited time available, the City of Ukiah submits the following preliminary comments on LAFCo staff's proposed policy revisions.

**A. City of Ukiah Preliminary Comments Regarding Policies Recommended by LAFCo Staff to Govern the Application of CEQA to Sphere of Influence Determinations by LAFCo**

**1. Lead Agency/Responsible Agency duties**

Whether LAFCo functions as the lead or responsible agency for a proposed action is determined by the CEQA statutes and Guidelines. LAFCo often may be, but is not always, the lead agency for Sphere of Influence determinations, particularly if they are combined with annexation. (CEQA Guidelines, Sections 15150 – 15053.)



## 2. Baseline determinations

The environmental setting or CEQA baseline is represented by the existing physical conditions of the environment in the vicinity of the project and the scope of planning decisions already made and analyzed under CEQA. Baseline determinations are not governed by jurisdictional boundaries. (CEQA Guidelines, Section 15125; *Neighbors for Smart Rail v. Exposition Metro Line Construction Authority* (2013) 57 Cal.4th 439.)

## 3. Potential categorical exemptions

CEQA applies only to some Sphere of Influence amendments. Most often, a categorical exemption applies under CEQA Guidelines, Sections 15378(B)(5) [the “common sense” exception]; Class 19 (annexation of existing facilities), Class 20 (LAFCo approvals which do not change the area in which powers exercised – i.e., the actor changes, but not the act); *City of Agoura Hills v. LAFCo* (1988)- 198 CA3d 480 held a Sphere of Influence change not associated with a development project was not a project subject to CEQA.

## 4. Impact analysis/growth inducement

Whether providing water or wastewater services actually is growth-inducing is a fact-based inquiry that depends on the circumstances, especially as to whether providing services involves expansion of infrastructure systems beyond those existing or already planned and analyzed. The complexity and associated cost of reviewing such changes also depends on the circumstances. CEQA makes none of the factual assumptions or legal presumptions of impact, complexity, or cost asserted in the LAFCo staff report. (CEQA Guidelines section 15126.2(d).)

### B. City of Ukiah Preliminary Comments on the Policy Regarding “Outdated Spheres of Influence”

1. The definition of an “outdated SOI” is so vague as to be purely subjective.
2. Section 10.1.3(a) of policy proposed by LAFCo staff admits that the Cortese-Knox-Hertzberg Act makes it LAFCo’s responsibility to maintain current SOIs.
3. LAFCo staff has no power to refuse an application because LAFCo has failed to maintain what it subjectively believes to be a current Sphere of Influence and Municipal Service Review (MSR). While LAFCo might be able to reject an annexation application for want of sufficient current data, LAFCo Commissioners must make that decision in publicly noticed hearings on the basis of facts in the record.
4. Paragraph (f) in the proposed policy, which states that LAFCo can impose a coterminous SOI if an agency does not pay the costs to update an SOI, violates Cortese-Knox-Hertzberg. The statute does not authorize LAFCo to refuse to exercise its discretion for fiscal reasons.
5. Although LAFCo likely can require a “current MSR” for an SOI amendment, what amounts to a current MSR is subjective, and maintaining current MSRs is LAFCo’s responsibility, not an



applicant's. LAFCo cannot use its failure to maintain current documents to justify refusing applications. Rather, if such action is supported by facts in the record before the Commission, it could reject a specific application on its merits.

City staff looks forward to engaging with LAFCo staff on the proposed revisions in the near future, after having adequate time to more thoroughly analyze and research the proposed policies and potential alternatives.

Sincerely,

A handwritten signature in blue ink, appearing to read "Craig Schlatter", is written over a light blue horizontal line.

Craig Schlatter  
Director of Community Development

CC: Sage Sangiacomo, City Manager  
David Rapport, City Attorney  
Phil Williams, Special Counsel





the executive office requesting amendments to a sphere of influence ... .” Section 56428(b) provides: “After comply with [CEQA], the executive officer **shall** place the request on the agenda for the next meeting of the commission for which notice can be given.” Section 56428(c) states: “The executive officer **shall** review **each requested amendment** and prepare a report and recommendation.” Section 56428(d) states: “At its meeting, the commission **shall** consider the request and receive any oral or written testimony.”

Moreover, as the policy acknowledges (in § 10.1.3(a)), the duty to maintain updated spheres of influence is LAFCO’s. (Gov. Code § 56425(a) & (g).)

Thus, the policy amounts to a statement that LAFCO will refuse to entertain proposals that are not consistent with current spheres of influence, depriving local agencies of rights conferred by the statute when LAFCO has not maintained current spheres. The law will not allow this.

2. **The 10-year SOI time limit is impermissible.** Section 10.1(d): The 10-year limit on the life of some spheres of influence is arbitrary. LAFCO has discretion to determine to maintain or update a sphere, but CKH’s standard controls. Government Code section 56425(g) requires LAFCO to update spheres “as necessary.” This is a factually specific determination turning on the conditions affecting each local agency, the services it provides, and the community it serves.
3. **The distinction of “municipal” and other agencies is unlawful.** Section 10.1.3(b). The distinction of so-called “municipal” and other agencies is arbitrary. Why does responsibility to provide roads (i.e., to be a city) suggest greater need for timely sphere updates as opposed to such other growth-inducing services such as emergency medical services, parks, lighting, and pest control? The policy does not explain. Moreover, while LAFCO has discretion to adopt policies and to define terms CKH does not, those definitions must be consistent with the statute. (Gov. Code, § 56375(d).)
4. **Why are cities treated more harshly than other agencies?** Section 10.1.3(c) makes the adverse treatment of cities transparent, referring to them by that

name. The policy does not explain why cities are treated differently than other agencies that provide growth-inducing services.

5. **CEQA does not allow LAFCO to assign lead agency status as the policy does.**  
Section 10.1.3(e): The policy seems to preclude a city from being the CEQA lead agency for a general plan update that also includes a sphere update and an annexation. Given that the policy suggests sphere updates should be coordinated with general plan updates when feasible, this seems like poor policy. In any event, CEQA does not permit it. (14 Code Cal. Regs., § 15051(c) [lead agency is typically first to take discretionary action on project].)
6. **LAFCO cannot impose a coterminous sphere for non-payment of fees.**  
Section 10.1.3(g): LAFCO may not impose a coterminous sphere on an agency to enforce LAFCO's fees. The statute articulates the standards LAFCO must apply to sphere determinations. (Gov. Code, § 56425(a), (e), (h), (i). Enforcing LAFCO's fees is not among them.)
7. **The policy provides no standard for what is a "current" or "adequate" MSR.**  
Section 10.1.3(h): The policy states no standard as to when a municipal services review is "adequate." Moreover, the duty to adopt and maintain MSRs is LAFCO's, too. (Gov. Code, § 56430.) This also amounts to the policy identified at the outset of this memo to refuse to process proposals on account of LAFCO's failure to maintain current MSRs and spheres.

