

MENDOCINO

Local Agency Formation Commission

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

COMMISSIONERS

Tony Orth, Chair
Brooktrails Township CSD

Scott Ignacio, Vice-Chair
Point Arena City Council

Gerald Ward, Treasurer
Public Member

Matthew Froneberger
Special District Member

Gerardo Gonzalez
Willits City Council

Glenn McGourty
County Board of Supervisors

Maureen "Mo" 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

A G E N D A

Regular Meeting of **Monday, November 1, 2021 at 9:00 AM**
County Board of Supervisors Chambers 501 Low Gap Road, Ukiah, California

Special Notice

On September 16, 2021, Governor Newsom signed AB 361, which modified the Brown Act to allow for teleconferencing participation at local legislative body public meetings during a proclaimed state of emergency. As urgency legislation, this law took effect immediately. Pursuant to Government Code §54953(e)(1)(B), the Commission will conduct its October 4, 2021 meeting by Zoom. Therefore, Commissioners, staff and members of the public will attend this meeting via teleconference, as provided below.

Instructions for Meeting Participation

Join Meeting Live: Please click the following Zoom link below to join the meeting or utilize the telephone option (audio only)

1. Zoom meeting link: <https://mendocinocounty.zoom.us/j/85280172642>

2. Telephone option:

Dial: **(669) 900-9128** (Please note that this is not a toll-free number)

Meeting ID: **852 8017 2642**

Public Participation is encouraged and public comments are accepted:

1. Live: via the Zoom meeting link or telephone option above
2. Via Email: eo@mendolafo.org by 8:30 a.m. the day of the meeting
3. Via Mail: Mendocino LAFCo, 200 S School Street, Ukiah, CA 95482

Meeting Participation

1. When joining the Zoom meeting, please enter your name so that you can be identified to speak.
2. To provide comments, please use the raise hand function in Zoom. For those accessing from a computer or smartphone, the raise hand function may be selected by clicking or tapping it. For members utilizing the telephone option (audio only), please use the raise hand feature by pressing ***9** on your keypad to raise your hand, and ***6** to unmute yourself. When it is your turn to speak, you will be called on by the last four digits of your phone number, if available, and asked to identify yourself for the record.

All comments received will be conveyed to the Commission for consideration during the meeting. All meetings are live-streamed, recorded and available through the link below.

The Commission appreciates the public's adaptation and patience during this crisis.

*Live web streaming and recordings of Regular Commission meetings are available via the [Mendocino County YouTube Channel](#).
Links to recordings, approved minutes, and meeting documents are available on the LAFCo website: <https://www.mendolafo.org/commission-meetings>*

1. CALL TO ORDER and ROLL CALL

2. PUBLIC EXPRESSION

The Commission welcomes participation in the LAFCo meeting. Any person may address the Commission 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. CONSENT CALENDAR

The following consent items are expected to be routine and non-controversial, and will be acted on by the Commission in a single action without discussion, unless a request is made by a Commissioner or a member of the public for discussion or separate action.

3a) Approval of the October 4, 2021 Regular Meeting Summary

3b) Approval of the October 2021 Claims & Financial Report

3c) Resolution for Continued Remote Meetings per AB 361

4. PUBLIC HEARING ITEMS

None

5. WORKSHOP ITEMS

None

6. MATTERS FOR DISCUSSION AND POSSIBLE ACTION

6a) Sustainable Agricultural Lands Committee Grant Project

Informational report on the Sustainable Agricultural Lands Committee Grant Project. No action.

6b) CALAFCO White Paper: "The Metamorphosis of Special Districts: Current Methods for Consolidation, Dissolution, Subsidiary District Formation and Merger"

Informational report on the 2021 update to CALAFCO's White Paper entitled "The Metamorphosis of Special Districts: Current Methods for Consolidation, Dissolution, Subsidiary District Formation and Merger." No action.

7. INFORMATION AND REPORT ITEMS

The following informational items are reports on current LAFCo activities, communications, studies, legislation, and special projects. General direction to staff for future action may be provided by the Commission. No immediate action will be taken on any of the following items.

7a) Work Plan, Current and Future Proposals (Written)

7b) Correspondence (Copies provided upon request)

7c) CALAFCO Business and Legislative Report

7d) Executive Officer's Report (Verbal)

7e) Committee Reports (Executive Committee, Policies & Procedures, Work Plan Ad Hoc) (Verbal)

7f) Commissioner Reports, Comments or Questions (Verbal)

ADJOURNMENT

The next Regular Commission Meeting is scheduled for Monday, **December 6, 2021** at 9:00 AM.
Location to be determined based on current State and local mandates related to the COVID-19 pandemic.

Notice: This agenda has been posted at least 72 hours prior to the meeting and in accordance with the temporary Brown Act Guidelines instated by State Executive Order N-29-20 and AB 361.

Participation on LAFCo Matters: All persons are invited to testify and submit written comments to the Commission on public hearing items. Any challenge to a LAFCo action in Court may be limited to issues raised at a public hearing or submitted as written comments prior to the close of the public hearing.

Americans with Disabilities Act (ADA) Compliance: Because the meeting is being held by teleconference, if you are hearing impaired or otherwise would have difficulty participating, please contact the LAFCo office as soon as possible so that special arrangements can be made for participation, if reasonably feasible.

Fair Political Practice Commission (FPPC) Notice: State Law requires that a participant in LAFCo proceedings who has a financial interest in a Commission decision and who has made a campaign contribution to any Commissioner in the past year must disclose the contribution. If you are affected, please notify the Commission before the hearing.

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Agenda Item No. 3a

DRAFT MINUTES

Local Agency Formation Commission of Mendocino County

Regular Meeting of Monday, October 4, 2021

Meeting held via Zoom due to COVID-19 Pandemic Emergency Conditions

1. CALL TO ORDER and ROLL CALL (Video Time 0:01)

Chair Orth called the meeting to order at 9:00 a.m.

Regular Commissioners Present: Tony Orth, Scott Ignacio, Gerald Ward, Gerardo Gonzalez, Maureen Mulheren, Glenn McGourty, and Matthew Froneberger (9:02)

Regular Commissioners Absent: None

Alternate Commissioners Present: Jenifer Bazzani, Richard Weinkle, and Mari Rodin

Alternate Commissioners Absent: John Haschak

Staff Present: Uma Hinman, Executive Officer; Larkyn Feiler, Analyst; Kristen Meadows, Clerk; and Marsha Burch, Legal Counsel (for Scott Browne)

2. PUBLIC EXPRESSION None

3. OTHER BUSINESS (Video Time 2:48)

3a) Authorizing Continued Remote Meetings per Assembly Bill 361

In March 2020, following the Governor's declaration of a state of emergency due to COVID-19 and Executive orders modifying the Brown Act, Mendocino LAFCo switched from in-person meetings to remote meetings via Zoom. On June 11, 2021 the Governor issued an Executive order rescinding the Brown Act modifications effective September 30, 2021. Assembly Bill 361 (AB361), signed into order on September 21, 2021, states that in order for local agencies subject to the Brown Act to continue to meet remotely, the governing body must first adopt a resolution indicating that a Gubernatorial State of Emergency exists and meeting in person would present imminent risks to the health or safety of attendees, Commissioners, or staff. In addition, the resolution must be renewed every 30 days.

Commissioners Ward, Gonzalez and Ignacio asked for clarification and proposed suggestions to ease the burden of renewing the resolution every 30 days.

Legal Counsel Marsha Burch confirmed that the resolution must be renewed. If a meeting is canceled or if there are more than 30 days between meetings a special meeting would be required to renew the resolution.

Motion by Commissioner Mulheren: Adopt Resolution No. 2021-22-05 acknowledging that a Gubernatorial State of Emergency exists and authorizing the use of teleconferenced meetings for a 30-day period.

Second by Commissioner McGourty.

Approved by roll call vote: unanimous.

Ayes: (7) Froneberger, Gonzalez, Ignacio, Mulheren, Ward, McGourty, Orth

4. **CONSENT CALENDAR** (Video Time 9:38)

4a) Approval of the September 13, 2021 Regular Meeting Summary

Treasurer Ward commended staff on the meeting summary.

4b) Approval of the September 2021 Claims & Financial Report

September 2021 Claims totaling:	\$14,647.64
Hinman & Associates Consulting	11,622.00
P. Scott Browne	1,765.50
Cash	153.90
Newspapers	275.71
Comcast	190.08
Streamline	50.00
Ukiah Valley Conf. Center	464.00
Commissioner Stipends	126.45

Treasurer Ward's questions/comments:

- Requested expenses for public records requests be identified on the budget tracking sheet under unfunded mandates.
 - EO Hinman: Confirmed there was one request over the last month and noted the request.
- Requested confirmation that a credit for the Comcast late charge correction will be received and noted on the next invoice.
 - EO Hinman confirmed.
- Asked if the original check issued to Commissioner Weinkle had been returned.
 - Commissioner Weinkle: He was unable to locate the check.

Motion by Commissioner Ward: Approve the Consent Calendar

Second by Commissioner Mulhern.

Approved by roll call vote: unanimous.

Ayes: (7) Froneberger, Gonzalez, Ignacio, Mulheren, Ward, McGourty, Orth

5. **PUBLIC HEARING ITEMS** (Video Time 12:50)

5a) Ukiah Valley Fire District Municipal Service Review and Sphere of Influence Update and UVFD Fire Services Annexation and Fire District Sphere Amendment (File No. A-2021-02)

Chair Orth opened the Public Hearing at 9:13 a.m. (Video Time 13:23) and confirmed proper notice of the hearing.

EO Hinman recognized Doug Hutchinson, Fire Chief for the Ukiah Valley Fire Authority, and Craig Schlatter, Director of Community Development for the City of Ukiah, for their assistance in preparing the item and gave special thanks to Mendocino County for expedited completion of the Tax Share agreement process, including Assessor Katrina Bartolomei, Acting Auditor-Controller Chamise Cubbison, CEO Carmel Angelo, County Counsel Christian Curtis and their staffs, and Commissioner Mulheren as Second District Supervisor and member of the Tax Share Ad Hoc Committee.

Analyst Feiler gave a [presentation](#) of the [Executive Officer's \(EO\) Report](#) and the associated [Corrections Memo](#) related to the proposed Ukiah Valley Fire District (UVFD or District) Municipal Service Review (MSR) and Sphere of Influence (SOI) Update and the proposed change of organization, with support from the City of Ukiah, for UVFD annexation of the Ukiah City Limits for fire services and a related Sphere of Influence amendment to add the proposed annexation area to the UVFD SOI. (Video Time 17:11 – 32:15)

EO Hinman noted that two public comment letters were received from MedStar and Mr. Farr after the agenda packet was released and were provided to the Commission, District, and interested parties, and posted on the LAFCo website prior to the meeting. Chair Orth invited Commissioner comments and questions (Video Time 33:37).

Commissioner McGourty asked about the role of CAL FIRE in providing fire services and whether District residents will experience a change in the level of service from the application. Chief Hutchison responded that District residents will experience no change in services or taxes and the annexation will ultimately allow for better staffing on Fire engines from two to three firefighters which will make more resources available to respond to multiple incidents simultaneously and better mitigate potential losses from fire. Chief Hutchison also clarified that the District and CAL FIRE have an Automatic Aid Agreement in place and both agencies respond with staff and equipment under a unified command structure to any fire within the Local Responsibility Area (LRA) or State Responsibility Area (SRA), and the agency with jurisdiction over the area maintains command and control of the incident. Commissioner McGourty commended the District, CAL FIRE, and Law Enforcement for their quick response times, coordinated efforts, and hard work, especially on the recent Hopkins Fire.

Chair Orth opened the Public Comment Period for the Public Hearing at 9:36 a.m. (Video Time 36:53).

Brandon Gunn, Division Chief for CAL FIRE, commented that CAL FIRE is vigorously opposed to any new construction in high fire hazard severity zones, and if the area is annexed, CAL FIRE wants to ensure that work complies with Public Resources Code 4127 which will keep this area in the Local Responsibility Area (LRA).

Commissioner Froneberger asked whether it is possible for residents to expect less services in some areas post annexation. Chief Hutchison responded that the current service levels are not expected to change and that the anticipated increase in staffing will help the Fire Authority better address the current 35% overlapping call rate by allowing one unit to respond to certain emergencies that currently require two units, and will improve efficiencies by keeping the second unit in service for new service calls instead of depleting all resources on one service call.

Commissioner Froneberger commented that prior to the JPA, the City had roughly 15 line staff and 5 overhead staff and the District carried about a third of that, which equates to a higher number than post annexation, and asked if that continues to make sense for the District and the City. Chief Hutchison responded that the joint service delivery model between the District and City has achieved efficiencies and eliminated redundancies; in the past the agencies had two different command staffs and the District was running fewer staff per shift than the City. Chief Hutchison explained that together the District and City can put more boots on the ground and not duplicate ranking officers to serve the combined area more efficiently.

Commissioner Froneberger asked if those efficiencies could be achieved with shared administration rather than a shared district. Chief Hutchison affirmed and clarified that the largest expense is personnel which must be shared between the District and City to achieve maximum cost savings and economies of scale.

Commissioner Rodin commented that the LAFCo staff analysis and presentation was well done and expressed support for the proposed annexation.

Commissioner Gonzalez asked whether District or City residents will pay more in taxes from the annexation. Chief Hutchison responded that the District parcel taxes will be equally applied to the District and City areas and are based on the current use of property as opposed to property value. Chief Hutchison explained that the wide range in the projected increase in revenue from adding the City to the District boundary is due to the complexity in applying the calculations of the District parcel taxes, which is based on units of benefit for different types of uses; a single-family residence would include two units of benefit and a charge of roughly \$120 per year. Chief Hutchison further explained that the City is more densely populated and has more commercial type buildings and may end up paying slightly more in total than the District service area, but all residents will pay District parcel taxes based on the same rate structure.

Commissioner Ward asked whether the annexation will impact MedStar's ability to continue to provide services. Chief Hutchison responded that there is no connection between the annexation and MedStar and the annexation does not contemplate any of the actions outlined in the letter provided by MedStar. Chief Hutchison explained that the Fire Authority has attempted on multiple occasions to collaborate with MedStar without success and the purpose of the annexation is to provide the best fire protection services to the District and City service areas.

Commissioner Ward asked about Fire Authority plans to increase ambulance staffing post annexation. Chief Hutchison responded that ambulance service is a City enterprise service funded by the City General Fund and the annexation and ambulance services are not related. Chief Hutchison explained that to date there have been 1,092 instances in which MedStar had one or fewer ambulances available in Mendocino County based on standard notification of low ambulance numbers from the CAL FIRE Howard Forest Station. Chief Hutchison further explained that in those situations, the Fire Authority must decide whether to wait for a MedStar ambulance from Willits or to down-staff a Fire engine for a reserve ambulance to immediately respond to a call for medical service in the Ukiah Valley area; therefore, the Fire Authority is exploring the option of adding another ambulance to stabilize the Emergency Medical System (EMS) and provide rapid medical response for both 911 calls and requests to transfer patients between hospitals for a higher level of care.

Commissioner Ward asked about the composition of the District Board of Directors post annexation. Chief Hutchison responded that the District Board will remain the same until the next election cycle.

Commissioner Ward asked about City representation on the five-member District Board post annexation. Chief Hutchison responded that currently all District Board members must reside in the District boundary, outside the City limits, and it has not yet been decided how City representation will be addressed on the District Board, such as changing to an election process by zones.

Commissioner Ward asked what happens to the JPA agreement if the annexation is approved. Analyst Feiler responded that the current 2017 Joint Powers Agreement (JPA) would be replaced by the 2020 JPA which includes more restrictive terms for termination of joint services by either agency, and LAFCo staff has included a condition of approval requiring effective implementation of the 2020 JPA prior to annexation.

Commissioner Ward asked how the JPA would be addressed in the District's next MSR/SOI study in five years since LAFCo does not have oversight over JPAs. Analyst Feiler responded that while LAFCo does not have regulatory authority over JPAs, agencies are required to provide a copy of those agreements to LAFCo which are posted on the LAFCo website for public transparency. Analyst Feiler explained that JPAs are intended to improve the delivery of services and provide more efficient and effective public services, which LAFCo encourages. Analyst Feiler further explained that in the process of developing an MSR/SOI study specific to an agency participating in a JPA, LAFCo staff includes data and analysis of joint operations with other agencies, and it is likely that the District would be willing to return to the Commission within the next five years to provide updates and discuss how the Fire Authority is evolving.