**CONCLUSION.** For the reasons stated above, we conclude the proposed policy exceeds LAFCO's statutory authority and recommend that LAFCO not adopt it. LAFCO's goal to ensure reliable and current information to support its decisions is laudable and can be accomplish in cooperation with the County, the cities, and the special districts in the County — but not by this policy. The committee should recommend the Commission defer this policy until it can be rewritten consistently with law in collaboration with the local agencies the Commission exists to support.

## MEMORANDUM

TO: Mendocino LAFCO Policies & Procedures Committee

FROM: Pioneer Law Group, LLP/Andrea A. Matarazzo

CC: Philip A. Williams, Special Counsel, City of Ukiah  
David J. Rapport, City Attorney, City of Ukiah

DATE: December 11, 2020

RE: Mendocino LAFCO Policy Development for Spheres of Influence –  
CEQA Issues

The City of Ukiah (“City”) requested our review of the proposed Sphere of Influence (“SOI”) policies of the Mendocino County Local Agency Formation Commission (“LAFCO”) regarding the proposal’s compliance and/or consistency with the requirements of the California Environmental Quality Act (“CEQA”) (Public Resources Code, § 21000 et seq.).

We reviewed the proposed SOI policies identified and discussed in Agenda Item No. 2b of the LAFCO Staff Report dated November 24, 2020, and conclude that the proposed policies impermissibly attempt to legislate blanket determinations that, under CEQA’s established rules, depend entirely on the facts and circumstances of the proposed activity under consideration.

The proposed policies violate CEQA by attempting to craft local guidelines that conflict with the Public Resources Code, the state CEQA Guidelines,<sup>1</sup> and the well-developed body of CEQA case law. Local agency policies must be consistent with, and within the scope of, state law. The proposed SOI policies violate this limitation on local agency authority to interpret CEQA. Procedures or policies that conflict with the statute or CEQA Guidelines are void. (Pub. Resources Code, § 21082; see *Apartment Association of Greater Los Angeles v. City of Los Angeles* (2001) 90 Cal.App.4th 1162, 1167, fn. 8.)

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<sup>1</sup> / The state CEQA Guidelines are codified in title 14 of the California Code of Regulations.

Our specific concerns are summarized below.

I. **Not All SOI Determinations Are CEQA Projects, and Most Are Exempt.**

The overarching problem with LAFCO's approach to CEQA issues in the proposed SOI guidelines is they attempt to establish uniform policies regarding determinations that CEQA considers fact-based, project by project decisions, beginning with the threshold question of whether the proposed activity is subject to CEQA.

Although a broad standard is used to determine whether an activity is a CEQA "project" because it has the potential to result in a physical change in the environment, not every public agency activity meets the test. ((Pub. Resources Code, §§ 21065, 21080(a); CEQA Guidelines, §§ 15060(c); 15378; see, e.g., *City of Agoura Hills v. LAFCO* (1988) 198 Cal.App.3d 480, 494 [CEQA does not apply to adoption of a sphere of influence that is not necessarily the first step in development and would not necessarily result in a change in the physical environment].) As the Court of Appeal has explained:

The evaluation process contemplated by CEQA relates to the effect of proposed changes in the physical world which a public agency is about to either make, authorize or fund, not to every change of organization or personnel which may affect future determinations relating to the environment.

(*Simi Valley Recreation & Park District v. LAFCO* (1975) 51 Cal.App.3d 648, 666 [detachment of 10,000 acres from park district that would not change property's land use designations or result in development of property was not subject to CEQA].)

Adopting a sphere of influence can merely result in a change in potential political boundaries and therefore would not be subject to CEQA review, because if a proposed activity does not have the potential to cause a physical change in the environment directly or indirectly, it is not a project subject to CEQA. (Pub. Resources Code, § 21065; CEQA Guidelines, § § 15060(c)(2), (3), 15378(a); *Union of Medical Marijuana Patients, Inc. v. City of San Diego* (2019) 7 Cal.5th 1171, 1186.)

Perhaps more importantly, even if all sphere actions were "projects" as a matter of law, most sphere amendments are categorically exempt from, and thus

not subject to, CEQA. (CEQA Guidelines, §§ 15378(B)(5) [“common sense” exemption]; 15319(a); 15320.)

LAFCO actions are expressly contemplated in two categorical exemptions from CEQA requirements:

- (1) Government reorganizations are exempt if they do not change the area in which previously existing powers were exercised, including establishment of a subsidiary district, consolidation of two districts, or merger of a district within a city into that city. (CEQA Guidelines, § 15320 [LAFCO approvals that do not change the area in which powers exercised – i.e., the actor changes, but not the act].)
- (2) Annexations of areas containing structures developed to the density allowed by current zoning are exempt as long as any utility services are designed to serve only the existing development. (CEQA Guidelines, § 15319(a) [annexation of existing facilities].)

A CEQA exemption also is provided for annexation of individual small parcels for construction of minimum-size facilities that are exempt from CEQA under CEQA Guidelines section 15303. (CEQA Guidelines, § 15319(b).)

**II. Proposed Policies 10.1.3(d) and 10.1.3(e) Conflict with CEQA Because LAFCO Is Not Always the Lead Agency for SOI Determinations.**

As drafted, proposed policies 10.1.3(d) and 10.1.3(e) incorrectly assume that LAFCO is the CEQA lead agency for all sphere actions. Whether LAFCO functions as the lead or responsible agency for a proposed action is a factual question determined by application of the criteria set forth in the statute and CEQA Guidelines. (Pub. Resources Code, § 21165; CEQA Guidelines, §§ 15051 - 15053.)

LAFCO often may be, but is not always, the lead agency for sphere of influence determinations, particularly if they are combined with annexation. (CEQA Guidelines, §§ 15150 – 15053.) When a LAFCO considers a public agency's application for a boundary change or other reorganization, the agency seeking the LAFCO action is normally the lead agency because it is the agency with general governmental authority over the area and because it took the first discretionary act in applying for the LAFCO action. (CEQA Guidelines, § 15051(b); *City of Redding v. Shasta County LAFCO* (1989) 209 Cal.App.3d

1169; *Resource Defense Fund v. LAFCO* (1987) 191 Cal.App.3d 886; *City of Santa Clara v. LAFCO* (1983) 139 Cal.App.3d 923.)

**III. Proposed Policy 10.1.3(d) Conflicts with CEQA’s Established Principles Concerning Baseline Environmental Conditions.**

Proposed policy 10.1.3(d) states that “[t]he baseline for CEQA review is the current jurisdictional boundary of an agency.” Under CEQA, however, the environmental setting or CEQA baseline is represented by the existing physical conditions of the environment in the vicinity of the project and the scope of planning decisions already made and analyzed under CEQA, not a line on a map. (CEQA Guidelines, § 15125(a); *Neighbors for Smart Rail v. Exposition Metro Line Construction Authority* (2013) 57 Cal.4th 439, 448-453.)