Commissioner Ward noted that there is limited information regarding City representation on the District Board and calculations of District taxes in the City limits and asked about the feasibility of approving the MSR/SOI study today but not the annexation. Analyst Feiler responded that it is feasible to approve one but not the other, but they are interrelated so it would be better to continue both items. Analyst Feiler noted that staff has been working on an expedited processing schedule to allow for implementation of the new taxes by the next fiscal year.

Commissioner Froneberger asked if blending the District and City Fire Departments will impact the City's ISO Rating of 3 post annexation. Chief Hutchison responded that it would not impact the City's ISO Rating because the combined JPA services are already being taken into consideration and the primary difference between the District and City ISO Ratings is based on public water systems and the availability of water supply. Chair Orth noted that this is similar to the situation of other cities in Mendocino County that provide joint services with fire districts.

Commissioner Gonzalez asked if additional information regarding the District taxes will be available at the Protest Hearing. Analyst Feiler responded that no new information will be provided during the Protest Hearing. Analyst Feiler explained that it is difficult to know how much revenue will be generated from the District taxes in the City limits because the District taxes are not a flat rate, and instead are based on units of benefit which requires ground-truthing to determine the use of each property. Analyst Feiler further explained that the District received a quote of \$10,000 from a consultant to prepare this high-quality data and as a result the District provided an estimate of projected

revenue with a minimum and maximum range. Analyst Feiler noted that there is an overlap area between the District and City of approximately 1,000 parcels that are not currently being assessed the District Tax Measure J and B.

Chair Orth recommended that the District report back to the Commission in two-years to provide an update on District governance and finances and the Fire Authority.

Commissioner Froneberger asked whether the 0.5% annual growth rate in the MSR/SOI study, which is based on historical population numbers, is an accurate reflection of anticipated growth in the District service area especially in light of proposed development of two new apartment complexes and a project that will add hundreds of homes north of the City. Analyst Feiler responded that consistent with previous MSR/SOI studies, population projections are based on official data sources, such as the US Census, Department of Finance, or Department of Transportation, which does not necessarily reflect local trends related to current development projects. Chief Hutchinson noted that actual population growth from current development projects emphasizes the need to enhance the fire services.

Chair Orth asked whether the District plans to conduct a Nexus Study, similar to the recent Hopland FPD effort, to capture capital costs from new development. Chief Hutchinson affirmed and explained that the District is aware of the need to update District Mitigation Fee to address newer development impacts in the service area.

Commissioner Froneberger commented that although he is critical of the annexation and the original JPA for the Fire Authority, that is not a reflection on the critical services provided by firefighters, and he commended the Fire Chief and his staff for a job well done and doing their best with the resources available.

Commissioner Ward asked how costs were allocated for the MSR/SOI study and the annexation. EO Hinman responded that the MSR was billed to the LAFCo Work Plan, the SOI Update was a shared cost between LAFCo and the applicant due to the proposed sphere amendment, and application processing was billed to the applicant.

With no further public interest in providing public testimony or Commissioner questions, Chair Orth closed the Public Comment Period and the Public Hearing at 10:05 a.m. (Video Time 1:05:07).

Motion by Commissioner Mulheren: Find the Ukiah Valley Fire District Municipal Service Review and Sphere of Influence Update and UVFD Fire Services Annexation and Fire District Sphere Amendment (File No. A-2021-02) exempt from the California Environmental Quality Act (CEQA) pursuant to Public Resources Code §21065 and Title 14 of the California Code of Regulations §15306, §15378(a), §15061(b)(3), 15261, 15301, and 15320 and approve the Notice of Exemption for filing.

Second by Commissioner Ignacio.

Motion Clarification: Commissioner Froneberger requested clarification regarding whether the three recommended actions will be taken separately, and Chair Orth confirmed the three actions will be taken one at a time.

Approved unanimously by roll call vote.

Ayes: (7) Froneberger, Gonzalez, Ignacio, Mulheren, Ward, McGourty, Orth

Commissioner Mulheren requested clarification regarding the appropriate resolution to address the requirement for the District to report back to the Commission in two years related to District finances and governance and the Ukiah Valley Fire Authority JPA, as suggested by Chair Orth. Analyst Feiler recommended adding the requirement to Resolution 2021-22-02 for the UVFD MSR/SOI Update on page 107 and 108 of the packet under the Resolution, Determination, and Order section after the Whereas statements, under item number 3, and reordering the remaining items as 4 through 7.

Motion by Commissioner Ignacio: Adopt LAFCo Resolution 2021-22-02, approving the Ukiah Valley Fire District Municipal Service Review and Sphere of Influence Update and amending the existing coterminous Ukiah Valley Fire District Sphere of Influence to add the entire City Limits of the City of Ukiah and designate as Areas of Interest the proposed Western Hills annexation area and two unincorporated island areas within the District boundary, with the amendment as noted by staff.

Second by Commissioner Mulheren.

Approved by roll call vote with one dissenting vote.

Ayes: (6) Gonzalez, Ignacio, Mulheren, Ward, McGourty, Orth

Noes: (1) Froneberger

Motion by Commissioner Mulheren: Adopt LAFCo Resolution 2021-22-03, conditionally approving the UVFD Fire Services Annexation and Fire District Sphere Amendment (File No. A-2021-02) change of organization application to annex the City Limits of the City of Ukiah for fire services, as amended based on the Memorandum of Corrections dated October 3, 2021 prepared and distributed by staff prior to the meeting.

Second by Commissioner McGourty.

Motion Comment: Commissioner Ward commented that he will support the annexation but noted that the process has been rushed and expressed interest in the results of the Protest Hearing. Commissioner Froneberger agreed with Commissioner Ward's comments but noted non-support for the annexation at this time.

Approved by roll call vote with one dissenting vote.

Ayes: (6) Gonzalez, Ignacio, Mulheren, Ward, McGourty, Orth

Noes: (1) Froneberger

Commissioner Ignacio requested that the outcome of the resolution votes be read into the record for the benefit of the public and EO Hinman confirmed that the resolution motions passed with one dissenting vote.

Analyst Feiler provided a brief summary of next steps for the Conducting Authority Proceedings. (Video Time 1:16:31)

6. WORKSHOP ITEMS

None

7. MATTERS FOR DISCUSSION AND POSSIBLE ACTION

7a) Ratification of an Out of Agency Water Service Agreement for the City of Fort Bragg (Video Time 1:18:36)

In August, EO Hinman received a request from the City of Fort Bragg to provide water service to two single-family residence parcels on Minnesota Ave. In September, in accordance with Mendocino LAFCo Policy 12.2.4, the Executive Officer issued an administrative approval with a condition requiring the landowners to submit written consent to annexation of the parcels to the City if initiated in the future. The Policy requires Commission ratification of the approval at the next regularly scheduled meeting.

Commissioner Ward asked if staff anticipates similar requests in the future and the fees involved. EO Hinman responded that LAFCo Policy allows for a fee range from \$500 to \$2500 for Out of Area Service Agreement applications. Staff accepted an initial deposit of \$500 deposit to initiate the application. Any time over the deposit spent on the administrative review is billed to the applicant. Currently, staff is not aware of any additional water service applications planned for submission.

Commissioner McGourty commented, based on his knowledge of water conditions in Fort Bragg, he believes that extending long-term water service to the community would be beneficial. He hopes the City is looking into expanding its storage capacity and incorporating a centralized water service in the near future.

Chair Orth noted that the City of Fort Bragg is installing a desalination plant which will make brackish water in the Noyo River water available for processing and will improve the area's water resiliency.

Motion by Commissioner Gonzalez: To adopt Resolution No. 2021-22-04 ratifying out of agency service agreements approved by the Executive Officer (1) authorizing the City of Fort Bragg to provide new public water service to two unincorporated properties located within the City's Sphere of Influence at 19970 Minnesota Avenue (APN 018-300-06) and 19981 Minnesota Avenue (APN 018-300-01) to address a public health threat; and (2) finding the out of agency service agreements are exempt from CEQA pursuant to Public Resources Code Section 21080(b)(4) and CEQA Guidelines 15282(k)

Second by Commissioner Mulheren:

Approved by roll call vote: unanimous

Ayes: (7) Froneberger, Gonzalez, Ignacio, Mulheren, Ward, McGourty, Orth

7b) Update on LAFCo’s Role in Drought Emergency Out of Agency Water Transfers (Video Time 1:25)

EO Hinman presented an informational report to update the Commission on the Countywide drought emergency progress. Staff presented LAFCo’s operative regulations and policies related to out of agency service provision and requested Commission direction regarding LAFCo’s role in the current drought response water supply hauling.

The Commission delegated the matter to the Executive Committee and on September 23, 2021 it met to discuss the options, heard public comment, and directed LAFCo Legal Counsel and staff to do additional research on the applicability of Government Code Section 56133 to the emergency provision of services and development of a policy addressing emergency water deliveries to the Policies and Procedures Committee. A meeting will be scheduled with the Policies and Procedures Committee for policy development.

Commissioner McGourty added that the County received a \$2 million grant from the State Water Resources Control Board Division of Drinking Water. In addition, the SWRCB will allow Ukiah to use its pre-1914 water rights to supply water to Fort Bragg.

No action taken.

7c) Proposed Special Meeting (Video Time: 1:28:17)

Staff requested a special meeting for the UVFD Annexation Application Protest Hearing on Monday, November 8 or Wednesday November 10, 2021. To meet the Board of Equalization December 1st deadline, the protest hearing needs to be held as soon as possible following the 30-day reconsideration period.

Staff received direction to schedule the special meeting based on Commissioners Ignacio, Froneberger, and McGourty recommendation of Monday, November 8, 2021 at 10 am.

Commissioner Ward asked about a resolution for the meeting per AB361. EO Hinman responded that a resolution will need to be adopted at the November 1st Regular Meeting to cover the time period for the special meeting.

8. INFORMATION AND REPORT ITEMS

8a) Work Plan, Current, and Future Proposals (Video Time: 1:31:44)

Active Proposals: no change to most proposals excepting for the following:

- The County Auditor/Assessor have provided the tax rate area information to effected agencies for the City of Ukiah’s application to annex City-owned properties.

Future Proposals: No change since the previous update.

Work Plan:

- The approval of the UVFD MSR/SOI marked the completion of the two tasks scheduled for this year.
- An administrative draft of the CSA 3 report is expected within the coming weeks and Staff will coordinate the next steps with the County.
- Staff will also reach out to the City of Ukiah and the UVSD.

Commissioner Ward asked for an update to the Covelo CSD Financial information and Census data. EO Hinman thanked him for the reminder and follow up.

8b) Correspondence None.

8c) CALAFCO Business and Legislation Report

- EO Hinman reminded the Commission of the CALAFCO Board Meeting to be held on Thursday and Friday, October 7 and 8, 2021. The information was forwarded to Commissioners and attendance is encouraged.
- Infrastructure and Cyber Security, the first virtual conference session, is scheduled for October 8, 2021 and is free to all CALAFCO Members.

Included in the agenda packet:

- An implementation guide for AB361 from the California Special District Association (CSDA)
- CALAFCO Legislative Report

8d) Executive Officer's Report (Video Time: 1:36:43)

EO Hinman reported the following:

- She has been invited to sit on a CALAFCO webinar panel: "Throw Out the Historic Water Framework, What do LAFcos do Now?" with the State Water Board Assistant Deputy Director and a Merced County LAFCo Commissioner. The panel will be scheduled for December.
- Staff intends to submit the audit financials to the Treasurer by the end of the month.

Questions from Commissioner Ward:

Q He requested an update on the Sustainable Ag Lands Community (SALC) Grant.

A EO Hinman said that the project concludes at the end of the year. A meeting is scheduled for today and she will provide an update during the November 1st meeting. LAFCo's role is in assisting with distributing information to the public and finalizing fact sheets for the SALC website.

Q He asked if LAFCo will experience a savings from the project.

A Because the project is funded by a grant, it has no impact to LAFCo's budget.

Commissioner Froneberger commended Staff on the meeting and supporting materials, noting the large size of the packet.

8e) Committee Reports (Executive Committee/Policies & Procedures)

Staff will reach out to schedule a Policies & Procedures committee meeting in the coming weeks.

8f) Commissioners Reports, Comments or Questions

- Chair Orth reported that the Brooktrails application for sewer water reuse to potable water is moving forward.

ADJOURNMENT (Video Time: 1:42:43)

There being no further business, the meeting adjourned at 10:43 a.m. The next regular meeting is scheduled for Monday, November 1, 2021, at 9:00 a.m. The location is to be determined based on guidelines recommended by the Mendocino County Public Health Officer and Executive Orders regarding the COVID-19 pandemic.

Live web streaming and recordings of Commission meetings are available via the County of Mendocino's YouTube Channel. [October 4, 2021, YouTube meeting recording](#). Links to recordings and approved minutes are also available on the [LAFCo website](#).

MENDOCINO Local Agency Formation Commission Staff Report

DATE: November 1, 2021
 TO: Mendocino Local Agency Formation Commission
 FROM: Uma Hinman, Executive Officer
 SUBJECT: **Financial Report and Claims for October 2021**

RECOMMENDED ACTION

Approve the October 2021 claims and financial report.

Name	Account Description	Amount	Total
Hinman & Associates Consulting, Inc.	5300 Basics Services	\$ 7,521.00	\$ 17,167.29
	5601 Office Supplies (QB)	\$ 160.73	
	6200 Bookkeeping	\$ 310.00	
	7000 Work Plan (Ukiah City, UVSD)	\$ 125.00	
	8026 UVFD Annex City of Ukiah	\$ 9,050.56	
P. Scott Browne	6300 Legal Counsel - General Services	\$ 630.00	\$ 630.00
Newspapers	8026 UVFD PHN	\$ 187.69	\$ 187.69
County of Mendocino Clerk	8026 Voter Information Request (UVFD)	\$ 250.00	\$ 250.00
County of Mendocino IS Division	6000 Televising Meetings (July, Sept.)	\$ 401.83	\$ 1,107.29
	6670 CSA 3 (Aug)	\$ 442.94	
	8026 UVFD Annex City of Ukiah (July, Aug, Sept)	\$ 262.52	
Comcast	5700 Internet	\$ 90.04	\$ 90.04
Streamline	5700 Website Hosting	\$ 50.00	\$ 50.00
Ukiah Valley Conf. Center	5502 Office Space	\$ 464.00	\$ 464.00
Total:			\$ 19,946.31

Deposits: None.

Attachments:

- Budget Tracking Spreadsheet
- Work Plan Tracking
- Invoices: Hinman & Associates Consulting, P. Scott Browne

Please note that copies of all invoices, bank statements, and petty cash register were forwarded to the Treasurer.

Mendocino Local Agency Formation Commission
 FY 2020-21 Budget and Application Tracking

Acct #	Task	FY 21-22 Adopted Budget	July	August	Sept	1st Qtr Subtotals	October	Nov	Dec	2nd Qtr Subtotal	Year to Date	Remaining Budget	% of Budget Expended
EXPENSES													
5300	Basic Services - EO/Analyst/Clerk	\$108,000	\$10,493.00	\$8,317.00	\$7,126.00	\$25,936.00	\$7,521.00			\$7,521.00	\$34,409.00	\$73,591.00	32%
	Unfunded Mandates (Public Records Requests)	\$0			\$952.00	\$952.00				\$0.00			
5500	Rent	\$5,775	\$464.00	\$464.00	\$464.00	\$1,392.00	\$464.00			\$464.00	\$1,856.00	\$3,919.00	32%
5600	Office Expenses	\$3,300	\$193.06	\$370.30	\$233.90	\$797.26	\$160.73			\$160.73	\$957.99	\$2,342.01	29%
5700	Internet & Website Costs	\$2,500	\$242.85	\$140.04	\$240.08	\$622.97	\$140.04			\$140.04	\$763.01	\$1,736.99	31%
5900	Publication & Legal Notices	\$2,000			\$275.71	\$275.71				\$0.00	\$275.71	\$1,724.29	14%
6000	Televising Meetings	\$2,000	\$180.69			\$180.69	\$401.83			\$401.83	\$582.52	\$1,417.48	29%
6100	Audit Services	\$3,500		\$1,760.00		\$1,760.00				\$0.00	\$1,760.00	\$1,740.00	50%
6200	Bookkeeping	\$4,500	\$80.00	\$180.00	\$430.00	\$690.00	\$310.00			\$310.00	\$1,000.00	\$3,500.00	22%
6300	Legal Counsel (S Browne)	\$19,000	\$900.00	\$900.00	\$1,765.50	\$3,565.50	\$630.00			\$630.00	\$4,195.50	\$14,804.50	22%
6400	A-87 Costs County Services	\$2,100				\$0.00				\$0.00	\$0.00	\$2,100.00	0%
6500	Insurance - General Liability	\$2,450	\$2,600.87			\$2,600.87				\$0.00	\$2,600.87	\$-150.87	106%
6600	Memberships (CALAFCO/CSDA)	\$3,525	\$2,220.00			\$2,220.00				\$0.00	\$2,220.00	\$1,305.00	63%
6670	GIS Contract with County	\$2,500				\$0.00	\$442.94			\$442.94	\$442.94	\$2,057.06	18%
6740	In-County Travel & Stipends	\$4,000			\$126.45	\$126.45				\$0.00	\$126.45	\$3,873.55	3%
6750	Travel & Lodging Expenses	\$6,250				\$0.00				\$0.00	\$0.00	\$6,250.00	0%
6800	Conferences (Registrations)	\$4,100				\$0.00				\$0.00	\$0.00	\$4,100.00	0%
7000	Work Plan (MSRs and SOIs)	\$51,500	\$1,768.00	\$6,940.00	\$150.00	\$0.00	\$125.00			\$125.00	\$8,983.00	\$42,517.00	17%
Monthly/ Year to Date Totals		\$227,000.00	\$19,142.47	\$19,071.34	\$11,763.64	\$49,977.45	\$10,195.54	\$0.00	\$0.00	\$10,195.54	\$60,172.99	\$166,827.01	27%
APPLICATIONS													
		DEPOSIT (total by application)	July	August	Sept	1st Qtr Subtotals	October	Nov	Dec	2nd Qtr Subtotal	Project Total to Date	Remaining Budget	Notes
D-2014-8010	City of Ukiah Detachment of UVSD lands	\$19,032.75				\$0.00				\$0.00	\$15,080.75	\$3,952.00	
P-2020-01 (8022)	City of Ukiah North Annexation Pre-Application	\$1,500.00				\$0.00				\$0.00	\$1,122.00	\$378.00	
P-2020-04 (8024)	Millview CWD Annexation Pre-Application	\$3,500.00				\$0.00				\$0.00	\$2,721.50	\$778.50	
A-2021-01 (8025)	City of Ukiah Annexation of City-Owned Properties	\$5,000.00	\$34.00			\$34.00				\$0.00	\$1,815.00	\$3,185.00	
A-2021-02 (8026)	UVFD Annexation of City of Ukiah	\$6,500.00	\$1,272.00	\$1,679.00	\$2,384.00	\$5,335.00	\$9,750.77			\$9,750.77	\$15,493.77	\$-8,993.77	
O-2021-03 (8027)	Fort Bragg Extension of Water Service to Minnesota Ave	\$500.00			\$500.00	\$500.00				\$0.00	\$500.00	\$0.00	
8601	Sustainable Ag Lands Committee Grant Project	\$5,100.00	\$850.00			\$850.00				\$0.00	\$1,425.00	\$3,675.00	
Application Totals		\$41,132.75	\$2,156.00	\$1,679.00	\$2,884.00	\$6,719.00	\$9,750.77	\$0.00	\$0.00	\$9,750.77			
EXPENSES AND APPLICATION TOTALS		\$268,132.75	\$21,298.47	\$20,750.34	\$14,647.64	\$56,696.45	\$19,946.31	\$0.00	\$0.00	\$19,946.31			

DEPOSITS

ACCOUNT BALANCES

County of Mendocino Account Balance	\$ 76,782	MUNIS Balance as of	10/18/2021
Operations (Checking) Account Balance	\$ 71,693	Bank Statement as of	9/30/2021
Legal Reserve Balance	\$ 50,000	Bank Statement as of	9/30/2021
Operations Reserve Balance	\$ 31,021	Bank Statement as of	9/30/2021
Total	\$ 229,496		

Mendocino LAFCo
FY 2021-22 Estimated Work Plan Implementation Schedule and Cost Tracking
 October 2021

Subject to Change: The estimated schedule and costs for the Fiscal Year 2021-22 Work Plan are subject to change based on agency responsiveness, timely provision of requested information, complexity of issues, level of public and affected agency controversy, and changing needs and priorities.

CEQA: Based on LAFCo practice, the work plan assumes minimal costs for CEQA compliance related to preparing a Notice of Exemption, unless an agency proposes a non-coterminous SOI and pays for any necessary studies and preparation of a Negative Declaration or Environmental Impact Report.

Rolling Work Plan: It is difficult to completely contain staff activities in a single fiscal year; therefore, completion of a study may roll over to the next fiscal year. This estimated work plan implementation schedule and cost tracking table is intended to enhance communication and transparency.

Agency	Request for Information	Admin Draft	Public Workshop	Public Hearing	Final Study	Cost Estimate ¹	FY 2021-22 Budget	FY 2021-22 Expenses	Cost to Date ²
Ukiah Valley Sanitation District	Complete	Pending	TBD	TBD	TBD	\$40,000	\$20,000	\$326	\$4,067
City of Ukiah	Pending	Pending	TBD	TBD	TBD	\$25,000	\$12,500	\$175	\$4,445
Ukiah Valley Fire District	Complete	Complete	9/13/21	10/4/21	10/8/21	\$7,000	\$6,000	\$5,991	\$9,068
County Service Area 3	In progress	In progress	TBD	TBD	TBD	\$10,000	\$6,000	\$1,162	\$5,259
Covelo CSD	Complete	Complete	7/12/21	9/13/21	9/24/21	\$8,000	\$3,000	\$1,329	\$8,769
Estimated Total						\$90,000	\$51,500	\$8,858	\$31,483

¹ Column indicates the initial cost estimated for each study and accounts for in process studies rolled over from prior fiscal years.

² Column indicates a running total for actual expenses incurred to date for each study in process and is not limited to a specific fiscal year.



Hinman & Associates Consulting

PO Box 1251 | Cedar Ridge, CA 95924

(916) 813-0818

uhinman@comcast.net

Date October 25, 2021
To Mendocino LAFCo
Project Executive Officer Services
Work Period September 26 - October 24, 2021

Invoice No. 612
Invoice Total \$ 17,167.29

Account	Description	Staff/Hours			Other (At Cost)	Totals
		Executive Officer \$100	Analyst \$68	Clerk \$40		
5300	Basic Services	45.25	7.00	63.00		\$ 7,521.00
5601	Office Supplies					
	Quickbooks Online Fee				\$ 80.00	\$ 160.73
	Office Supplies (envelopes, labels)				\$ 80.73	
6200	Bookkeeping	1.50		4.00		\$ 310.00
7000	Work Plan (MSR/SOI/Special Studies)					
	City of Ukiah	0.50				\$ 50.00
	UVSD	0.75				\$ 75.00
	CSA 3					\$ -
						\$ -
8010	City of Ukiah Detachment Application					\$ -
8022	City of Ukiah North Annex Pre-App					\$ -
8024	Millview CWD Annex Pre-App					\$ -
8025	City of Ukiah Annex City Properties					\$ -
8026	UVFD Annex City of Ukiah	8.25	59.50	67.00	\$ 1,499.56	\$ 9,050.56
8601	SALC Project (grant reimbursed)					\$ -
Totals		\$ 5,625.00	\$ 4,522.00	\$ 5,360.00	\$ 1,660.29	\$ 17,167.29

5300 Basic Services

Administrative tasks and Clerk duties. Scheduling Policies & Procedures meeting. File research and maintenance. October claims. Communications with Commissioners, public inquiries, etc. Agenda packet development for October 4 and November 1 Commission meetings.

6200 Bookkeeping

Prepared and coordinated with Treasurer regarding claims. Entered claims into Quickbooks and prepared checks. Reconciled Quickbooks. Developing Fiscal Year End reports.

7000 Work Plan (Sphere of Influence Updates, Municipal Service Reviews, and Special Studies)

Communications with Ukiah and UVSD staff regarding respective MSR/SOI Updates. Coordinated preparation of Administrative Draft CSA 3 MSR/SOI.

8010 City of Ukiah Detachment of UVSD Area

No activity.

8022 City of Ukiah North Annex Pre-App

No activity.

8025 City of Ukiah Annexation of City-owned Properties

No activity.

8026 UVFD Annexation of City of Ukiah

Weekly conference calls with City and UVFD staff regarding application processing, information needs, and process steps. Preparation and presentation at October 4th Public Hearing. Continued processing application and preparing for protest hearing. Other costs are mailing supplies for the protest hearing notice (envelopes, labels, stamps) (invoices attached).

8601 Sustainable Agricultural Lands Committee Grant Project

Staples Connect

1225 Airport Park Blvd
 Ukiah, CA 95482
 (707) 463-7110

SALE 1991375 1 001 61095
 0800 10/01/21 12:31
QTY SKU PRICE

REWARDS NUMBER 3494233665

***** Customer Order 9836913532 *****

4 Staples EasyClose 10 Business
 381912 30.490ea 121.96

Questions on Customer Order 9836913532
 Call Customer Service at 1-800-3STAPLES

1 AVY LSR LBL 30UP 2
 072782059606 76.99

1 STPLS HD VIEW BIND
 718103338325 20.99

1 AVY LSR LBL 30UP 2
 072782059606 76.99

1 ENVELOPE PULL & SE
 718103264457 37.99

110% Price Guarantee \$30.45 -8.29

1 ENVELOPE PULL & SE
 718103264457 37.99

110% Price Guarantee \$30.45 -8.29

1 ENVELOPE PULL & SE
 718103264457 37.99

110% Price Guarantee \$30.45 -8.29

SUBTOTAL 386.03

Standard Tax 8.8750% 34.26

TOTAL \$420.29

VISA CREDIT USD\$420.29

Card No.: XXXXXXXXXXXX0384 [C]

Chip Read

Auth No.: 001857

AID.: A0000000031010

TOTAL ITEMS 10

Circled items for A-2021-02 → \$339.56



UKIAH
 671 S ORCHARD AVE
 UKIAH, CA 95482-9998
 (800)275-8777

10/08/2021 01:39 PM

Product	Qty	Unit Price	Price
US Flag Bklt/20	100	\$11.60	\$1160.00

Grand Total: \$1160.00

Credit Card Remitted \$1160.00

Card Name: VISA
 Account #: XXXXXXXXXXXX0384
 Approval #: 008980
 Transaction #: 867
 AID: A0000000031010 Chip
 AL: VISA CREDIT
 PIN: Not Required

LAFco File No 2021-02

UFN: 058022-0696
 Receipt #: 840-59400178-2-9274997-2
 Clerk: 06

From: Intuit QuickBooks Team <intuit@notifications.intuit.com>
Sent: Tuesday, October 19, 2021 8:59 AM
To: eo@mendolafco.org
Subject: We received your QuickBooks subscription payment!



Payment success

Executive Officer, thank you for your payment.

Invoice number:
10001123044263
Invoice date: 10/19/2021
Total: \$80.00
Payment method: VISA ending in

Sign in to QuickBooks where you can see your billing history and view, save, and print your invoice.

[View billing history](#)

Account details

Billed to: Mendocino LAFCo
Company ID ending:
Items on this invoice: QuickBooks Online Plus

(1) For subscriptions, your payment method on file will be automatically charged monthly/annually at the then-current list price until you cancel. If you have a discount it will apply to the then-current list price until it expires. To cancel your subscription at any time, go to [Account & Settings](#) and cancel the subscription. (2) For one-time services, your payment method on file will reflect the charge in the amount referenced in this invoice. Terms, conditions, pricing, features, service, and support options are subject to change without notice.

Law Office of P. Scott Browne
 131 South Auburn Street
 Grass Valley, CA 95945
 5302724250
Tax ID: 68-0348904

October 15, 2021

Mendocino LAFCo
 200 South School St. Ste F
 Ukiah, CA 95482

Invoice Number: 1010
 Invoice Period: 09-16-2021 - 10-15-2021

Payment due by the 15th of next month.

RE: Mendocino LAFCo - General
 Mendocino LAFCo - General

Mendocino LAFCo - General

Time Details

Date	Staff Member	Description	Hours	
09-16-2021	PSB	Monthly flat rate, as agreed upon in Legal Representation Agreement		
09-23-2021	MB	Prepare for and attend Executive Committee Meeting;	2.80	
09-28-2021	MB	Telephone conference with EO; Research re: timing of approval of continued teleconferencing;	0.60	
10-03-2021	MB	Research re: water hauling issues; Review packet	1.50	
10-04-2021	MB	Prepare for and attend meeting;	2.20	
10-04-2021	MB	Telephone conference with Uma Hinman re: CEQA review issues	0.40	
			Total	900.00
			Total for this Invoice	900.00
			Total Amount to Pay	630.00

We appreciate your business.

Page 1 of 2

Project Statement of Account

As of 10-15-2021

Project	Balance Due
Mendocino LAFCo - General	630.00
Total Amount to Pay	630.00

Mendocino LAFCo - General

Transactions

Date	Transaction	Applied	Invoice	Amount
09-15-2021	Previous Balance			1,765.50
10-15-2021	Payment Received - Reference Check # 1694			(1,765.50)
10-15-2021	Payment Applied	1,765.50	1005	
10-15-2021	Payment Applied from Weger Detachment	(270.00)	983	(270.00)
10-15-2021	Payment Applied	630.00	983	
10-15-2021	Invoice 1010			900.00
			Balance	630.00

We appreciate your business.

Page 2 of 2

MENDOCINO
Local Agency Formation Commission
Staff Report

MEETING November 1, 2021
TO Mendocino Local Agency Formation Commission
FROM Uma Hinman, Executive Officer
SUBJECT **Authorizing Continued Remote Meetings per Assembly Bill 361**

RECOMMENDATION

Commission adopt Resolution No. 2021-22-06 acknowledging that a Gubernatorial State of Emergency continues to exist and authorizing the continued use of teleconferenced meetings for a 30-day period.

BACKGROUND

Pursuant to Assembly Bill 361 (AB 361), which was signed into order on September 21, 2021, in order for the Commission to continue to conduct its meetings remotely, it must adopt a resolution confirming that a Gubernatorial State of Emergency continues to exist and the Commission has determined, by majority vote, that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees, Commissioners or staff.

AB 361 provides local agencies with the ability to continue to meet remotely under modified Brown Act requirements during proclaimed state emergencies with the adoption of resolution finding that either:

- 1) Open physical meetings present imminent risks to the health or safety of attendees; *or*
- 2) State/local officials recommend/require measures to promote social distancing.

These criteria permit a local agency to schedule a remote meeting to determine whether meeting in-person during the state of emergency would pose imminent risk to the health or safety of attendees. At that remote meeting, a local agency may determine by majority vote that sufficient risks exist to the health or safety of attendees as a result of the emergency and pass a resolution to that effect. These criteria also permit a local agency to meet remotely in the event that there is a state of emergency declaration while state or local officials have recommended or required measures to promote social distancing.

In compliance with AB 361, the Commission adopted Resolution No. 2021-22-05 on October 4, 2021 authorizing the continued remote meetings for legislative bodies of Mendocino LAFCo for a period of 30 days. AB 361 requires subsequent resolutions be adopted by the Commission every 30 days, finding that the state of emergency declaration remains active, the local agency has thoughtfully reconsidered the circumstances of the state of emergency, and the local agency has either identified A) ongoing, direct impacts to the ability to meet safely in-person or B) active social distancing measures as directed by relevant state or local officials.