Baseline determinations are factual and depend on the circumstances presented by each proposed action; they are not governed by jurisdictional boundaries. (*Communities for a Better Environment v. South Coast Air Quality Management District* (2010) 48 Cal.4th 310, 327-328 [lead agencies have “discretion to decide, in the first instance, exactly how the existing physical conditions without the project can most realistically be measured, subject to review, as with all CEQA factual determinations, for support by substantial evidence”] (italics added); *Neighbors for Smart Rail, supra*, 57 Cal.4th at pp. 449, 453, 457 [appropriate CEQA baseline depends on factual circumstances; the standard “involves a primarily factual assessment”].)

Moreover, when an agency is evaluating a proposed change to a plan or project that has been reviewed under CEQA, the agency must apply CEQA's standards limiting the scope of subsequent environmental review. (CEQA Guidelines, § 15162; *Abatti v. Imperial Irrigation District* (2012) 205 Cal.App.4th 650; *Sierra Club v. City of Orange* (2008) 163 Cal.App.4th 523, 542; *Temecula Band of Luiseño Mission Indians v. Rancho California Water District* (1996) 43 Cal.App.4th 425, 437; *Benton v. Board of Supervisors* (1991) 226 Cal.App.3d 1467, 1477.) Under these standards, once an EIR has been certified or a negative declaration adopted for a project – such that evaluations of the impacts of the plan on the existing physical environment have been made – further CEQA review is limited. (Pub. Resources Code, § 21166; *Communities for a Better Environment, supra*, 48 Cal.App.4th 310, 326; *Environmental Planning & Information Council v. County of El Dorado* (1982) 131 Cal.App.3d 350, 357-358.) These standards for subsequent environmental review apply whether or not the project has been constructed or the plan built out. (*Benton, supra*, 226 Cal.App.3d at p. 1476.) In effect, “the baseline for purposes of CEQA is adjusted



such that the originally approved project is assumed to exist.” (Remy, Thomas, Moose & Manley, Guide to CEQA, p. 207 (11th ed. 2007).)

Accordingly, when an agency is amending an existing plan that has already been reviewed under CEQA, the scope of CEQA analysis may be limited to the environmental impacts *of the amendment*. (Pub. Resources Code, § 21166; CEQA Guidelines, § 15162.) The agency is not required to reassess the environmental impacts of the entire, previously adopted plan. (See, e.g., *Black Property Owners Association v. City of Berkeley* (1994) 22 Cal.App.4th 974, 985 [city updated its general plan housing element as required by state law, including previously adopted rent control policies that continued in effect without change]; *San Franciscans for Livable Neighborhoods v. City & County of San Francisco* (2018) 26 Cal.App.5th 596, 620-622 [“[t]he relevant question is whether new significant environmental effects or a substantial increase in the severity of previously identified significant effects will result from a substantial change to the project. . . . Comparison to theoretical impacts is generally necessary to answer this question”].)

In short, proposed policy 10.1.3(d) conflicts with CEQA because it attempts to dispense with the agency’s obligation to make case by case baseline determinations based on the facts and circumstances presented and supported by substantial evidence.

**IV. Staff’s Summary of Policies 10.1.3(d) and (e) Conflict With CEQA, Which Requires Public Agencies to Make Project-Specific Findings of Fact Supported by Substantial Evidence in the Record.**

The staff report’s background summary states, “the baseline for CEQA review is the current jurisdictional boundary of an agency. Therefore, environmental review for a sphere action is based upon evaluating the impacts associated with expanding the sphere beyond any agency’s current boundary, and is not related to the configuration or boundary of the originally established or most recently Commission-adopted SOI for that agency.” This summary mischaracterizes CEQA’s baseline principles and conflicts with the agency’s obligations to make factual determinations in light of the circumstances presented, based on substantial evidence. (See Section III, *supra*.)

The staff report further states that “[w]ater and wastewater services are considered growth-inducing, and the territory of local agencies providing these services is normally subject to significant development potential. As a result, the MSR/SOI Update for these types of municipal service providers is more costly due to the level of complexity involved and associated potential for environmental



impacts from service area expansions.” Under CEQA, however, whether providing water or wastewater services actually is growth-inducing is a fact-based inquiry that depends on the circumstances, especially as to whether providing services involves expansion of infrastructure systems beyond those existing or already planned and analyzed. The complexity and associated cost of reviewing such changes also depends on the circumstances. CEQA makes none of the factual assumptions or legal presumptions of impact, complexity, or cost asserted in the staff report. (See, e.g., CEQA Guidelines, §§ 15126, 15126.2.)

AAM:jis

**MENDOCINO**  
**Local Agency Formation Commission**  
**Staff Report**

DATE: December 28, 2020  
TO: Mendocino Local Agency Formation Commission Policies & Procedures Committee  
FROM: Uma Hinman, Executive Officer  
SUBJECT: Policy Development for Spheres of Influence

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**STAFF RECOMMENDATION**

Consider proposed policy language regarding spheres of influence and direct staff to revise as needed and recommend to the Commission for consideration on January 4, 2021.

**BACKGROUND**

On November 24, 2020, the Policies & Procedures Committee met to review proposed policy language regarding spheres of influence and develop recommendations to the full Commission.

The Committee discussed suggested revisions from Commissioner McCowen and written comments from the City of Ukiah and the City of Willits requesting postponement of the item to allow additional time to review the proposed policies and work collaboratively with LAFCo staff (Attachment 3).

The Committee postponed the item to allow staff time to incorporate Commissioner McCowen's requested changes, to reach out to the City Planning Departments regarding the draft SOI policy language, and to reconvene the Committee in mid-December to further consider the item.

On December 7, 2020, the Commission directed staff to bring an item forward at the January 4, 2021 meeting for the Commission to consider adoption of the proposed SOI policies.

LAFCo staff revised the SOI policies based on comments received and distributed them to the four City Planning Departments and interested Special Districts on December 2, 2020 for review (Attachment 2). LAFCo staff also met with staff from the City of Ukiah, City of Fort Bragg, City of Willits, and the Ukiah Valley Sanitation District upon request, and concerns/questions raised are summarized below.

City of Ukiah

- LAFCo should collect more in apportionment fees to discharge its legal obligations for MSR/SOI Updates rather than attributing a disproportionate share of costs to multi-service agencies for non-coterminous SOI Updates and CEQA.
- This is a fiscal issue and should be addressed in financial policies not SOI policies.
- The CEQA baseline should be based on the existing agency SOI and the proposed policy could result in an EIR for any sphere actions other than a coterminous sphere.
- Only adopting coterminous spheres could result in unintended consequences of promoting sprawl and could hinder good governance.
- The outdated sphere definition is not based on LAFCo law and is subjective in nature.