Attachment: Draft Resolution 2021-22-06

Resolution No. 2021-22-06
of the Local Agency Formation Commission of Mendocino County

**Re-Ratifying the Proclamation of a State of Emergency by Governor Newsom
On March 4, 2020 to Address the COVID 19 Pandemic, and Re-Authorizing,
Pursuant to AB361, Remote Teleconference Meetings for the Period from
November 4, 2021 to December 4, 2021 Pursuant to Brown Act Provisions**

WHEREAS, the Mendocino Local Agency Formation Commission, hereinafter referred to as the “Commission”, is committed to preserving and nurturing public access and participation in meetings of the Commission; and

WHEREAS, all the meetings of the Commission are open and public, as required by the Ralph M. Brown Act (“Brown Act”) (California Government Code 54950 -54963), so that any member of the public may attend, participate, and watch the Commission conduct business; and

WHEREAS, the Brown Act, Government Code Section 54953(e), makes provisions for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code Section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, a required condition is that a state of emergency is declared by the Governor pursuant to Government Code Section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code Section 8558; and

WHEREAS, a proclamation is made when there is an actual incident, threat of disaster, or extreme peril to the safety of persons and property within the jurisdictions that are within the boundaries of Mendocino County, caused by natural, technological, or human-caused disasters; and

WHEREAS, it is further required that state or local officials have imposed or recommended measures to promote social distancing, or, if the legislative body meeting in person would present imminent risks to the health and safety of attendees, Commissioners and staff; and

WHEREAS, the Commission previously adopted a Resolution, Number 2021-22-05 on October 4, 2021, finding that the requisite conditions exist for the legislative bodies of Mendocino Local Agency Formation Commission to conduct remote teleconference meetings without compliance with paragraph (3) of subdivision (b) of Section 54953; and

WHEREAS, as a condition of extending the use of the provisions found in Section 54953(e), the Commission must reconsider the circumstances of the state of emergency that exists in the County, and the Commission has done so; and

WHEREAS, such conditions now exist in the County of Mendocino, specifically, the State of Emergency proclaimed by Governor Newsom on March 4, 2020, due to the COVID 19 pandemic; and

WHEREAS, the California Department of Public Health and the Mendocino County Public Health Department continues to recommend requiring face coverings in all public indoor settings attributable to the rise in SARS-CoV-2 Delta Variant and the Commission cannot be certain that all persons in attendance at meetings will follow the guidelines or be fully vaccinated; and

WHEREAS, the Commission does hereby find that the rise in SARS-CoV-2 Delta Variant has caused, and will continue to cause, conditions of peril to the safety of persons within the County that are likely to be beyond the control of the Commission or its staff, and desires to proclaim a local emergency exists and ratify the proclamation of emergency by the Governor of the State of California; and

WHEREAS, as a consequence of the local emergency, the Commission does hereby find that the legislative bodies of the Mendocino Local Agency Formation Commission shall continue to conduct their meetings without compliance with Government Code Section 54953(b)(3), as authorized by Section 54953(e), and that such legislative bodies shall comply with the requirements to provide the public with access to meetings as prescribed in Section 54953(e)(2); and

WHEREAS, the Commission provides written agenda that fully describes the process for the public to fully participate in the Commission's virtual meetings to include viewing, listening and commenting in real time on all agenda items; and

NOW, THEREFORE, the Mendocino Local Agency Formation Commission does hereby RESOLVE, DETERMINE, and ORDER as follows:

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. Proclamation of Local Emergency. The Commission hereby proclaims that a local emergency now exists throughout the Commission's jurisdictional boundaries, and the rise in SARS-CoV-2 Delta Variant has caused, and will continue to cause, conditions of peril to the safety of all persons participating in the Commission's meetings that are likely to be beyond the control of the Commission or its staff, equipment, and facilities of the Commission.

Section 3. Ratification of Governor's Proclamation of a State of Emergency. The Commission hereby ratifies the Governor of the State of California's Proclamation of State of Emergency for COVID 19, effective as of its issuance date of March 4, 2020.

Section 4. Remote Teleconference Meetings. The Executive Officer and the Mendocino Local Agency Formation Commission are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including, conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

Section 5. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of December 4, 2021, or such time the Commission adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the legislative body of the Mendocino Local Agency Formation Commission may continue to teleconference without compliance with Section 54953(b)(3).

PASSED and ADOPTED by the Local Agency Formation Commission of Mendocino County this 1st day of November 2021 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

CHARLES A. ORTH, Commission
Chair

ATTEST:

UMA HINMAN, Executive Officer

DRAFT

MENDOCINO Local Agency Formation Commission

Staff Report

MEETING November 1, 2021
TO Mendocino Local Agency Formation Commission
FROM Uma Hinman, Executive Officer
SUBJECT **Sustainable Agricultural Lands Committee Project Update**

RECOMMENDATION

The Commission will receive a report on LAFCo staff's participation in the Sustainable Agricultural Lands Committee grant-funded project.

DISCUSSION

The California Strategic Growth Council's (SGC) Sustainable Agricultural Lands Conservation (SALC) Program is a component of SGC's [Affordable Housing and Sustainable Communities Program](#) (AHSC). SALC complements investments made in urban areas with the purchase of agricultural conservation easements, development of agricultural land strategy plans, and other mechanisms that result in GHG reductions and a more resilient agricultural sector.

The program invests in agricultural land conservation with revenue from the [California Climate Investments \(CCI\) Fund](#), made available for projects that reduce greenhouse gas emissions while providing additional benefits to California communities. CCI is derived from quarterly cap-and-trade auction proceeds, which are administered by the California Air Resources Board.

The Department of Conservation works in cooperation with the Natural Resources Agency and the SGC to implement the program.

The local [Sustainable Agricultural Lands Conservation Program](#) is managed by the Mendocino County Agricultural Commission's Office and Mendocino County Resource Conservation District. Program elements included:

- Prioritizing agricultural conservation values such as important farmlands, agricultural lands at risk of conversion to non-agricultural use, and agricultural lands with high natural resource and habitat values.
- Identifying and addressing barriers to participation in agricultural preservation programs such as agricultural conservation easements and farmland mitigation programs.
- Providing technical assistance to the agricultural community to build climate change resiliency.

In 2015, the Mendocino County Agricultural Commissioner's Office and Mendocino County Resource Conservation District (MCRCD) were awarded funding through the Department of Conservation (DOC) and the Strategic Growth Council to help Mendocino County prepare a [Sustainable Agricultural Lands Strategy](#).

A risk assessment conducted for the report indicated that 90 percent of Prime agricultural land, 85 percent of Farmland of Statewide Importance and 83 percent of Unique farmland are at risk of conversion to residential development. The highest risk areas occur within municipal services boundaries and the Sphere of Influence, or within two miles of these areas in the Ukiah Valley. Additionally, Mendocino County faces a significant housing shortage, which has increased conversion pressure on agricultural lands, compounded by the loss of over 8,000 homes due to wildfires in the North Bay and North Coast regions over the last few years.

In 2020, the Mendocino County Department of Agriculture was awarded a DOC and SGC Agricultural Land Conservation Planning grant to build upon the SALC-funded [Mendocino County Sustainable Agricultural Lands Strategy 2017](#). The Mendocino County Sustainable Ag Lands Committee (the project team) consists of the Agricultural Commissioner's Office, MCRCD, a representative from the Mendocino County Board of Supervisors, Mendocino Land Trust, Inland Mendocino Land Trust, Anderson Valley Land Trust, Mendocino LAFCo, USDA Natural Resources Conservation Service, Mendocino County Farm Bureau, and local farmers and residents.

The goals of this project are to protect valuable agricultural lands while also supporting sustainable housing development and build a sustainable and resilient agricultural community through promotion of climate beneficial farming practices that sequester carbon and reduce GHG emissions. The project will implement key action items recommended in the Ag Lands Strategy and by building community support for a growth management program that acknowledges the value of both housing and important ag land and includes reasonable urban growth boundaries. Recommended action items that will be implemented through the proposed project include the development of an agricultural component for a future countywide Climate Action Plan, the scaling up of a Carbon Farm Plan and Soil Health program and increasing landowner participation in the Williamson Act and conservation easement programs.

The relationship and balance of spheres of influence, housing and agricultural lands makes LAFCo a natural partner in the discussion and process. LAFCo's role in the project consists of the following tasks:

- Lead on Objective 4: Increase communication with stakeholders regarding the coalescence of agricultural land conservation and sustainable housing development
- Attend monthly MCSALC meetings (Task 12)
- Organize and convene stakeholder meetings to explain Ag. Lands Strategy and participate in meetings discussing zoning and housing (Task 13)
- Distribute project-related educational materials (Task 16)

Our contributions to the project have consisted primarily of participation in the monthly team meetings and updating the team on activities including sphere of influence updates and reorganization proposals and processing, particularly as they relate to potential impacts on agricultural lands. Additionally, staff communications with agencies and members of the public regarding these activities have accounted for much of the match funding requirement for the project (see below).

Staff has also participated in the development of fact sheets, which can be found on the project website:

- [Ag Lands Committee Fact Sheet](#)
- [Conservation Easements Fact Sheet](#)
- [Williamson Act Fact Sheet](#)

Grant budget

The overall grant funding award was \$251,730, of which \$43,130 is match funding. The budget is allocated amongst the team agencies and consultants as follows:

Agency/Consultant	SALC Grant Award (\$)	Match Funding (\$)	Total Funding (\$)
Mendocino County Ag Dept	10,000	12,500	22,500
MCRCO	94,800	4,430	99,230
MLT	10,200	3,400	13,600
IMLT	10,200	3,400	13,600
AVLT	10,200	3,400	13,600
LAFCo	10,200	4,000	14,200
Environmental Consultant	30,000	0	30,000
Website Database Consultant	12,000	0	12,000
NRCS	0	8,000	8,000
Mendocino County Farm Bureau	0	4,000	4,000
Subtotal	187,600	43,130	230,730
Operating Expenses	15,000		15,000
Total Project Cost	208,600	43,130	251,730

LAFCo's budget for the project is \$14,200, of which \$4,000 is match funding. The match funding is documented related work carried out in the normal course of duties. For example, meetings with agencies to discuss spheres of influence and agricultural preservation qualifies as match activities. Documentation consists of a brief summary of the meeting(s) and identification of time.

LAFCo Tracking	Grant Funding (\$)	Match (\$)	Totals (\$)
Budget	10,200	4,000	14,200
Billed/Documented to Date	1,425	3,920	5,345
Remaining Budget	8,775	280	9,055

Due to LAFCo workload, staff has not been able to utilize the project budget allocation as much as anticipated. However, the match requirement has been met and we continue to participate in the project as much as staff capacity allows.

The County of Mendocino is in the process of requesting a no-cost schedule extension and budget adjustment to ensure all objectives and deliverables of the project are fully completed. The adjustments are being requested due to COVID-related travel restrictions, reorganizing in-person workshops, and changes in key personnel. The request is to extend the project deadline to April 2022, with all deliverables due March 31, 2022.

Attachments:
None

**MENDOCINO
Local Agency Formation Commission**

Staff Report

MEETING November 1, 2021
TO Mendocino Local Agency Formation Commission
FROM Uma Hinman, Executive Officer
SUBJECT **CALAFCO White Paper Entitled “The Metamorphosis of Special Districts: Current Methods for Consolidation, Dissolution, Subsidiary District Formation and Merger”**

RECOMMENDATION

The Commission will receive an informational report on the recently updated *The Metamorphosis of Special Districts: Current Methods for Consolidation, Dissolution, Subsidiary District Formation and Merger* memorandum prepared for CALAFCO. No action is necessary.

DISCUSSION

CALAFCO’s White Paper on “The Metamorphosis of Special Districts: Current Methods for Consolidation, Dissolution, Subsidiary District Formation and Merger” was developed by CALAFCO partners Best, Best, and Krieger. The White Paper is intended to provide updated overview of typical methods for reorganization of special districts. A brief history and procedure for each method are discussed along with an outline of the Factors to be considered, and application contents.

The White Paper has been posted on our website for public access: <https://www.mendolafco.org/publications>.

Attachments: White Paper entitled “The Metamorphosis of Special Districts: Current Methods for Consolidation, Dissolution, Subsidiary District Formation and Merger”

Updated: July 1, 2021

MEMORANDUM

TO: CALAFCO
FROM: Clark A. Alsop
Paula C.P. de Sousa
William C. Shepherd
RE: CALAFCO: The Metamorphosis of Special Districts: Current Methods for Consolidation, Dissolution, Subsidiary District Formation and Merger

This Memorandum is intended to provide an updated overview of the typical methods for the reorganization of special districts. Of course, the procedures and processes for the consolidation, dissolution, merger and establishment of a subsidiary district may take various forms not delineated herein. Each Local Agency Formation Commission (“LAFCO”) should work with its legal counsel to follow appropriate procedures.

QUESTIONS PRESENTED

1. What are the various ways a special district may be modified under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Gov. Code § 56000 *et seq.*)¹ (the “Act”)?
2. How does the Act restrict the processes to modify special districts?

SHORT ANSWERS

1. Districts may be modified through the following means or combination thereof:
 - A. Consolidation;
 - B. Dissolution, including Dissolution with Annexation;
 - C. Merger;
 - D. Establishment of a Subsidiary District.
2. These specific limitations apply to some of the processes listed above:
 - A. Consolidation: Historically, only districts formed under the same principal acts could be consolidated. As of 2005, the consolidation of two or more special districts not formed pursuant to the same principal act is permitted subject to certain procedures.
 - B. Merger: A city must consent to a merger affecting its territory whether LAFCO initiates it or the voters approved it.
 - C. Establishment of a Subsidiary District: A subsidiary district may be established only if it meets certain statutory requirements regarding the amount of subsidiary

¹ All further citations are to the Government Code unless otherwise specified.
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district territory and the number of district voters within the governing city's territory. Additionally, a city must consent to establishment of a subsidiary district affecting its territory.

DISCUSSION

A. CONSOLIDATION

1. Brief History

In 1986, the State Legislature amended the Act to include, in part, a definition for the term "consolidation." Under the Act, a "consolidation" is defined as "the uniting or joining of two or more . . . districts into a single new successor district." (§ 56030.) Prior to January 1, 2005,² only districts formed pursuant to the same principal act could consolidate. Now, the Act permits consolidation of two or more special districts not formed pursuant to the same principal act if certain procedures are followed. Additionally, as of July 1, 1994, LAFCOs have had the power to initiate proposals to consolidate districts. (§ 56375(a).) Before 1994, only districts or petitioners could initiate a consolidation proceeding.

Sections 56859 and 56860 require that proceedings to form a consolidated district must be conducted as authorized in the principal act of the district to be formed. (§ 56859.) However, Section 56100 specifies that for purposes of reorganization, LAFCO serves as the conducting authority and that the reorganization provisions of the Act prevail over any conflicting laws in the principal act of the district, subject to a commission determination.³

2. LAFCO-Initiated Consolidation

LAFCO may only initiate a consolidation that is consistent with a recommendation or conclusion of a study prepared pursuant to Sections 56378, 56425, or 56430 and the LAFCO determinations specified in Section 56881(b). (§ 56375(a)(3).) Sections 56378, 56425, and 56430 require LAFCO to study existing agencies and make determinations regarding spheres of influence, and to conduct service reviews of the municipal services provided in the area under review.

Section 56881(b) requires LAFCO to make both the following determinations with regard to a proposed LAFCO-initiated consolidation:

- (1) Public service costs of a proposal LAFCO is authorizing are likely to be less than or substantially similar to the costs of alternate means of providing the service; and

² Assembly Bill 2067, passed on September 10, 2004 and effective January 1, 2005, amended Section 56030 to permit consolidation of districts not formed pursuant to the same principal act. The Bill contained a sunset provision reinstating the prior law on July 1, 2008, but Senate Bill 819, passed July 20, 2007, deleted the sunset provision effective January 1, 2008.

³ The California Legislature enacted a significant overhaul of California's Public Employee retirement system in 2013. The effects of that legislation on special district employees as a result of reorganizations is beyond the scope of this paper.

- (2) Consolidation promotes public access and accountability for community services needs and financial resources.

Although not required, where LAFCO initiates a consolidation, Section 56827(c) “encourages” LAFCO to utilize a reorganization committee to review the consolidation proposal. Section 56668 requires LAFCO to consider the factors set forth in Appendix “A” to this Memorandum in evaluating the consolidation proposal. LAFCO may also impose terms and conditions pursuant to Sections 56885.5 and 56886. It is important to keep in mind that if a conflicting proposal is submitted to LAFCO within 60 days of the submission of the original consolidation proposal, LAFCO cannot approve the original consolidation proposal until it considers the second conflicting proposal. (§ 56657.)

a. Protest/Election/Certificate of Completion

LAFCO must provide notice and hold a public protest hearing in the affected territory for a LAFCO-initiated consolidation. (§ 57008.) The protest hearing must be noticed pursuant to Section 57025 (regarding method and timing of notice) and Section 57026 (regarding content of notice). At any time prior to the conclusion of the protest hearing, any registered voter within inhabited territory that is the subject of a proposed consolidation, or any owner of land within inhabited or uninhabited territory subject to a proposed consolidation, may file a written protest against the consolidation. (§ 57051.)

LAFCO is not required to place the LAFCO-initiated consolidation before the voters unless written protests have been filed in accordance with the requirements of Section 57113. (§57077.2(b)(4).) For changes of organization consisting of consolidation of two or more districts, Section 57113 requires that LAFCO submit a consolidation to the voters if LAFCO receives protests signed by either of the following:

- (a) In the case of inhabited territory, protests have been signed by either of the following:
 - (1) At least 10 percent of the number of landowners within any subject agency within the affected territory who own at least 10 percent of the assessed value of land within the territory. However, if the number of landowners within a subject agency is less than 300, the protests shall be signed by at least 25 percent of the landowners who own at least 25 percent of the assessed value of land within the territory of the subject agency.
 - (2) At least 10 percent of the voters entitled to vote as a result of residing within, or owning land within, any subject agency within the affected territory. However, if the number of voters entitled to vote within a subject agency is less than 300, the protests shall be signed by at least 25 percent of the voters entitled to vote.