- The staff report lacked sufficient analysis related to the effects of the proposed policy changes.
- The policy changes seem rushed, should be addressed by the new Commission instead of the outgoing Commission, and warrant additional outreach with all stakeholders together, which is difficult during the holiday season.

#### City of Fort Bragg

- Cost shifting is concerning and additional expenses have to be heavily scrutinized by agencies.
- Agencies do not want to get locked into a higher level of CEQA review when an exemption applies.

#### City of Willits

- Who pays for CEQA if LAFCo requires a DUC or other area a City did not request into their SOI during a LAFCo-initiated SOI update?
- The definitions of "update" and "outdated spheres" could be clearer.
- What if a SOI review has determined that no changes are warranted, would it default to an outdated sphere?
- How often does LAFCo law require a SOI review?
- Does an SOI that is 10 years old revert to the City limits baseline?
- Does Policy 10.1.3.g indicate that LAFCo can expand a City SOI without their agreement?

LAFCo staff further revised the proposed policies based on feedback received and is represented by track changes for ease of review (Attachment 1). Some additional information is summarized below.

- LAFCo law is necessarily broad and allows LAFCo to establish policies to address local conditions.
- In general, the baseline for CEQA review is the physical environment at the time of evaluation and for SOI Updates involves analysis of indirect impacts associated with facilitating annexation and the provision of municipal services.
- Policy 10.1.3.c was revised to clarify that for municipal service providers, an SOI Update will be prepared every 10 years with a midpoint review that may result in the Commission reaffirming the existing SOI to ensure an appropriate sphere remains current.
- Policy 10.1.3.d was revised to clarify the roles of lead and responsible agencies for SOI actions and that for current spheres, the baseline for CEQA is the existing sphere.
- Policy 10.1.3.f was revised to clarify that there is no requirement for a higher level of environmental review than is necessary.
- Policy 9.12.2 allows minor applications to be processed with an outdated sphere instead of no application processing being allowed currently.
- Many of the policies are consistent with past LAFCo practice.
- The 5-Year Rolling Work Plan should be revised for Fiscal Year 2021-2022 to account for the 10-year SOI Update schedule and midpoint review for municipal service providers and SOI Updates for non-municipal service providers prepared only as needed, and potential cost increases for studies.

The following draft language is proposed for consideration of the Policies & Procedures Committee. Proposed amendments to existing policies are indicated with underlined and ~~striketrough~~ formatting.

## **9.12 BOUNDARIES**

### **9.12.1 DEFINITE BOUNDARIES REQUIRED**

LAFCo shall not accept as complete any application unless it includes boundaries that are definite, certain, and fully described.

### **9.12.2 SOI CONSISTENCY REQUIRED**

LAFCo shall not approve any major change of organization or reorganization proposals that are inconsistent with the agency's SOI. In the event an SOI is outdated, before any major change of organization may be approved, the SOI must be updated. The only exceptions are minor proposals that normally would not considerably intensify existing development, generate or facilitate significant new development, or create adverse impacts on the subject agency or affected agencies. Examples of minor proposals include fire service annexations or detachments, annexation of agency-owned property containing agency public service facilities and/or infrastructure, and annexations of developed property. SOI establishment, amendment, and update shall precede consideration of proposals for changes of organization or reorganization.

### **9.12.23 BOUNDARY CRITERIA**

LAFCo will generally favor applications with boundaries that do the following:

- a) create logical boundaries within the affected agency's sphere of influence, and where possible, eliminate previously existing islands or other illogical boundaries;
- b) follow natural or man-made features and include logical service areas where appropriate; and
- c) place all streets and rights-of-way within the same jurisdiction as the properties which abut thereon and/or for the benefit of which such streets and rights-of-way are intended.

### **9.12.34 BOUNDARY ADJUSTMENTS**

LAFCo will generally amend proposals with boundaries which:

- a) Split neighborhoods or divide existing identifiable communities, commercial districts, or other areas having a social or economic identity.
- b) Result in islands, corridors, or peninsulas of incorporated or unincorporated territory or otherwise cause or further the distortion of existing boundaries.
- c) Are drawn for the primary purpose of encompassing revenue-producing territories.
- d) Create areas where it is difficult to provide services.

### **9.12.45 BOUNDARY DISAPPROVALS**

If LAFCo, in consultation with the applicant, cannot suitably adjust the proposed boundaries to meet the criteria established above, it will generally deny the proposal.

## **10.1 SPHERES OF INFLUENCE**

### **10.1.2 DEFINITIONS**

The Commission incorporates the following definitions:

- a) an "Establishment" refers to the initial development and determination of a sphere of influence by the Commission;
- b) An "amendment" refers to a limited change to an established sphere of influence typically initiated by a landowner, resident, or agency; and

- c) An “update” refers to a comprehensive change to an established sphere of influence typically initiated by the Commission. An SOI review is not an SOI update.
- d) An “outdated sphere” refers to an established sphere of influence that has not been updated for ten (10) years or more for municipal service providers or where circumstances have changed significantly since the last SOI update. SOI’s become outdated where substantial changes have occurred in the statutory requirements, agency services, finances, or governance, and/or community, resulting in the most recent MSR/SOI no longer providing reliable or relevant information needed by the Commission to carry out its responsibilities. The “outdated sphere” determination shall be made by the Executive Officer, subject to confirmation by the Commission in the event the determination is disputed.

### 10.1.3 SPHERE UPDATES

In updating spheres of influence, the Commission’s general policies are as follows:

- a) LAFCo must adopt a Sphere of Influence (SOI) for each city and special district in its jurisdiction and keep it updated in accordance with CKH. Overseeing each SOI is a LAFCo responsibility. LAFCo strongly encourages the participation and cooperation of the subject agency in the SOI process, but the Commission remains the sole authority for establishing and making changes to an agency’s SOI and associated Municipal Service Review. All LAFCo actions must be consistent with the subject agency’s SOI and changes to an agency’s SOI require careful review and consideration.
- ~~ab) The Commission will update the SOI of municipal service providers periodically in accordance with the Cortese-Knox-Hertzberg Local Government Act of 2000 (CKH), and only as needed for non-municipal service providers review all spheres of influences every five years for each governmental agency providing municipal services. Municipal services include water, wastewater, road, police, and fire protection services. Non-municipal services include, but are not limited to, ambulance or emergency medical services, park and recreation, health care hospital, resource conservation, cemetery, lighting, landscaping, and pest control.~~
- ~~c) Spheres of influence of districts not providing municipal services including, but not limited to, ambulance, recreation, hospital, resource conservation, cemetery, and pest control shall be updated as necessary.~~
- c) The most recent SOI for municipal service providers will be reviewed every five years for accuracy and relevancy, and may result in the Commission reaffirming the existing SOI to ensure an appropriate sphere remains current. The agency SOI will be scheduled for a full MSR/SOI Update when deemed outdated or where major changes in the SOI are being considered. City SOI’s shall be updated at least every 10 years or as soon thereafter as the update can be completed. Whenever feasible, city sphere updates shall be scheduled to coincide with city general plan updates.
- d) Sphere actions by the Commission are subject to the provisions of the California Environmental Quality Act (CEQA). The Commission is normally the lead agency for SOI establishment and update, and the agency is normally the lead agency for proposed SOI amendments. In the case of an outdated SOI, the baseline for CEQA review shall be the current jurisdictional boundary of the agency. In the case of a current SOI, the baseline for CEQA review shall be the currently approved SOI boundary of the agency.
- e) Where an agency desires an SOI Update including territory outside an agency’s current boundary, the agency shall reimburse LAFCo for the cost of the environmental and other review required. Where an agency desires a sphere amendment proposed in a manner to permit additional development, the agency must prepare an appropriate environmental document and/or

reimburse LAFCo for the cost of the environmental and other review required. This policy is intended to impose the cost on the agency seeking SOI expansion opportunities in an effort to keep annual apportionment fees lower for the other agencies that contribute to the support of LAFCo.

- f) All costs incurred by LAFCo for preparation of establishing a non-coterminous SOI Update for an agency, or expanding an existing non-coterminous SOI, shall be subject to full cost recovery from the agency. Potential costs include necessary MSR studies, CEQA compliance, staff time, and any additional fees charged by state or local agencies for reviewing, processing, and filing the project. Nothing in this Policy shall be construed as a requirement for a higher level of environmental review than is necessary. Sphere changes that are subject to CEQA exemption shall be carried out accordingly, and otherwise will involve preparation of an Initial Study to determine the appropriate level of CEQA review.
- g) In the absence of a legally binding commitment from a subject agency for full cost recovery of establishing or expanding a non-coterminous SOI Update, the Commission shall prepare a coterminous sphere or may, at the Commission's sole discretion, maintain and/or expand the most recent sphere if subject to CEQA exemption or if funding is otherwise available for the appropriate level of CEQA review.
- h) Sphere of influence changes initiated by ~~application~~ any agency providing a municipal service shall generally require either an updated or new Municipal Service Review unless LAFCo determines that a prior service review is adequate.
- i) A combined Municipal Service Review (MSR) and SOI Update shall be prepared whenever feasible to minimize costs, streamline processing, and to maximize data collection and analysis.

- Attachments:**
- 1. Policy Revisions since December 2, 2020
  - 2. Policy Revisions since November 24, 2020
  - 3. Comments from November 24, 2020 Policies and Procedures Committee meeting

# ATTACHMENT 1

## Mendocino LAFCo

### Revised Proposed SOI Policies

*Proposed amendments to the policies are indicated with underlining and ~~striketrough~~ formatting. Track changes indicate modifications from the December 2<sup>nd</sup> version.*

## 9.12 BOUNDARIES

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LAFCo will generally amend proposals with boundaries which:

- a) Split neighborhoods or divide existing identifiable communities, commercial districts, or other areas having a social or economic identity.
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- c) ~~A~~ “update” refers to a comprehensive change to an established sphere of influence typically initiated by the Commission. An SOI review is not an SOI update.
- d) An “outdated sphere” refers to an established sphere of influence that has not been updated for ten (10) years or more for municipal service providers or where circumstances have changed significantly since the last SOI update. SOI’s become outdated where substantial changes have occurred in the statutory requirements, agency services, finances, or governance, and/or community, resulting in the most recent MSR/SOI no longer providing reliable or relevant information needed by the Commission to carry out its responsibilities. The “outdated sphere” determination shall be made by the Executive Officer, subject to confirmation by the Commission in the event the determination is disputed.

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## ATTACHMENT 2

### Mendocino LAFCo Revised Proposed SOI Policies

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- ~~c) Spheres of influence of districts not providing municipal services including, but not limited to, ambulance, recreation, hospital, resource conservation, cemetery, and pest control shall be updated as necessary.~~
- c) The most recent SOI for municipal service providers will be ~~evaluated~~ reviewed every five years for accuracy and relevancy. The agency SOI will be scheduled for a full MSR/SOI Update when deemed outdated or where major changes in the SOI are being considered. City SOI’s shall be updated at least every 10 years or as soon thereafter as the update can be completed. Whenever ~~feasible~~ possible, city sphere updates shall be scheduled to coincide with city general plan updates.
- d) Sphere actions by the Commission are subject to the provisions of the California Environmental Quality Act (CEQA). The Commission is normally the lead agency for SOI establishment and update, and the agency is normally the lead agency for proposed SOI amendments. In the case of an outdated SOI, ~~the~~ the baseline for CEQA review shall be ~~is~~ the current jurisdictional boundary of

~~an~~ the agency. In the case of a current SOI, the baseline for CEQA review shall be the currently approved SOI boundary of the agency. Therefore,

- e) ~~w~~Where an agency desires an SOI Update ~~or amendment~~ including territory outside an agency's current boundary, the agency ~~will be expected to~~shall reimburse LAFCo for the cost of the environmental and other review required. Where an agency desires a sphere amendment proposed in a manner to permit additional development, the agency must prepare an appropriate environmental document and/or reimburse LAFCo for the cost of the environmental and other review required. This policy is intended to impose the cost on the agency seeking SOI expansion opportunities in an effort to keep annual apportionment fees lower for the other agencies that contribute to the support of LAFCo.
- ef) All costs incurred by LAFCo for preparation of establishing a non-coterminous SOI Update for an agency, or expanding an existing non-coterminous SOI, including necessary MSR studies, CEQA compliance, staff time, and any additional fees charged by state or local agencies for reviewing, processing, and filing the project, shall be subject to full cost recovery from the agency.
- fg) In the absence of a legally binding commitment from a subject agency for full cost recovery of establishing or expanding a non-coterminous SOI Update, the Commission ~~will~~shall prepare a coterminous sphere or may, at the Commission's sole discretion, possibly maintain and/or expand the most recent sphere if subject to CEQA exemption.
- gh) Sphere of influence changes initiated by application ~~any agency providing a municipal service~~ shall generally require either an updated or new ~~m~~Municipal ~~s~~Service ~~r~~Review unless LAFCo determines that a prior service review is adequate.
- hi) A combined Municipal Service Review (MSR) and SOI Update shall be prepared whenever feasible to minimize costs, streamline processing, and to maximize data collection and analysis.

## ATTACHMENT 3a

To: Policies & Procedures Committee  
From: Committee Member – Commissioner McCowen  
Date: November 23, 2020  
RE: Comments on the Proposed Sphere of Influence Policy Revisions for November 24<sup>th</sup>  
Policies & Procedures Committee Meeting

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### 1) 9.12.2 SOI Consistency

"Examples of non-major proposals include fire service annexations or detachments..." Is it possible that annexation to a fire district could facilitate development? If so, such an annexation might not qualify as non-major. A better example might be cemetery districts.