- (b) In the case of a landowner-voter district, the territory is uninhabited and protests have been signed by at least 10 percent of the number of landowners within any subject agency within the affected territory, who own at least 10 percent of the assessed value of land within the territory. However, if the number of landowners entitled to vote within a subject agency is less than 300, protests shall be signed by at least 25 percent of the landowners entitled to vote.

(§ 57113(a) and (b) (emphasis added).) For LAFCO-initiated proposals, the method of and formula for calculating protests are the same regardless of whether a resolution of objection is filed by a subject agency. (§ 57077.2(b)(4).)

If a sufficient protest is made, LAFCO is required to submit the consolidation to the voters. LAFCO’s resolution must designate the territory in which the elections will be held, provide the question to be submitted to the voters, specify any consolidation terms and conditions, and state the vote required to confirm the consolidation. (§§ 57115, 57118.) The election will be held within the territory of each district ordered to be consolidated. (§ 57118(a).) The election procedures and requirements are set forth in Section 57125 et seq.

If an election is held and the votes cast in favor of the consolidation do not constitute a majority in any of the districts ordered to be consolidated, LAFCO must adopt a certificate of termination of proceedings. (§§ 57177.5(b), 57179.) However, if the majority of the voters in both districts ordered to be consolidated vote in favor of consolidation, LAFCO must execute a certificate of completion confirming the order of consolidation. (§ 57177.5(a).) If no election is required to be held, the LAFCO Executive Officer must still execute a certificate of completion and make the requisite filings. (§ 57200.)

b. Effect of Consolidation⁴

After the LAFCO Executive Officer files the requisite certificate of completion, the consolidated district succeeds to all the “powers, rights, duties, obligations, functions, and properties of all predecessor districts” which consolidated to form the consolidated district. (§57500.) Included in these rights and duties is liability of the consolidated district for all debts of the predecessor districts. (§ 57502.) The consolidated district “steps into the shoes” of the predecessor districts because it is as if the “consolidated district had been originally formed under the principal act.” (§ 57500.)

⁴ This section of the Memorandum summarizes the default general conditions applicable to consolidations, as set out in Section 57500 et seq. Pursuant to Section 57302, these general conditions only apply if LAFCO does not impose any of the specific terms and conditions authorized under Section 56886. In the event LAFCO does impose terms and conditions under Section 56886, Section 57302 states that those terms and conditions become the “exclusive terms and conditions of the change of organization or reorganization and shall control over the general provisions of this part.” The language in Section 57302 conflicts with revisions to Section 56886 that became effective in 2015, which specify that terms and conditions imposed under Section 56886 “shall prevail in the event of a conflict between a specific term and condition authorized [pursuant to Section 56866] and any of the general provisions [set out at Section 57300 et seq.].” The Legislative Committee of the California Association of Local Agency Formation Commissions (“CALAFCO”) will undertake a review of the inconsistencies between Sections 56886 and 57302.

c. Effective Date

Finally, the consolidation’s effective date is the date set forth in LAFCO’s resolution, so long as it is neither earlier than the date the certificate of completion is executed, nor later than nine months after an election in which the majority of voters vote for the consolidation. (§ 57202(a).) If LAFCO’s resolution does not establish an effective date, the consolidation is effective on the date the consolidation is recorded by the county recorder, or if there are two counties involved, on the last date of recordation. (§ 57202(c).)

3. District-Initiated Consolidation

a. Initiated by One District

The legislative body of a district wishing to consolidate with another district must submit a Resolution of Application to the LAFCO Executive Officer of the principal county. (§ 56658(a).) The Application must contain the components set forth in Appendix “B” to this Memorandum, which include, in part, a Resolution of Application (see Appendix “C”) and a Plan for Providing Services (see Appendix “D”).

At least five days before the hearing, the Executive Officer must prepare a report on the Application, including his or her recommendation on the Application, and must give a copy of the report to every affected district, agency, and city. (§ 56665.) At the hearing, LAFCO hears and receives written and oral protests and evidence as well as the Executive Officer’s report and the Plan for Providing Services. (§ 56666.) Section 56668 requires LAFCO to consider the factors set forth in Appendix “A” to this Memorandum in evaluating the proposal to consolidate. LAFCO may also impose terms and conditions pursuant to Sections 56885.5 and 56886. It is important to keep in mind that if a conflicting proposal is submitted to LAFCO within 60 days of the submission of the consolidation proposal, LAFCO cannot approve the original consolidation proposal until it considers the conflicting proposal. (§ 56657.)

i. Protest/Election/Certificate of Completion

Where a subject agency has not objected by resolution, the voter/landowner petition requirements for written protest are subject to Section 57077.2(b)(2). (§ 57077.2.) Section 57077.2(b)(2) provides that the applicable protest threshold is the threshold set out in Section 57077.2(b)(1)(A) and (B), i.e.:

- (A) In the case of inhabited territory, protests have been signed by either of the following:
 - (i) At least 25 percent of the number of landowners within the territory subject to the consolidation who own at least 25 percent of the assessed value of land within the territory.
 - (ii) At least 25 percent of the voters entitled to vote as a result of residing within, or owning land within, the territory.

- (B) In the case of a landowner-voter district, the territory is uninhabited and protests have been signed by at least 25 percent of the number of landowners within the territory subject to the consolidation, owning at least 25 percent of the assessed value of land within the territory.

To summarize, where a subject agency does not object to the consolidation, the protest is measured in the entire affected territory.

(Id.) On the other hand, if a subject agency does file a resolution of objection, then the method of, and formula for, calculating protests are set forth in Section 57077.2(b)(3), which provides:

- (A) In the case of inhabited territory, protests have been signed by either of the following:
 - (i) At least 25 percent of the number of landowners within any subject agency within the affected territory who own at least 25 percent of the assessed value of land within the territory.
 - (ii) At least 25 percent of the voters entitled to vote as a result of residing within, or owning land within, any subject agency within the affected territory.
- (B) In the case of a landowner-voter district, the territory is uninhabited, and protests have been signed by at least 25 percent of the number of landowners within any subject agency within the affected territory, owning at least 25 percent of the assessed value of land within the subject agency.

(Id. (emphasis added).) Notably, where a subject agency has objected, the protest calculation is measured/calculated within any subject agency within the affected territory, as compared to measuring/calculating protests within the entire territory subject to consolidation, as is the case for consolidations without subject agency objection. Regardless, if LAFCO is required to submit a consolidation to the voters pursuant to either Section 57077.2(b)(2) or Section 57077.2(b)(3) protest thresholds, then the election must be held within the territory of each district ordered to be consolidated. (§57118(a).) LAFCO’s resolution must provide the question to be submitted to the voters, specify any consolidation terms and conditions, and state the vote required to confirm the consolidation. (§ 57115.) The election procedures and requirements are set forth in Section 57125 et seq.

If an election is held and the votes cast in favor of the consolidation do not constitute a majority in any one of the districts ordered to be consolidated, LAFCO must adopt a certificate of termination of proceedings. (§§ 57177.5(b), 57179.) However, if the majority of the voters in the districts ordered to be consolidated vote in favor of consolidation, LAFCO must execute a certificate of completion confirming the order of consolidation. (§ 57177.5(a).) If no election is

required to be held, the LAFCO Executive Officer must still execute a certificate of completion and make the requisite filings. (§ 57200.)

ii. Effect of Consolidation⁵

After the LAFCO Executive Officer files the certificate of completion, the consolidated district succeeds to all the “powers, rights, duties, obligations, functions, and properties of all predecessor districts” which consolidated to form a consolidated district. (§ 57500.) Included in these rights and duties is liability of the consolidated district for all debts of the predecessor districts. (§ 57502.) The consolidated district “steps into the shoes” of the predecessor districts because it is as if the “consolidated district had been originally formed under the principal act.” (§ 57500.)

iii. Effective Date

The consolidation’s effective date is the date set forth in LAFCO’s resolution, so long as it is neither earlier than the date the certificate of completion is executed, nor later than nine months after an election in which the majority of voters vote for the consolidation. (§ 57202(a).) If LAFCO’s resolution does not establish an effective date, the consolidation is effective on the date the consolidation is recorded by the county recorder, or if there are two counties involved, on the last date of recordation. (§ 57202(c).)

b. Initiated by Two or More Districts

Consolidation may also be initiated by the legislative bodies of two or more special districts. In order to start the consolidation process, the districts must adopt “substantially similar” Resolutions of Application to consolidate the districts. (§ 56853(a).) The Application must contain the components set forth in Appendix “B” to this Memorandum, which include, in part, a Resolution of Application (see Appendix “C”) and a Plan for Providing Services (see Appendix “D”).

LAFCO may change the terms of the consolidation set forth in the districts’ proposal. (§ 56853(b).) However, after any material modification to any of the terms of the consolidation proposal, LAFCO must provide mailed written notice of the change to the districts and cannot move forward on the consolidation for 30 days following that mailing without the districts’ written consent. (§ 56853(b).) During this 30 day time period, either district may file a written demand with the LAFCO Executive Officer, demanding that LAFCO make determinations only after notice and hearing on the proposals. If no written demand is made by either district, LAFCO may make those determinations without notice or a hearing. However, LAFCO cannot make any changes that would delete or add districts to the proposed consolidation without the written consent of the applicant districts. (§ 56853(c).)⁶

⁵ See, Footnote 4.

⁶ “The application of any provision of this subdivision may be waived by consent of all the subject agencies.” (§ 56853(b).)

i. Protest/Election/Certificate of Completion

Upon receiving the districts' proposals to consolidate, LAFCO must approve, or conditionally approve, the consolidation unless LAFCO receives a protest petition from the statutorily-mandated number of landowners/voters required to submit the consolidation to an election, as described below. (§ 56853(a).) Moreover, if a conflicting proposal is submitted to LAFCO within 60 days of the submission of the proposal to consolidate, LAFCO cannot approve the proposal to consolidate until it considers the conflicting proposal. (§ 56657.)

LAFCO will order consolidation subject to confirmation of the voters, if it receives protests meeting the voter/landowner requirements of Section 57077.2(b)(1). (§ 57077.2.) Section 57077.2(b)(1) sets forth the following protest threshold:

- (A) In the case of inhabited territory, protests have been signed by either of the following:
 - (i) At least 25 percent of the number of landowners within the territory subject to the consolidation who own at least 25 percent of the assessed value of land within the territory.
 - (ii) At least 25 percent of the voters entitled to vote as a result of residing within, or owning land within, the territory.
- (B) In the case of a landowner-voter district, the territory is uninhabited and protests have been signed by at least 25 percent of the number of landowners within the territory subject to the consolidation, owning at least 25 percent of the assessed value of land within the territory.

(§ 57077.2 (b)(1).)

If sufficient protest requires LAFCO to submit a consolidation to the voters as calculated pursuant to Section 57077.2(b)(1), the election will be held within the territory of each district ordered to be consolidated. (§ 57118(a).) LAFCO's resolution must provide the question to be submitted to the voters, specify any consolidation terms and conditions, and state the vote required to confirm the consolidation. (§ 57115.) The election procedures and requirements are set forth in Section 57125 et seq.

If an election is held and the votes cast in favor of the consolidation do not constitute a majority within the territory of any district ordered to be consolidated, LAFCO must adopt a certificate of termination of proceedings. (§§ 57177.5(b), 57179.) However, if the majority of the voters in both districts ordered to be consolidated vote in favor of consolidation, the LAFCO Executive Officer must execute a certificate of completion confirming the order of consolidation. (§ 57177.5(a).) If no election is required to be held, LAFCO must still execute a certificate of completion and make the requisite filings. (§ 57200.)

ii. *Effect of Consolidation*⁷

After the LAFCO Executive Officer files the requisite certificate of completion, the consolidated district succeeds to all the “powers, rights, duties, obligations, functions, and properties of all predecessor districts” which were consolidated to form a consolidated district. (§ 57500.) Included in these rights and duties, a consolidated district becomes liable for all debts of the predecessor districts. (§ 57502.) The consolidated district “steps into the shoes” of the predecessor districts because it is as if the “consolidated district had been originally formed under the principal act.” (§ 57500.)

iii. *Effective Date*

Finally, the effective date of the consolidation is the date set forth in LAFCO’s resolution, so long as it is neither earlier than the date the certificate of completion is executed, nor later than nine months after an election in which the majority of voters approved the consolidation. (§ 57202(a).) If LAFCO’s resolution does not establish an effective date, the consolidation is effective on the date the consolidation is recorded by the county recorder, or if there are two counties involved, on the last date of recordation. (§ 57202(c).)

4. Petition-Initiated Consolidation

Special districts may be consolidated by petition signed by the requisite number of registered voters or landowners, depending upon the specifics of the district’s statutory authorization. Prior to circulating any petition, however, the proponents for change of organization must file a notice of intention to circulate a petition with LAFCO.⁸ (§ 56700.4(a).) After a notice of intention to circulate the petition is filed, the petition may be circulated for the appropriate signatures. (§ 56700.4(b).) For a consolidation, voters or landowners must sign a petition as follows:

- (a) For registered voter districts, by not less than 5 percent of the registered voters within each of the several districts.
- (b) For landowner-voter districts, by landowner-voters within each of the several districts constituting not less than 5 percent of the number of landowner-voters owning land within each of the several districts and who also own not less than 5 percent of the assessed value of land within each of the several districts.

(§ 56865.)

The petitioners must submit an Application for consolidation to the LAFCO Executive Officer of the principal county. (§ 56658(a).) Like a Resolution of Application filed by districts wishing to consolidate, the Application must contain those elements set forth in Appendix “B” to this Memorandum. Additionally, the petition must contain all of the requirements delineated in

⁷ See, Footnote 4.

⁸ However, Section 56700.4 does not apply to any petition signed by landowners if all parcels within the affected territory are vested under the same ownership. (§ 56700.4(e).)

Section 56700(a) attached to this Memorandum as Appendix “C.” Within 30 days, excluding Saturdays, Sundays, and holidays, after the date of receiving a petition, the Executive Officer must cause the petition to be reviewed by either the Registrar of Voters or County Assessor, and must “prepare a certificate of sufficiency indicating whether the petition is signed by the requisite number of signers.” (§ 56706(a).) Once an application is deemed complete by the Executive Officer, the Executive Officer issues a certificate of filing to the applicant. (§ 56658(d)-(h).) Within 90 days of issuing the certificate of filing, the Executive Officer must set a hearing. (§ 56658(h).)

Before LAFCO may take action on a proposal to consolidate, LAFCO must hold a public hearing on the proposal. (§ 56662(b).) Section 56668 requires LAFCO to consider the factors set forth in Appendix “A” to this Memorandum in evaluating the proposal to consolidate. LAFCO may also impose terms and conditions pursuant to Section 56885.5 and 56886.

a. Protest Election/Certificate of Completion

LAFCO is still not required to place the consolidation before the voters unless written protests have been filed meeting 1) the threshold in Section 57077.2(b)(2), if a subject agency has not objected by resolution to the proposal, or 2) the threshold in Section 57077.2(b)(3), if a subject agency has objected by resolution to the proposal. (§ 57077.2(a).) These threshold limits are described in greater detail in Section A(3) of this Memorandum, above.

If LAFCO is required to submit a consolidation to the voters pursuant to Section 57077.2(b)(2), the election will be held within the territory of each district ordered to be consolidated. (§ 57118(a).) LAFCO’s resolution must provide the question to be submitted to the voters, specify any consolidation terms and conditions, and state the vote required to confirm the consolidation. (§ 57115.) The election procedures and requirements are set forth in Section 57125 et seq.

If an election is held and the votes cast in favor of the consolidation do not constitute a majority within the territory of any subject district, LAFCO must adopt a certificate of termination of proceedings. (§§ 57177.5(b), 57179.) However, if the majority of the voters in each district vote to consolidate the districts, LAFCO must execute a certificate of completion confirming the order of consolidation. (§ 57177.5(a).) If no election is required to be held, LAFCO must still execute a certificate of completion and make the requisite filings. (§ 57200.)

b. Effect of Consolidation⁹

After the LAFCO Executive Officer files the requisite certificate of completion, the consolidated district succeeds to all the “powers, rights, duties, obligations, functions, and properties of all predecessor districts” which consolidated to form a consolidated district. (§ 57500.) Included in these rights and duties, a consolidated district becomes liable for all debts of the predecessor districts. (§ 57502.) The consolidated district “steps into the shoes” of the predecessor districts because it is as if the “consolidated district had been originally formed under the principal act.” (§ 57500.)