Same sentence as above: "...and annexations of fully developed property." The term "fully developed property" may be ambiguous as a property could be fully developed in that it is fully developed to the allowable limits in terms of lot coverage but may in fact be substantially under-developed. Conversely, a geographic area, such as south Ukiah might be generally fully developed, with most parcels fully built out, but with a limited number of vacant or underutilized lots. Would a defined area be considered "fully developed" even if there is limited development opportunity that would be consistent with existing development? Or could an infill project consistent with existing zoning be considered non-major?

### 2) 10.1.2 Definitions

d) An "outdated sphere" refers to a sphere that has not been updated for ten (10) years or more or where circumstances have changed significantly since the last update. [Comment: Ten years provides greater clarity than "considerable amount of time" and is generous considering the statutory deadline for SOI updates. Potentially the time could be shortened.] In the second sentence I might add a comma after "community".

### 3) 10.1.3 Sphere Updates

a) Suggest capitalize "municipal service review".

b) Suggest add a comma between "lighting and landscaping" and delete "and" at end of last sentence.

c) In place of "Whenever possible" suggest "Whenever feasible" at beginning of last sentence.

d) [Comment: If an SOI is current and the agency is not seeking an expansion why wouldn't the current SOI be the CEQA baseline? The suggested language changes that follow are based on the premise that an SOI with no expansion would be a baseline condition.] Retain first sentence as is. Revise second sentence to read: "The baseline for CEQA review, in the case of an outdated or coterminous SOI, shall be the current jurisdictional boundary of the agency. Retain balance of section and add a new last sentence: "The baseline for an SOI that is not outdated or coterminous shall be the currently approved boundary of the SOI. [Note: I'm assuming significant changes that would trigger greater CEQA review would also render an existing SOI outdated. Also, I think our indemnity clause would be a backstop against a lawsuit alleging improper CEQA review.]

e) "All costs incurred by LAFCO for preparation of establishing a non-coterminous SOI Update for an agency, or expanding an existing non-coterminous SOI, including necessary MSR studies, CEQA compliance...."

f) "In the absence of a legally binding commitment from a subject agency for full cost recovery of establishing or expanding a non-coterminous SOI Update, the Commission shall prepare a coterminous sphere or may, at the Commission's sole discretion, maintain and/or expand the most recent sphere if subject to CEQA exemption.

g) Suggest capitalize "municipal service review".

## ATTACHMENT 3b



111 E. COMMERCIAL STREET  
WILLITS, CALIFORNIA 95490  
(707) 459-4601 TEL  
(707) 459-1562 FAX

November 24, 2020

Mendocino County Local Agency Formation Commission  
Policies and Procedures Committee  
c/o Uma Hinman, Executive Office  
200 School Street  
Ukiah, CA 95482

Re: November 24, 2020 LAFCO Policies & Procedures Meeting  
Agenda Item 2b – City of Willits Comments

Dear Members of the Mendocino LAFCO Policies and Procedures Committee,

The City of Willits respectfully requests additional time to review and comment on the proposed policy change revisions being considered under Agenda Item 2b, Policy Development for Spheres of Influence.

The City would like additional time to allow for the opportunity to meet with LAFCO staff and the other jurisdictions to obtain clarification on the intent of the language and possibly provide suggested language that would prevent any unintended consequences.

For instance, City staff is unclear as to whether the Cities will incur additional charges from LAFCO for the periodic review of our Sphere of Influence (SOI). As a function of its duties and responsibilities given by the Cortese-Knox-Hertzberg Act, LAFCO is required to periodically review and update spheres of influence. Government Code Section 56425 requires the Commission to review and update, as necessary, all spheres of influence for cities and special districts at least once every five years.

Staff is unsure whether the costs associated with the standard SOI review will be included in the annual LAFCO budget and work plan or whether those costs will be removed from the annual budget and converted to a cost recovery fee.

Also, LAFCO's role under the California Environmental Quality Act (CEQA) is typically one of a responsible agency, which means that it does not take the lead in preparing the environmental document for the proposed action. When another public agency, such as the City of Willits, acts as a lead agency and submits a negative declaration or a final environmental impact report certified by resolution as having been completed in accordance with CEQA with an application for approval of a project by the Mendocino LAFCO, such negative declaration or final environmental impact report shall be submitted to the LAFCO. The City is neither aware that Mendocino LAFCO would be required to complete any further environmental review, nor is the



City aware of a requirement to pay additional fees unless Section 15052 of the CEQA Guidelines would require LAFCO to act as the Lead Agency for a project.

The City is unclear as to whether the proposed policy language is consistent with the statement provided above. This is of particular interest to the City of Willits, as the City has secured State funding and is the process of developing a Sphere of Influence Amendment, including CEQA review, for submission to LAFCO for the purpose of creating a substantial level of new opportunities to construct a variety of housing types. Staff will be working with LAFCO staff as we move forward through the process of completing our SOI amendment application. The City is unsure as to whether the proposed language would introduce new fees to our prospective project.

Thank you for your consideration of the City's request to continue this item and allow for adequate time to analyze the proposed revisions and further speak with LAFCO staff.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dusty Duley", with a long horizontal flourish extending to the right.

Dusty Duley  
Community Development Director

cc: Stephanie Garrabrant-Sierra, City Manager  
H. James Lance, City Attorney





November 24, 2020

Mendocino County Local Agency Formation Commission  
Policies & Procedures Committee  
C/O Uma Hinman, Executive Officer  
Ukiah Valley Conference Center  
200 S School St  
Ukiah, CA 95482  
VIA EMAIL: [eo@mendolafco.org](mailto:eo@mendolafco.org)

Re: November 24, 2020 Local Agency Formation Commission Policies & Procedures Meeting  
Agenda Item 2b., Policy Development for Spheres of Influence – City of Ukiah comments

Honorable Members of the Policies & Procedures Committee:

The City of Ukiah respectfully submits the following comments for consideration regarding the  
aforementioned agenda item, Item 2b., Policy Development for Spheres of Influence.

**Affected agencies, including the City of Ukiah, have not been given adequate time to evaluate and respond to the proposed policies under consideration by the LAFCo Policies & Procedures Committee. The City requests a postponement of this agenda item to allow the City and other affected agencies the opportunity to analyze the proposed policy revisions and engage with LAFCo staff.**

The City was first provided a copy of the proposed policy revisions on Saturday, November 21, 2020. From City staff's initial review, the proposed revisions may have significant impacts on the ability of incorporated cities to complete Spheres of Influence (SOI) updates. Such sweeping changes to policy, especially during a pandemic where traditional communication modes are hindered, should be done collaboratively with affected multi-service agencies such as the City of Ukiah, City of Fort Bragg, City of Willits, and City of Point Arena- and with as much advance notice as possible.