⁹ See, Footnote 4.

c. Effective Date

Finally, the consolidation's effective date is the date set forth in LAFCO's resolution, so long as it is neither earlier than the date the certificate of completion is executed, nor later than nine months after an election in which the majority of voters vote for the consolidation. (§ 57202(a).) If LAFCO's resolution does not establish an effective date, the consolidation is effective on the date the consolidation is recorded by the county recorder, or if there are two counties involved, on the last date of recordation. (§ 57202(c).)

5. Additional Procedures for Consolidation of Districts Not Formed by Same Principal Act

Districts not formed under the same principal act may be consolidated if certain procedures are followed. In the past, only districts formed under the same principal act could be consolidated into a single district. For instance, under the former law, two municipal water districts could consolidate but an irrigation district and a municipal water district could not, even though they may have exercised many of the same powers and duties. After the 2004 and 2007 amendments,¹⁰ the Act now permits the consolidation of two or more special districts not formed pursuant to the same principal act. For example, an irrigation district may consolidate with a municipal water district through LAFCO-initiated, district-initiated, or petition-initiated procedures as outlined above, subject to the following additional requirements and limitations.

a. LAFCO-Initiated Consolidation

As outlined in Section A(2) above, LAFCO may initiate a consolidation of districts. Where LAFCO initiates a consolidation of two or more special districts not formed pursuant to the same principal act, the proposal must be consistent with a recommendation or conclusion of a study prepared pursuant to Section 56378 or the written statement of determinations specified in Section 56430(a). (§ 56826.5(b).) The proposal must also ensure that services currently provided by both districts will not be hampered, that public services costs of the proposal are likely to be less than, or substantially similar to the costs of alternate means of providing the service, and that the consolidation promotes public access and accountability for community service needs and financial resources. (§ 56826.5(b)(1) – (3).)

b. District-Initiated Consolidation

As outlined in Section A(3)(a) and A(3)(b) above, special districts may initiate consolidation by resolution of application—by one district or jointly by two or more districts. In addition to all of the requirements delineated in Section 56700(a) and attached to this Memorandum as Appendix “C,” Section 56700(b) requires that an Application for consolidation of districts not formed pursuant to the same principal act must either:

¹⁰ Assembly Bill 2067, passed on September 10, 2004 and effective January 1, 2005, amended Section 56030 to permit consolidation of districts not formed pursuant to the same principal act. The Bill contained a sunset provision reinstating the prior law on July 1, 2008. Senate Bill 819 deleted the sunset provision effective January 1, 2008.

- (1) Designate the district that shall be the successor and specify under which principal act the successor shall conduct itself; or
- (2) State that the proposal requires the formation of a new district and includes a plan for services prepared pursuant to Section 56653.

c. Petition-Initiated Consolidation

As outlined in Section A(4) above, special districts may be consolidated by petition signed by the requisite number of registered voters or landowners, depending upon the specifics of the district’s statutory authorization. Proponents must file a notice of intention with LAFCO, circulate a petition for signatures, and submit an Application for consolidation.¹¹ (§ 56700.4(a) and (b); § 56865(a) and (b).) In addition to all of the requirements delineated in Section 56700(a) and attached to this Memorandum as Appendix “C,” the Application for consolidation of districts not formed pursuant to the same principal act must do either of the following:

- (1) Designate the district that shall be the successor and specify under which principal act the successor shall conduct itself; or
- (2) State that the proposal requires the formation of a new district and includes a plan for services prepared pursuant to Section 56653.

(§ 56700(b).)

d. Limitations on Consolidation of Districts Not Formed Under Same Act

LAFCO may approve a proposal for reorganization that includes the consolidation of two or more special districts not formed pursuant to the same principal act only if both the following conditions are met:

- (1) The commission is able to designate a successor or successors, or form a new district or districts, authorized by their respective principal acts to deliver all of the services provided by the consolidating districts at the time of consolidation.
- (2) The commission determines that public services costs of the proposal are likely to be less than or substantially similar to the costs of alternate means of providing the service, and the consolidation promotes public access and

¹¹ See, Footnote 8.

accountability for community service needs and financial resources.

(§ 56826.5(a); § 56881(b).) The Act also requires LAFCO to determine whether any service provided at the time could be discontinued due to a lack of authority under the principal act of the successor. (§ 56886.5(b).) For example, an irrigation district and municipal water district may not be consolidated into a single irrigation district if the laws governing the resulting irrigation district would not allow it to perform all the functions of the extinguished water district. In this case, the commission shall consider the formation of a new district that is authorized to provide the service or services. (Id.)

B. DISSOLUTION

1. Brief History

As a result of the Gotch Amendment (AB 1335) to the Cortese-Knox Local Government Reorganization Act of 1985, proposals to dissolve a special district may be initiated by LAFCO itself. (§ 56000.) The purpose of the Gotch Amendment was to consolidate overlapping districts into a more coherent system of local government or dissolve districts that have outlived their purpose. However, by 2000, five years after the passage of the Gotch Amendment, only one LAFCO-initiated proposal had led to the dissolution of a special district. (Little Hoover Commission, Special Districts: Relics of the Past or Resources for the Future? 9 (2000).)

The Act defines “dissolution” as:

The disincorporation, extinguishment, or termination of the existence of a district and the cessation of all its corporate powers, except as the commission may otherwise provide pursuant to Section 56886 or for the purpose of winding up the affairs of the district.

(§ 56035.)

At present, the procedures for a dissolution may be commenced by the district, by petition, or by LAFCO itself.

2. LAFCO-Initiated Dissolution

LAFCO can initiate dissolution of a district pursuant to Section 56375(a)(2)(B), or, after a 2018 amendment, LAFCO can initiate dissolution of an inactive district pursuant to Section 56375(a)(2)(G).

a. LAFCO-Initiated Dissolution of a District

A dissolution may be initiated by LAFCO if it is consistent with a recommendation or conclusion of a study prepared pursuant to Sections 56378, 56425, or 56430, and LAFCO makes the determinations specified in Section 56881(b). (§ 56375(a)(3).) Sections 56378, 56425, and

56430 require LAFCO to study existing agencies and make determinations regarding spheres of influence and conduct service reviews of the municipal services provided in the area for review.

Section 56881(b) requires LAFCO to make both of the following determinations with regard to the proposed dissolution:

- (1) Public service costs of a proposal that LAFCO is authorizing are likely to be less than or substantially similar to the costs of alternate means of providing the service.
- (2) The proposed dissolution promotes public access and accountability for community services needs and financial resources.

Before LAFCO may dissolve a district, LAFCO must hold a public hearing on the dissolution proposal. (§ 56662(b).) Section 56668 requires LAFCO to consider the factors set forth in Appendix “A” to this Memorandum in evaluating the proposal to dissolve a district.

i. Protest/Election/Certificate of Completion

LAFCO is not required to place the dissolution before the voters, unless the required written protests have been filed as set out in Section 57113. (§ 57077.1(b)(3).) These threshold limits are detailed in Section A(2)(a) of this Memorandum, above. Additionally, if a change of organization only consists of a single dissolution, and the dissolution is “consistent with a prior action of the commission pursuant to Sections 56378, 56425, or 56430,¹² the commission may” order the dissolution without an election after “holding at least one noticed public hearing, and after conducting protest proceedings in accordance with this part.” (§ 57077.1(c)(2).) However, LAFCO must terminate proceedings entirely if a majority protest exists pursuant to Section 57078. (Id.)

If the requirements of Section 57077.1(c) are not met, and if a sufficient protest is made, LAFCO is required to submit the dissolution to the voters.¹³ LAFCO’s resolution must designate

¹² Sections 56378, 56425, and 56430 require LAFCO to study existing agencies and make determinations regarding spheres of influence, and to conduct service reviews of the municipal services provided in the area under review.

¹³ Section 57102, however, permits the commission to order the dissolution without an election (except in the case of a hospital district dissolution) if it makes any of the following findings specified in Section 57102. Section 57102 provides as follows:

- a) In any resolution ordering a dissolution, the commission shall make findings upon one or more of the following matters:
 - (1) That the corporate powers have not been used, as specified Section 56871, and that there is a reasonable probability that those powers will not be used in the future.
 - (2) That the district is a registered-voter district and is uninhabited.
 - (3) That the board of directors of the district has, by unanimous resolution, consented to the dissolution of the district.
 - (4) That the commission has authorized, pursuant to subdivision (a) of Section 57077.1, the dissolution of the district without an election.
- (b) If the commission makes any of the findings specified in subdivision (a), the commission may, except as otherwise provided in Section 57103, order the dissolution of the district without election.

the territory in which the elections will be held (which, in the case of a district dissolution, is the territory of the district ordered to be dissolved), provide the question to be submitted to the voters, specify any dissolution terms and conditions, and state the vote required to confirm the dissolution. (§§ 57115 & 57118.) The election procedures and requirements are set forth in Section 57125 *et seq.*

If an election is held and the votes cast in favor of the dissolution do not constitute a majority, LAFCO must adopt a certificate of termination proceedings. (§ 57179.) However, if the majority of the voters vote for the dissolution of a district, LAFCO must execute a certificate of completion confirming the order of dissolution. (§ 57176.) If no election is required to be held, the LAFCO Executive Officer must still execute a certificate of completion and make the requisite filings. (§ 57200.)

b. Alternative—LAFCO Dissolution of an Inactive District

Starting in 2018, the Legislature enacted an alternative to the above proceedings for LAFCO initiated dissolution of *inactive* districts. (See §§ 56375(a)(2)(G); 56879.) This 2018 amendment obligates LAFCO to dissolve inactive districts under special proceedings. (§ 56879.) The Controller annually creates a list of special districts it determines to be inactive and notifies LAFCO in the county or counties of the inactive districts. (§ 56879(a).) Unless LAFCO disagrees with the district’s inactive status, as that status is defined in Section 56042, LAFCO must initiate dissolution within 90 days of notification from the Controller. (§ 56879(b).) LAFCO must hold one public hearing on the dissolution of an inactive district within 90 days of adoption of the resolution initiating dissolution. (§ 56879(c).)

Dissolution of inactive districts is streamlined. First, the dissolution is not subject to many of the usual requirements set forth in Part 4, which governs protest proceedings (including hearings, protests, elections, and actions by the conducting authority). (§ 56879(c)(1).) Second, the dissolution is not subject to the LAFCO determinations of Section 56881(b), discussed above, that ordinarily require LAFCO to make determinations regarding public service costs, public access, and accountability. (§ 56879(c)(2).) Third, the dissolution is not subject to the requirements for commission-initiated changes of organization in 56375(a)(3), discussed above, which ordinarily require that a LAFCO-initiated dissolution be consistent with a recommendation or conclusion of a study prepared pursuant to Sections 56378, 56425, or 56430. Sections 56378, 56425, and 56430 ordinarily require LAFCO to study existing agencies and make determinations regarding spheres of influence and conduct service reviews of the municipal services provided in the area for review. (§ 56879(c)(3).)

However, LAFCO is still responsible for executing a certificate of completion and making the requisite filings, pursuant to Chapter 8 of Part 4, commencing with Section 57200. (*See* § 56879(c)(1).)

Hospital districts can be dissolved without confirmation by the voters if dissolution of the local hospital district meets the requirements set forth in Section 57077.1(c). (§ 57103.) Section 57077.1(c) recognizes this, providing that Section 57077.1(c) applies “notwithstanding” the election requirements of Section 57103.

Similarly, the requirement provisions of Section 57077.1(c) control over the provisions of Section 57102, as applicable.

c. Effect of Dissolution¹⁴

After the LAFCO Executive Officer files the requisite certificate of completion, the dissolved district is extinguished and all of its corporate powers cease except to wind up the affairs of the district, or as required by a term or condition imposed on the dissolution by LAFCO. (§ 57450.) If the terms and conditions of the dissolution call for annexation of the district into a single existing district, the remaining assets of the dissolved district are distributed to the existing successor district. (§§ 57451(d), 56886.) If the dissolution calls for annexation and distribution of remaining assets of a dissolved district into two or more existing districts, then the existing district containing the greater assessed value of all taxable property within the territory of the dissolved district shall become the successor district. (§ 57451(e).) For dissolution without annexation, a city or county will become the successor agency for the district depending on which one contains the greatest assessed value of all taxable property within the territory of the dissolved district. (§ 57451(c).) A successor agency collects the dissolved district's assets and is empowered to wind up the business of the district - ensuring that all debts are paid, distributing assets and all other lawful purposes for the benefit of the lands, inhabitants and taxpayers within the territory of the dissolved district, as far as practicable. (§ 57452.) In the case of dissolution with annexation, the successor agency "steps into the shoes" of the former district and assumes its corporate powers over the dissolved district's territory. (§ 56886.)

d. Effective Date

Finally, the dissolution's effective date is the date set forth in LAFCO's resolution, so long as it is neither earlier than the date the certificate of completion is executed, nor later than nine months after an election in which the majority of voters vote for the dissolution. (§ 57202(a).) If LAFCO's resolution does not establish an effective date, the dissolution is effective on the date the dissolution is recorded by the county recorder, or if there are two counties involved, on the last date of recordation. (§ 57202(c).)

3. District-Initiated Dissolution (Either by Dissolving District or Affected Local Agency)

The legislative body of a district may begin the process to dissolve the district by adopting a Resolution of Application, which must be submitted to LAFCO. (§§ 56654(a); 56658(a).) The Application must contain the components set forth in Appendix "B" to this Memorandum, which include, in part, a Resolution of Application (see Appendix "C") and a Plan for Providing Services (see Appendix "D"). At least 21 days before adopting the resolution, however, the district may give mailed notice to LAFCO and any affected districts and counties. (§ 56654(c).)

Not less than five days prior to the hearing, the Executive Officer must prepare a report on the Application, including his or her recommendation on the Application, and must give a copy of the report to every affected district, agency, and city. (§ 56665.) At the hearing, LAFCO hears and receives written and oral protests and evidence as well as the Executive Officer's report and the Plan for Providing Services. (§ 56666(b).) Section 56668 requires LAFCO to evaluate the dissolution proposal pursuant to the factors set forth in Appendix "A" to

¹⁴ See, Footnote 4 regarding the conflict between Section 56886 and Section 57302.

this Memorandum. LAFCO may also impose terms and conditions on the dissolution pursuant to Section 56885.5 and 56886.

a. Protest/Election/Certificate of Completion

LAFCO is required to place the dissolution before the voters if written protests have been filed meeting Section 57077.1(b)(1), where a subject agency has not objected by resolution to the proposal, or Section 57077.1(b)(2), if a subject agency has objected by resolution to the proposal. (§ 57077.1(a)). Section 57077.1(b)(1) sets forth the following protest threshold:

- (A) In the case of inhabited territory, protests have been signed by either of the following:
 - (i) At least 25 percent of the number of landowners within the affected territory who own at least 25 percent of the assessed value of land within the territory.
 - (ii) At least 25 percent of the voters entitled to vote as a result of residing within, or owning land within, the affected territory.
- (B) In the case of a landowner-voter district, that the territory is uninhabited, and that protests have been signed by at least 25 percent of the number of landowners within the affected territory owning at least 25 percent of the assessed value of land within the territory.

Alternatively, Section 57077.1(b)(2) requires that written protests meet the following threshold:

- (A) In the case of inhabited territory, protests have been signed by either of the following:
 - (i) At least 25 percent of the number of landowners within any subject agency within the affected territory who own at least 25 percent of the assessed value of land within the territory.
 - (ii) At least 25 percent of the voters entitled to vote as a result of residing within, or owning land within, any subject agency within the affected territory.
- (B) In the case of a landowner-voter district, that the territory is uninhabited, and that protests have been signed by at least 25 percent of the number of landowners within any subject agency within the affected territory, owning at least 25 percent of the assessed value of land within the subject agency.

If LAFCO is required to submit a dissolution to the voters pursuant to Section 57077.1(b), the election will be held within the territory of the district ordered to be dissolved.¹⁵ (§ 57118(a).) LAFCO’s resolution must provide the question to be submitted to the voters, specify any dissolution terms and conditions, and state the vote required to confirm the dissolution. (§ 57115.) The election procedures and requirements are set forth in Section 57125 et seq.

If an election is held and the votes cast in favor of the dissolution do not constitute a majority, LAFCO must adopt a certificate of termination proceedings. (§ 57179.) However, if the majority of the voters vote for the dissolution of a district, LAFCO must execute a certificate of completion confirming the order of dissolution. (§ 57176.) If no election is required to be held, the LAFCO Executive Officer must still execute a certificate of completion and make the requisite filings. (§ 57200.)

Notwithstanding the above, if a change of organization only consists of a single dissolution that is “consistent with a prior action of the commission pursuant to Sections 56378, 56425, or 56430,”¹⁶ and the dissolution is “initiated by the district board,” then LAFCO may “immediately approve and order the dissolution without an election or protest proceedings pursuant to this part.” (§ 57077.1(c)(1).)¹⁷ Alternatively, if a single dissolution is initiated by an affected local agency and if that single dissolution is “consistent with a prior action of the commission pursuant to Sections 56378, 56425, or 56430,” then commission may” order the dissolution without an election after “holding at least one noticed public hearing, and after conducting protest proceedings in accordance with this part.” (§ 57077.1(c)(2).) However, LAFCO must terminate proceedings entirely if a majority protest exists pursuant to Section 57078. (Id.)

b. Effect of Dissolution¹⁸

After the LAFCO Executive Officer files the requisite certificate of completion, the dissolved district is extinguished and all of its corporate powers cease, except to wind up the affairs of the district, or as required by a term and condition imposed on the dissolution by LAFCO. (§ 57450.) If the terms and conditions of the dissolution call for annexation of the district into a single existing district, the remaining assets of the dissolved district are distributed to the existing successor district. (§§ 57451(d), 56886.) If the dissolution calls for annexation and distribution of remaining assets of a dissolved district into two or more existing districts, then the existing district containing the greater assessed value of all taxable property within the territory of the dissolved district shall become the successor district. (§ 57451(e).) For dissolution without annexation, a city or county will become the successor agency for the district depending on which one contains the greatest assessed value of all taxable property within the territory of the dissolved district. (§ 57451(c).) A successor agency collects the dissolved district’s assets and is empowered to wind up the business of the district; ensuring that all debts

¹⁵ See, Footnote 26 regarding where an election is held for a reorganization consisting of dissolution with annexation.

¹⁶ Sections 56378, 56425, and 56430 require LAFCO to study existing agencies and make determinations regarding spheres of influence, and to conduct service reviews of the municipal services provided in the area under review.

¹⁷ See, Footnote 13.

¹⁸ See, Footnote 4 regarding the conflict between Section 56886 and Section 57302..

are paid, distributing assets and all other lawful purposes for the benefit of the lands, inhabitants and taxpayers within the territory of the dissolved district, as far as practicable. (§ 57452.) In the case of dissolution with annexation, the successor agency “steps into the shoes” of the former district and assumes its corporate powers over the dissolved district’s territory. (§ 56886.)

c. Effective Date

Finally, the dissolution’s effective date is the date set forth in LAFCO’s resolution, so long as it is neither earlier than the date the certificate of completion is executed, nor later than nine months after an election in which the majority of voters vote for the dissolution. (§ 57202(a).) If LAFCO’s resolution does not establish an effective date, the dissolution is effective on the date the dissolution is recorded by the county recorder, or if there are two counties involved, on the last date of recordation. (§ 57202(c).)

4. Petition-Initiated Dissolution

Special districts may be dissolved by petition signed by the requisite number of registered voters or landowners, which are set forth in Section 56870. Prior to circulating any petition, however, the proponent for change of organization must file a notice of intention to circulate a petition with LAFCO.¹⁹ (§ 56700.4(a).) After a notice of intention to circulate the petition is filed, the petition may be circulated for the appropriate signatures. (§ 56700.4(b).) Except as provided in Section 56871,²⁰ petitions for the dissolution of a district must be signed by:

- (a) For registered voter districts, by either of the following:
 - (1) Not less than 10 percent of the registered voters within the district.
 - (2) Not less than 10 percent of the number of landowners within the district who also own not less than 10 percent of the assessed value of land within the district.

¹⁹ See, Footnote 8.

²⁰ Section 56871 sets forth alternative petition requirements if the petition for dissolution of a registered voter district is signed by three or more registered voters within the district (or by three or more landowners within a landowner-voter district) provided certain additional requirements are met. Under Section 56871, such a petition is deemed sufficient if the petition recites that the district has been in existence for at least three years, that the district has not used its corporate powers and that one or more of the following conditions have existed or now exist:

- (a) That during the three-year period preceding the date of the first signature upon the petition any of the following events have not occurred:
 - (1) There has not been a duly selected and acting quorum of the board of directors of the district.
 - (2) The board of directors has not furnished or provided services or facilities of substantial benefit to residents, landowners, or property within the district.
 - (3) The board of directors has not levied or fixed and collected any taxes, assessments, service charges, rentals, or rates or expended the proceeds of those levies or collections for district purposes.
- (b) That during the one-year period preceding the date of the first signature upon the petition a quorum of the duly selected and acting board of directors has not met for the purpose of transacting district business.
- (c) That, upon the date of the first signature upon the petition, the district had no assets, other than money in the form of cash, investments, or deposits.

- (b) For landowner-voter districts, by not less than 10 percent of the number of landowner-voters within the district who also own not less than 10 percent of the assessed value of land within the district.

(§ 56870.)

Once a petition is qualified by the Executive Officer, the Executive Officer issues a certificate of filing to the applicant. (56658(d)-(h).) Within 90 days of issuing the certificate of filing, the Executive Officer must set a hearing. (§ 56658(h).) Within 35 days of the hearing, LAFCO must adopt a resolution making determinations approving or disapproving the proposal, with or without terms and conditions. (§ 56880.) If a conflicting proposal is submitted to LAFCO within 60 days of the submission of the proposal to dissolve, then LAFCO cannot approve the proposal to dissolve until it considers the conflicting proposal. (§ 56657.)

a. Protest/Election/Certificate of Completion

Where a subject agency has not objected by resolution, an election must be held if written protests are received meeting the voter/landowner petition requirements of Section 57077.1(b)(1). (§ 57077.1(a).) Where a subject agency files a resolution of objection, an election must be held if written protests have been filed meeting the threshold level set forth in Section 57077.1(b)(2). These thresholds are set forth in Section B(3)(a), above. Additionally, if a change of organization only consists of a single dissolution that is “consistent with a prior action of the commission pursuant to Sections 56378, 56425, or 56430,²¹” and the dissolution is initiated by petition, the commission may order the dissolution without an election after “holding at least one noticed public hearing, and after conducting protest proceedings in accordance with this part.” (§ 57077.1(c)(2).)²² However, LAFCO must terminate proceedings entirely if a majority protest exists pursuant to Section 57078. (Id.)²³

If LAFCO is required to submit a dissolution to the voters pursuant to Section 57077.1(b), the election will be held and the measure must pass within the territory of each district ordered to be dissolved.²⁴ (§ 57118(a).) LAFCO’s resolution must provide the question to be submitted to the voters, specify any dissolution terms and conditions, and state the vote required to confirm the dissolution. (§ 57115.) The election procedures and requirements are set forth in Section 57125 et seq.

If an election is held and the votes cast in favor of the dissolution do not constitute a majority, LAFCO must adopt a certificate of termination proceedings. (§ 57179.) However, if the majority of the voters vote for the dissolution, the LAFCO Executive Officer must execute a certificate of completion confirming the order of dissolution. (§ 57176.) If no election is

²¹ Sections 56378, 56425, and 56430 require LAFCO to study existing agencies and make determinations regarding spheres of influence, and to conduct service reviews of the municipal services provided in the area under review.

²² See, Footnote 13.

²³ See, Footnote 13.

²⁴ See, Footnote 26 regarding where an election is held for reorganizations consisting of dissolution with annexation.

required to be held, LAFCO must still execute a certificate of completion and make the requisite filings. (§ 57200.)

b. Effect of Dissolution²⁵

After the LAFCO Executive Officer files the requisite certificate of completion, the dissolved district is extinguished and all of its corporate powers cease except to wind up the affairs of the district, or as required by a term or condition imposed on the dissolution by LAFCO. (§ 57450.) If the terms and conditions of the dissolution call for annexation of the district into a single existing district, the remaining assets of the dissolved district are distributed to the existing successor district. (§§ 57451(d), 56886.) If the dissolution calls for annexation and distribution of remaining assets of a dissolved district into two or more existing districts, then the existing district containing the greater assessed value of all taxable property within the territory of the dissolved district shall become the successor district. (§ 57451(e).) For dissolution without annexation, a city or county will become the successor agency for the district depending on which one contains the greatest assessed value of all taxable property within the territory of the dissolved district. (§ 57451(c).) A successor agency collects the dissolved district's assets and is empowered to wind up the business of the district - ensuring that all debts are paid, distributing assets and all other lawful purposes for the benefit of the lands, inhabitants and taxpayers within the territory of the dissolved district, as far as practicable. (§ 57452.) In the case of dissolution with annexation, the successor agency "steps into the shoes" of the former district and assumes its corporate powers over the dissolved district's territory. (§ 56886.)

c. Effective Date

Finally, the dissolution's effective date is the date set forth in LAFCO's resolution, so long as it is neither earlier than the date the certificate of completion is executed, nor later than nine months after an election in which the majority of voters vote for the dissolution. (§ 57202(a).) If LAFCO's resolution does not establish an effective date, the dissolution is effective on the date the dissolution is recorded by the county recorder, or if there are two counties involved, on the last date of recordation. (§ 57202(c).)

5. Dissolution with Annexation

The Act's provisions expressly allow LAFCO to "select" a successor to "step into the shoes" of the dissolved district. Section 56886 permits LAFCO to impose a condition on a dissolution that will grant one agency all of the remaining assets of the dissolved district. (§ 56886(h) and (i).) When LAFCO imposes such conditions, the agency granted all of the dissolved district's remaining assets becomes the "successor" agency pursuant to Section 57451. Specifically, Section 57451(d) provides that:

If the terms and conditions provide that all of the remaining assets of a dissolved district shall be distributed to a single existing district, the single existing district is the successor.

²⁵ See, Footnote 4 regarding the conflict between Section 56886 and Section 57302.

In such an instance, for example, if one of the remaining assets of a dissolved district is that district's water distribution facilities, including pipelines and water treatment facilities, these assets will be put to use for the purpose of distributing water by the successor district. The provisions of Section 57463 support this conclusion. Section 57463 provides that after all debts are paid, any assets remaining may be used for any lawful purpose of the public agency to which the assets have been distributed for the benefit of the lands, inhabitants and taxpayers within the territory of the dissolved district, as far as practicable. (§ 57463.) Applying the intent of Section 57463 to the water distribution facilities example would allow the public agency to which the assets have been distributed to continue to use the water distribution facilities. In essence, the agency receiving the dissolved district's remaining assets, which may be the successor agency, steps into the shoes of the dissolved district.

a. Initiation of Reorganization Consisting of Dissolution with Annexation

A reorganization consisting of a dissolution with annexation may be initiated by petition, Resolution of Application by one special district, or if initiated pursuant to Section 56853, the reorganization can be initiated by the legislative bodies of two or more special districts.

i. Protest/Election/Certificate of Completion

When a reorganization application consists of a dissolution of one or more districts and the annexation of all or substantially all the territory into another district and the application is initiated by two or more districts pursuant to Section 56853, the protest thresholds to trigger an election are set out in Section 57077.3(b)(1)(A) and (B). Section 57077.3(b)(1)(A) and (B) provides as follows:

- (A) In the case of inhabited territory, protests have been signed by either of the following:
 - (i) At least 25 percent of the number of landowners within the affected territory who own at least 25 percent of the assessed value of land within the territory.
 - (ii) At least 25 percent of the voters entitled to vote as a result of residing within, or owning land within, the affected territory.
- (B) In the case of a landowner-voter district, that the territory is uninhabited, and that protests have been signed by at least 25 percent of the number of landowners within the affected territory, owning at least 25 percent of the assessed value of land within the territory.

For proposals initiated by a single special district, or by petition, LAFCO must order the reorganization subject to confirmation by the voters if it receives protests meeting the following thresholds:

- (1) In the case of inhabited territory, protests have been signed by either of the following:
 - (A) At least 25 percent of the number of landowners within any subject agency within the affected territory who own at least 25 percent of the assessed value of land within the territory.
 - (B) At least 25 percent of the voters entitled to vote as a result of residing within, or owning land within, any subject agency within the affected territory.
- (2) In the case of a landowner-voter district, the territory is uninhabited, and protests have been signed by at least 25 percent of the number of landowners within any subject agency within the affected territory, owning at least 25 percent of the assessed value of land within the subject agency.

(§ 57077.4(b)(1)(A) and (B).)

For dissolution with annexation initiated under Section 56853, if LAFCO is required to submit the reorganization to the voters pursuant to Section 57077.3(b), the election will be held and the measure must pass within the territory of each district ordered to be dissolved. (§ 57118(a).) On the other hand, if the dissolution with annexation is initiated by petition or by Resolution of Application by one district, and if there is sufficient protest under Section 57077.4, the election will be held separately within the territory of each affected district that has filed a petition meeting the requisite protest requirements.²⁶ LAFCO's resolution must provide the question to be submitted to the voters, specify any reorganization terms and conditions, and state the vote required to confirm the dissolution. (§ 57115.) The election procedures and requirements are set forth in Section 57125 et seq.

If an election is held and the votes cast in favor of the reorganization do not constitute a majority, LAFCO must adopt a certificate of termination proceedings. (§ 57179.) However, if the majority of the voters vote for the dissolution, the LAFCO Executive Officer must execute a certificate of completion confirming the order of reorganization. (§ 57176.) If no election is required to be held, LAFCO must still execute a certificate of completion and make the requisite filings. (§ 57200.)

²⁶ Section 57118(f) requires that elections for reorganizations consisting of a dissolution and annexation be held separately within the territory of each affected district that has filed a petition meeting the requirements of Section 57077.4(b).

C. MERGER

1. Brief History

Prior to 1965, the state of the law in California was that the inclusion of the entire territory of a special district within the boundaries of a city resulted in the automatic merger of the special district into the city, thereby eliminating the special district. The rationale behind this doctrine, dubbed the “Doctrine of Automatic Merger,” was the avoidance of the “duplication of functions - otherwise two distinct governmental bodies claiming to exercise the same authority, powers and franchises simultaneously over the same territory would ‘produce intolerable confusion, if not constant conflict.’” (*City of Downey v. Downey Water Dist.* (1962) 202 Cal.App.2d 786, 792 (citations omitted).)

In 1965, the Legislature enacted the District Reorganization Act of 1965, effective September 17, 1965 (Stats 1965 ch 2043 §§ 2), adding Government Code section 56400 as follows:

The Legislature hereby declares that the doctrine of automatic merger of a district with a city or the merger by operation of law of a district with a city shall have and be given no further force or effect. The existence of a district shall not be extinguished or terminated as a result of the entire territory of such district being heretofore or hereafter included within a city unless such district be merged with such city as a result of proceedings taken pursuant to this division.

This very language is now part of the Act and is set forth in Section 56116.

A merger now can only occur as a result of proceedings taken pursuant to the Act. The term “merger” for purposes of the Act is defined as:

The termination of the existence of a district when the responsibility for the functions, services, assets, and liabilities of that district are assumed by a city as a result of proceedings taken pursuant to this division.

(§ 56056.)

2. LAFCO-Initiated Merger

LAFCO may initiate a merger of a district with a city if it is consistent with a recommendation or conclusion of a study prepared pursuant to Sections 56378, 56425, or 56430 and LAFCO makes the determinations specified in Section 56881(b). (§ 56375(a)(3).) Sections 56378, 56425, and 56430 require LAFCO to study existing agencies and make determinations regarding spheres of influence and conduct service reviews of the municipal services provided in the area for review. Section 56881(b) requires LAFCO to make all of the following determinations with regard to the proposed merger:

- (1) Public service costs of a proposal that the LAFCO is authorizing are likely to be less than or substantially similar to the costs of alternate means of providing the service.
- (2) Promotes public access and accountability for community services needs and financial resources.

Before LAFCO may take action on a proposal to merger, LAFCO must hold a public hearing on the proposal. (§ 56662(b).) Section 56668 requires LAFCO to consider the factors set forth in Appendix “A” to this Memorandum in evaluating a merger proposal.

All proposals for merger, except for proposals for the merger of an existing subsidiary district, also must consider the establishment of a subsidiary district as well.²⁷

a. Protest/Election/Certificate of Completion

LAFCO is required to place a merger before the voters, regardless of whether a subject agency has objected, where written protests have been filed in accordance with Section 57113. (§ 57107(b)(3).) Notwithstanding Section 57107(b), the commission shall not order the merger without the consent of the subject city. (§ 57107(c).) Section 57113 requires LAFCO to submit a merger to the voters if LAFCO receives protests signed by the following:

- (a) In the case of inhabited territory, protests have been signed by either of the following:
 - (1) At least 10 percent of the number of landowners within any subject agency within the affected territory who own at least 10 percent of the assessed value of land within the territory. However, if the number of landowners within a subject agency is less than 300, the protests shall be signed by at least 25 percent of the landowners who own at least 25 percent of the assessed value of land within the territory of the subject agency.
 - (2) At least 10 percent of the voters entitled to vote as a result of residing within, or owning land within, any subject agency within the affected territory. However, if the number of voters entitled to vote within a subject agency is less than 300, the protests shall be signed by at least 25 percent of the voters entitled to vote.