In the limited time available, the City of Ukiah submits the following preliminary comments on LAFCo staff's proposed policy revisions.

**A. City of Ukiah Preliminary Comments Regarding Policies Recommended by LAFCo Staff to Govern the Application of CEQA to Sphere of Influence Determinations by LAFCo**

**1. Lead Agency/Responsible Agency duties**

Whether LAFCo functions as the lead or responsible agency for a proposed action is determined by the CEQA statutes and Guidelines. LAFCo often may be, but is not always, the lead agency for Sphere of Influence determinations, particularly if they are combined with annexation. (CEQA Guidelines, Sections 15150 – 15053.)



## 2. Baseline determinations

The environmental setting or CEQA baseline is represented by the existing physical conditions of the environment in the vicinity of the project and the scope of planning decisions already made and analyzed under CEQA. Baseline determinations are not governed by jurisdictional boundaries. (CEQA Guidelines, Section 15125; *Neighbors for Smart Rail v. Exposition Metro Line Construction Authority* (2013) 57 Cal.4th 439.)

## 3. Potential categorical exemptions

CEQA applies only to some Sphere of Influence amendments. Most often, a categorical exemption applies under CEQA Guidelines, Sections 15378(B)(5) [the “common sense” exception]; Class 19 (annexation of existing facilities), Class 20 (LAFCo approvals which do not change the area in which powers exercised – i.e., the actor changes, but not the act); *City of Agoura Hills v. LAFCo* (1988)- 198 CA3d 480 held a Sphere of Influence change not associated with a development project was not a project subject to CEQA.

## 4. Impact analysis/growth inducement

Whether providing water or wastewater services actually is growth-inducing is a fact-based inquiry that depends on the circumstances, especially as to whether providing services involves expansion of infrastructure systems beyond those existing or already planned and analyzed. The complexity and associated cost of reviewing such changes also depends on the circumstances. CEQA makes none of the factual assumptions or legal presumptions of impact, complexity, or cost asserted in the LAFCo staff report. (CEQA Guidelines section 15126.2(d).)

### B. City of Ukiah Preliminary Comments on the Policy Regarding “Outdated Spheres of Influence”

1. The definition of an “outdated SOI” is so vague as to be purely subjective.
2. Section 10.1.3(a) of policy proposed by LAFCo staff admits that the Cortese-Knox-Hertzberg Act makes it LAFCo’s responsibility to maintain current SOIs.
3. LAFCo staff has no power to refuse an application because LAFCo has failed to maintain what it subjectively believes to be a current Sphere of Influence and Municipal Service Review (MSR). While LAFCo might be able to reject an annexation application for want of sufficient current data, LAFCo Commissioners must make that decision in publicly noticed hearings on the basis of facts in the record.
4. Paragraph (f) in the proposed policy, which states that LAFCo can impose a coterminous SOI if an agency does not pay the costs to update an SOI, violates Cortese-Knox-Hertzberg. The statute does not authorize LAFCo to refuse to exercise its discretion for fiscal reasons.
5. Although LAFCo likely can require a “current MSR” for an SOI amendment, what amounts to a current MSR is subjective, and maintaining current MSRs is LAFCo’s responsibility, not an



applicant's. LAFCo cannot use its failure to maintain current documents to justify refusing applications. Rather, if such action is supported by facts in the record before the Commission, it could reject a specific application on its merits.

City staff looks forward to engaging with LAFCo staff on the proposed revisions in the near future, after having adequate time to more thoroughly analyze and research the proposed policies and potential alternatives.

Sincerely,

A handwritten signature in blue ink that reads "Craig Schlatter". The signature is fluid and cursive, with the first name "Craig" being more prominent than the last name "Schlatter".

Craig Schlatter  
Director of Community Development

CC: Sage Sangiacomo, City Manager  
David Rapport, City Attorney  
Phil Williams, Special Counsel

**MENDOCINO  
Local Agency Formation Commission**

**Staff Report**

DATE: May 11, 2021  
TO: Mendocino Local Agency Formation Commission Policies & Procedures Committee  
FROM: Uma Hinman, Executive Officer  
SUBJECT: **Proposed Sphere of Influence Update Policy Recommendations**

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**RECOMMENDATION**

The Policies & Procedures Committee consider the proposed Sphere of Influence Update Policy amendments and public input received during the workshop in Item 3b and develop a recommendation to the Commission.

**BACKGROUND**

The proposed policy changes apply to LAFCo-initiated Sphere of Influence (SOI) Updates, the intent of which are to accomplish the following:

1. Put into written policy the current Sphere of Influence (SOI) practices of the Commission.
2. Establish uniform treatment for all agency SOI Updates
3. Ensure cost recovery from agencies requesting SOI expansion that result in additional costs associated with increased analysis and necessary CEQA review in an effort to keep apportionment fees lower for all agencies

**Current Practice**

In accordance with GOV §56425(g), Mendocino LAFCo strives to prepare MSR/SOI Updates for every agency on a five-year cycle; however, due to budget limitations this timeframe can be difficult to achieve. Further, the existing LAFCo Policy 10.1.3 clarifies that SOIs for municipal service providers be reviewed every five years and SOIs for non-municipal service providers be updated as necessary.

The current practice of the Commission has been to:

1. Establish a coterminous sphere during the MSR/SOI Update process, unless an agency requests a non-coterminous sphere and assumes the costs associated with CEQA review; and
2. Prepare MSR/SOI studies in-house at lower staff rates.

This approach has allowed the Commission to keep apportionment fees low; however, as a result, LAFCo does not have budget sufficient to prepare a non-coterminous SOI Update for growth-inducing or multi-service agencies with CEQA review beyond an exemption within a single fiscal year.

**Proposed Policy Changes**

The draft language in Attachment 1 is proposed for consideration by the Policies & Procedures Committee and public input is requested. Proposed amendments to existing policies are indicated with underlined and ~~strikethrough~~ formatting.

Attachment 1 Proposed Sphere of Influence Policies

# Attachment 1

## Proposed Sphere of Influence Policy Changes

The following draft language was proposed for consideration of the Policies & Procedures Committee at its December 28, 2020. Proposed amendments to existing policies are indicated with underlined and ~~strikethrough~~ formatting.

### **9.12 BOUNDARIES**

#### **9.12.1 DEFINITE BOUNDARIES REQUIRED**

LAFCo shall not accept as complete any application unless it includes boundaries that are definite, certain, and fully described.

#### **9.12.2 SOI CONSISTENCY REQUIRED**

Proposed changes of organization or reorganization shall be consistent with the Sphere of Influence (SOI) of the local agencies affected by those determinations pursuant to GOV §56375.5. The Commission finds that outdated spheres, as determined under Policy 10.1, do not provide a reliable or relevant basis of information needed by the Commission to carry out its responsibilities in consideration of major applications. Therefore, in situations of outdated spheres, before any major change of organization or reorganization may be deemed complete and a Certificate of Filing issued, the outdated spheres of the subject and/or affected agency must be updated, potentially including a municipal service review.

In consideration of major applications based on outdated spheres, the Commission is likely to deny the proposal and authorizes the Executive Officer to schedule a hearing for recommended denial at the next available regular meeting of the Commission, if feasible. SOI establishment, amendment, and update shall precede consideration of proposed changes of organization or reorganization.

The only exception to subject and affected agency SOI consistency is minor applications that normally would not considerably intensify existing development, generate or facilitate significant new development, or create adverse impacts on the subject agency or affected agencies. Examples of minor proposals include fire service annexations or detachments, annexation of agency-owned property currently used for the provision of municipal services, such as agency municipal service facilities and/or infrastructure, and annexations of developed property with no further development potential.

#### **9.12.23 BOUNDARY CRITERIA**

LAFCo will generally favor applications with boundaries that do the following:

- a) create logical boundaries within the affected agency's sphere of influence, and where possible, eliminate previously existing islands or other illogical boundaries;
- b) follow natural or man-made features and include logical service areas where appropriate; and
- c) place all streets and rights-of-way within the same jurisdiction as the properties which abut thereon and/or for the benefit of which such streets and rights-of-way are intended.

#### **9.12.34 BOUNDARY ADJUSTMENTS**

LAFCo will generally amend proposals with boundaries which:

- a) Split neighborhoods or divide existing identifiable communities, commercial districts, or other areas having a social or economic identity.

- b) Result in islands, corridors, or peninsulas of incorporated or unincorporated territory or otherwise cause or further the distortion of existing boundaries.
- c) Are drawn for the primary purpose of encompassing revenue-producing territories.
- d) Create areas where it is difficult to provide services.

#### 9.12.4-5 BOUNDARY DISAPPROVALS

If LAFCo, in consultation with the applicant, cannot suitably adjust the proposed boundaries to meet the criteria established above, it will generally deny the proposal.

## 10.1 SPHERES OF INFLUENCE

### 10.1.2 DEFINITIONS

The Commission incorporates the following definitions:

- a) ~~a~~ “Establishment” refers to the initial development and determination of a sphere of influence by the Commission;
- b) ~~A~~ “amendment” refers to a limited change to an established sphere of influence typically initiated by a landowner, resident, or agency; and
- c) ~~A~~ “update” refers to a comprehensive change to an established sphere of influence typically initiated by the Commission. An SOI review is not an SOI update.
- d) An “outdated sphere” is an established sphere of influence that has not been updated for ten (10) years or more for municipal service providers or where circumstances have changed significantly since the last SOI update. SOI’s become outdated where substantial changes have occurred in the statutory requirements, agency services, finances, or governance, and/or community or service area, resulting in the most recent MSR/SOI no longer providing a reliable or relevant basis of information needed by the Commission to carry out its responsibilities. The “outdated sphere” determination shall be made by the Executive Officer, subject to confirmation by the Commission in the event the determination is disputed.

### 10.1.3 SPHERE UPDATES

In updating spheres of influence, the Commission’s general policies are as follows:

- a) LAFCo must adopt a Sphere of Influence (SOI) for each city and special district in its jurisdiction and keep it updated in accordance with CKH. Overseeing each SOI is a LAFCo responsibility. LAFCo strongly encourages the participation and cooperation of the subject agency in the SOI process, but the Commission remains the sole authority for establishing and making changes to an agency’s SOI and associated Municipal Service Review. All LAFCo actions must be consistent with the subject agency’s SOI and changes to an agency’s SOI require careful review and consideration.
- ~~a~~b) The Commission will update the SOI of municipal service providers periodically in accordance with the Cortese-Knox-Hertzberg Local Government Act of 2000 (CKH), and only as needed for non-municipal service providers review all spheres of influences every five years for each governmental agency providing municipal services. Municipal services include water, wastewater, road, police, and fire protection services. Non-municipal services include, but are not limited to, ambulance or emergency medical services, park and recreation, health care hospital, resource conservation, cemetery, lighting, landscaping, and pest control.
- ~~c)~~ Spheres of influence of districts not providing municipal services including, but not limited to, ambulance, recreation, hospital, resource conservation, cemetery, and pest control shall be updated as necessary.

- c) The most recent SOI for municipal service providers will be reviewed every five years, as needed, pursuant to CKH for accuracy and relevancy, and may result in the Commission reaffirming the existing SOI to ensure an appropriate sphere remains current. The agency SOI will be scheduled for a MSR/SOI Update when the sphere is deemed outdated or where major changes in the SOI are being considered. Whenever feasible, City MSR/SOI Updates shall be scheduled to coincide with City General Plan Updates.
- d) Sphere actions by the Commission are subject to the provisions of the California Environmental Quality Act (CEQA). The Commission is normally the lead agency for SOI establishment and update, and the agency is normally the lead agency for proposed SOI amendments. The baseline for CEQA review is the current jurisdictional boundary of the agency.
- e) Where an agency requests that a LAFCo-initiated SOI Update include territory outside an agency's current boundary, the agency shall reimburse LAFCo for the cost of the environmental and other review required. Where an agency desires a sphere amendment proposed in a manner to permit additional development, the agency must prepare an appropriate environmental document and/or reimburse LAFCo for the cost of the environmental and other review required. This policy is intended to impose the cost on the agency seeking SOI expansion opportunities in an effort to keep annual apportionment fees lower for the other agencies that contribute to the support of LAFCo.
- f) All costs incurred by LAFCo for preparation of establishing a non-coterminous SOI Update for an agency, or expanding an existing non-coterminous SOI, shall be subject to full cost recovery from the agency. Potential costs include necessary MSR studies, CEQA compliance, staff time, and any additional fees charged by state or local agencies for reviewing, processing, and filing the project. **Nothing in this Policy shall be construed as a requirement for a higher level of environmental review than is necessary.** Sphere changes that are subject to CEQA exemption are intended to be carried out accordingly, and otherwise will involve preparation of an Initial Study to determine the appropriate level of CEQA determination.
- g) In the absence of a legally binding commitment from a subject agency for full cost recovery of establishing or expanding a non-coterminous SOI Update, the Commission will likely prepare a coterminous sphere or may, at the Commission's sole discretion, maintain and/or expand the most recent sphere if subject to CEQA exemption or if funding is otherwise available for the appropriate level of CEQA review.
- h) Sphere of influence changes initiated by ~~application~~ any agency providing a municipal service shall generally require either an updated or new Municipal Service Review unless LAFCo determines that a prior service review is adequate.
- i) A combined Municipal Service Review (MSR) and SOI Update shall be prepared whenever feasible to minimize costs, streamline processing, and to maximize data collection and analysis.