²⁷ Section 56118 specifically provides: “Except for a proposal for the merger of a then existing subsidiary district, any proposal for a merger or establishment of a subsidiary district authorized by this division shall contain a request in the alternative, requesting either a merger or the establishment of a subsidiary district, as may be determined during the course of the proceedings. Any proposal requesting only merger shall be deemed to also include a request for the establishment of a subsidiary district and any proposal requesting only the establishment of a subsidiary district shall be deemed to also include a request for merger.”

- (b) In the case of a landowner-voter district, the territory is uninhabited and protests have been signed by at least 10 percent of the number of landowners within any subject agency within the affected territory, who own at least 10 percent of the assessed value of land within the territory. However, if the number of landowners entitled to vote within a subject agency is less than 300, protests shall be signed by at least 25 percent of the landowners entitled to vote.

If required to submit a merger to the voters, the election will be held within the “entire territory of each district ordered to be merged with. . . or both within the district and within the entire territory of the city outside the boundaries of the district.” (§ 57118(b).)²⁸ LAFCO’s resolution must also provide the question to be submitted to the voters, specify any merger terms and conditions, and state the vote required to confirm the merger. (§ 57115.) The election procedures and requirements are set forth in Section 57125 et seq.

If an election is held and the votes cast in favor of the merger do not constitute a majority, LAFCO must adopt a certificate of termination proceedings. (§ 57179.) In addition, no new proposal for a merger or establishment of a subsidiary district involving the same district may be filed within two years of the date of the certificate of termination proceedings. (§ 57112 (a).) LAFCO may waive this prohibition if it finds the prohibition is detrimental to the public interest. (§ 57112(b).) However, if the majority of the voters vote for a merger, the LAFCO Executive Officer must execute a certificate of completion confirming the order of merger.²⁹ (§ 57177.) If no election is required to be held, LAFCO must still execute a certificate of completion and make the requisite filings. (§ 57200.)

²⁸ Pursuant to Section 57108, however, if a petition meeting certain requirements is submitted prior to the conclusion of the protest hearing, the election will only be called, held and conducted within the district to be merged with, or established as, a subsidiary district of a city. Section 57108 provides as follows:

At any time prior to the conclusion of the protest hearing by the commission ordering the district to be merged with or established as a subsidiary district of a city, a petition may be filed with the executive officer referring, by date of adoption, to the commission’s resolution making determinations and requesting that any election upon that question be called, held, and conducted only within that district. Any petition so filed shall be immediately examined and certified by the executive officer by the same method and in the same manner as provided in Sections 56707 to 56711, inclusive, for the examination of petitions by the executive officer.

The commission shall forward the proposal to the affected city, and the affected city shall call, hold, and conduct any election upon the question of a merger or the establishment of a subsidiary district only within the district to be merged or established as a subsidiary district, if the executive officer certifies that any petition so filed was signed by either of the following:

- (a) In the case of a registered voter district, by not less than 10 percent of the registered voters of the district.
- (b) In the case of a landowner-voter district, by not less than 10 percent of the number of landowner-voters within the district who also own not less than 10 percent of the assessed value of land within the district.

²⁹ Section 57177 establishes additional requirements for certificates of completion confirming a merger and/or establishment of a subsidiary district.

b. Effect of Merger³⁰

On the effective date of the merger, the district ceases to exist and all district funds and all district property is vested in the city. (§§ 57525 & 57526.) The city becomes liable on all debts of the merged district. (§ 57531.) The city must use district funds and property to pay outstanding bonds and other obligations of the merged district. (§ 57528.) If any debts are to be paid from taxes levied on property in the district, the city council will collect those taxes as they become due as provided for under the principal act of the merged district. (§ 57529.) All funds that are unencumbered by debt may be used for any lawful purpose by the city, however, the city, “so far as may be practicable,” shall use those funds to benefit the land and inhabitants within the former merged district area. (§ 57533.)

c. Effective Date

Finally, the merger’s effective date is the date set forth in LAFCO’s resolution, so long as it is neither earlier than the date the certificate of completion is executed, nor later than nine months after an election in which the majority of voters vote for the merger. (§ 57202(a).) If LAFCO’s resolution does not establish an effective date, the merger is effective on the date the merger is recorded by the county recorder, or if there are two counties involved, on the last date of recordation. (§ 57202(c).)

3. District/City-Initiated Merger

The legislative body of a district or city wishing to merge with a city or district must submit a Resolution of Application to the LAFCO Executive Officer of the principal county. (§ 56658(a).) The Application must contain the components set forth in Appendix “B” to this Memorandum, which include, in part, a Resolution of Application (see Appendix “C”) and a Plan for Providing Services (see Appendix “D”).

Within 30 days of receiving the Application, the Executive Officer must determine if it is complete and acceptable for filing. (§ 56658(c).) If no determination is made within this time frame and the appropriate fees have been paid, then the Application shall be deemed to have been accepted for filing. (§ 56658(e).) The Executive Officer must accept an Application for filing if it is in the form prescribed by LAFCO and it contains all the information required in Appendix “B.” (§ 56658(e).) Within 90 days of accepting a proposal for filing, the Executive Officer must set a hearing date. (§ 56658(h).)

Before the hearing, the Executive Officer must prepare a report on the Application, including his or her recommendation on the Application and give a copy of the report to every affected district, agency, and city. (§ 56665.) At the hearing, LAFCO hears and receives written and oral protests and evidence as well as the Executive Officer’s report and the Plan for Providing Services. (§ 56666.) Section 56668 requires LAFCO to consider the factors set forth in Appendix “A” to this Memorandum in evaluating the merger proposal. LAFCO may also impose terms and conditions pursuant to Section 56885.5 and 56886.

³⁰ See, Footnote 4 regarding the conflict between Section 56886 and Section 57302.

a. **Protest/Election/Certificate of Completion**

LAFCO is required to place a merger before the voters, if written protests have been filed meeting the requirements of Section 57107(b)(1), where a subject agency has not objected by resolution to the proposal, or Section 57107(b)(2), where a subject agency has objected by resolution to the proposal. (§ 57107(a).) Notwithstanding Section 57107(b), the commission shall not order the merger without the consent of the subject city. (§ 57107(c).) Section 57107(b)(1) sets forth the following protest threshold:

- (A) In the case of inhabited territory, protests have been signed by either of the following:
 - (i) At least 25 percent of the number of landowners within the affected territory who own at least 25 percent of the assessed value of land within the territory.
 - (ii) At least 25 percent of the voters entitled to vote as a result of residing within, or owning land within, the affected territory.
- (B) In the case of a landowner-voter district, that the territory is uninhabited, and that protests have been signed by at least 25 percent of the number of landowners within the affected territory owning at least 25 percent of the assessed value of land within the territory.

Section 57107(b)(2) requires the following protest threshold:

- (A) In the case of inhabited territory, protests have been signed by either of the following:
 - (i) At least 25 percent of the number of landowners within any subject agency within the affected territory who own at least 25 percent of the assessed value of land within the territory.
 - (ii) At least 25 percent of the voters entitled to vote as a result of residing within, or owning land within, any subject agency within the affected territory.
- (B) In the case of a landowner-voter district, that the territory is uninhabited and protests have been signed by at least 25 percent of the number of landowners within any subject agency within the affected territory, owning at least 25 percent of the assessed value of land within the subject agency.

If LAFCO is required to submit a merger to the voters pursuant to Section 57107, the election will be held within the “entire territory of each district ordered to be merged with. . . or both within the district and within the entire territory of the city outside the boundaries of the district.” (§ 57118(b).)³¹ LAFCO’s resolution must provide the question to be submitted to the voters, specify any terms and conditions, and state the vote required to confirm the merger. (§ 57115.) The election procedures and requirements are set forth in Section 57125 et seq.

If an election is held and the votes cast in favor of the merger do not constitute a majority, LAFCO must adopt a certificate of termination of proceedings. (§ 57179.) In addition, no new proposal for a merger or establishment of a subsidiary district involving the same district may be filed within two years of the date of the certificate of termination proceedings. (§ 57112(a).) LAFCO may waive this prohibition if it finds the prohibition is detrimental to the public interest. (§ 57112(b).) However, if the majority of the voters vote for the merger, the LAFCO Executive Officer must execute a certificate of completion confirming the order of merger. (§ 57177.)³² If no election is required to be held, LAFCO must still execute a certificate of completion and make the requisite filings. (§ 57200.)

b. Effect of Merger³³

On the effective date of the merger, the district ceases to exist and all district funds and all district property is vested in the city. (§§ 57525 & 57526.) The city becomes liable on all debts of the merged district. (§ 57531.) The city must use district funds and property to pay outstanding bonds and other obligations of the merged district. (§ 57528.) If any debts are to be paid from taxes levied on property in the district, the city council will collect those taxes as they become due as provided for under the principal act of the merged district. (§ 57529.) All funds that are unencumbered by debt may be used for any lawful purpose by the city, however, the city, “so far as may be practicable,” shall use those funds to benefit the land and inhabitants within the former merged district area. (§ 57533.)

c. Effective Date

Finally, the merger’s effective date is the date set forth in LAFCO’s resolution, so long as it is neither earlier than the date the certificate of completion is executed, nor later than nine months after an election in which the majority of voters vote for the merger. (§ 57202(a).) If LAFCO’s resolution does not establish an effective date, the merger is effective on the date the merger is recorded by the county recorder, or if there are two counties involved, on the last date of recordation. (§ 57202(c).)

4. Petition-Initiated Merger

A district of limited powers which overlaps a city may be merged into a city by petition signed by the requisite number of registered voters or landowners, depending upon the specifics of the district’s statutory authorization. Prior to circulating any petition, however, the proponents

³¹ See, Footnote 28.

³² See, Footnote 29.

³³ See, Footnote 4 regarding the conflict between Section 56886 and Section 57302.

for change of organization must file a notice of intention to circulate a petition with LAFCO.³⁴ (§ 56700.4(a).) After a notice of intention to circulate the petition is filed, the petition may be circulated for the appropriate signatures. (§ 56700.4(b).) For a merger, voters or landowners must sign a petition as follows:

- (a) For a registered voter district, by either of the following:
 - (1) Five percent of the registered voters of the district.
 - (2) Five percent of the registered voters residing within the territory of the city outside the boundaries of the district.

- (b) For a landowner-voter district, by either of the following:
 - (1) Five percent of the number of landowner-voters within the district who also own not less than 5 percent of assessed value of land within the district.
 - (2) Five percent of the registered voters residing within the territory of the city outside the boundaries of the district.

(§ 56866.)

The petitioners must submit an Application for merger to the LAFCO Executive Officer of the principal county. (§ 56658(a).) The Application must contain those elements set forth in Appendix “B” to this Memorandum. Additionally, the petition must contain all of the requirements delineated in Section 56700 attached to this Memorandum as Appendix “C.” Once a petition is qualified by the Executive Officer, the Executive Officer issues a certificate of filing to the applicant. (§ 56658(d)-(h).) Within 90 days of issuing the certificate of filing, the Executive Officer must set a hearing. (§ 56658(h).)

Before LAFCO may take action on a merger proposal, LAFCO must hold a public hearing on the proposal or report and recommendation of a reorganization committee. (§ 56662(b).) Section 56668 requires LAFCO to consider the factors set forth in Appendix “A” to this Memorandum in evaluating the proposal. LAFCO may also impose terms and conditions pursuant to Section 56885.5 and 56886.

a. Protest/Election/Certificate of Completion

LAFCO is required to place a merger before the voters, if written protests have been filed meeting the requirements of Section 57107(b)(1), where a subject agency has not objected by resolution to the proposal, or Section 57107(b)(2), where a subject agency has objected by resolution to the proposal. (§ 57107(a).) These threshold limits are delineated in Section C(3)(a), above. Notwithstanding Section 57107(b), the commission shall not order the merger without the consent of the subject city. (§ 57107(c).)

³⁴ See, Footnote 8.

If LAFCO is required to submit a merger to the voters pursuant to Section 57107, the election will be held within the “entire territory of each district ordered to be merged with. . . or both within the district and within the entire territory of the city outside the boundaries of the district.” (§ 57118(b).)³⁵ LAFCO’s resolution must provide the question to be submitted to the voters, specify any merger terms and conditions, and state the vote required to confirm the merger. (§ 57115.) The election procedures and requirements are set forth in Section 57125 et seq.

If an election is held and the votes cast in favor of the merger do not constitute a majority, LAFCO must adopt a certificate of termination proceedings. (§ 57179.) However, if the majority of the voters vote for the merger, LAFCO Executive Officer must execute a certificate of completion confirming the order of merger. (§ 57177.)³⁶ If no election is required to be held, LAFCO must still execute a certificate of completion and make the requisite filings. (§ 57200.)

b. Effect of Merger³⁷

On the effective date of the merger, the district ceases to exist and all district funds and all district property is vested in the city. (§§ 57525 & 57526.) The city becomes liable on all debts of the merged district. (§ 57531.) The city must use district funds and property to pay outstanding bonds and other obligations of the merged district. (§ 57528.) If any debts are to be paid from taxes levied on property in the district, the city council will collect those taxes as they become due as provided for under the principal act of the merged district. (§ 57529.) All funds that are unencumbered by debt may be used for any lawful purpose by the city, however, the city, “so far as practicable” shall use those funds to benefit the land and inhabitants within the former merged district area. (§ 57533.)

c. Effective Date

Finally, the merger’s effective date is the date set forth in LAFCO’s resolution, so long as it is neither earlier than the date the certificate of completion is executed, nor later than nine months after an election in which the majority of voters vote for the merger. (§ 57202(a).) If LAFCO’s resolution does not establish an effective date, the merger is effective on the date the merger is recorded by the county recorder, or if there are two counties involved, on the last date of recordation. (§ 57202(c).)

5. Limitations on Merger

As stated above the subject city must consent to the merger. (§ 57107(c).)

³⁵ See, Footnote 28.

³⁶ See, Footnote 29.

³⁷ See, Footnote 4 regarding the conflict between Section 56886 and Section 57302.

D. ESTABLISHMENT OF A SUBSIDIARY DISTRICT

1. A Brief History

The procedures for establishment of a subsidiary district were established by the legislature in 1965 by the adoption of the District Reorganization Act of 1965, effective September 17, 1965 (Stats 1965 ch 2043 §§ 2), which added Government Code sections 56073, 56401, and 56405.

For purposes of the current version of the Act, the term “subsidiary district” is a district in which a city council is designated as, and empowered to act as, the ex officio board of directors of the district. (§ 56078.) A subsidiary district may be established if, upon the date of the commission’s order, the commission determines that either of the following situations exist:

- (a) The entire territory of the district is included within the boundaries of a city.
- (b) A portion or portions of the territory of the district are included within the boundaries of a city and that portion or portions meet both of the following requirements.
 - (1) Represents 70 percent or more of the area of land within the district. . . .
 - (2) Contains 70 percent or more of the number of registered voters who reside within the district as shown on the voters’ register in the office of the county clerk or registrar of voters.

(§ 57105.)

2. LAFCO-Initiated Establishment of a Subsidiary District

LAFCO may initiate the establishment of a subsidiary district if it is consistent with a recommendation or conclusion of a study prepared pursuant to Sections 56378, 56425, or 56430, and LAFCO makes the determinations specified in Section 56881(b). (§ 56375(a)(3).) Sections 56378, 56425, and 56430 require LAFCO to study existing agencies, to make determinations regarding spheres of influence, and to conduct service reviews of the municipal services provided in the area for review. Section 56881(b) requires LAFCO to make all of the following determinations with regard to the proposed establishment of a subsidiary district:

- (1) Public service costs of a proposal that the LAFCO is authorizing are likely to be less than or substantially similar to the costs of alternate means of providing the service.
- (2) The proposal promotes public access and accountability for community services needs and financial resources.

Before LAFCO may take action on a proposal for the establishment of a subsidiary district, LAFCO must hold a public hearing on the proposal. (§ 56662(b).) Section 56668 requires LAFCO to consider the factors set forth in Appendix “A” to this Memorandum in evaluating the proposal for the establishment of a subsidiary district.

All proposals for establishment of a subsidiary district must also consider merger.³⁸

a. Protest/Election/Certificate of Completion

The protest and election procedures and the requirements for a certificate of completion for the establishment of a subsidiary district initiated by LAFCO are the same as the procedures applicable to LAFCO-initiated mergers, as more particularly described in Section C(2)(a), above.

b. Effect of the Establishment of a Subsidiary District³⁹

On or after the effective date of the establishment of a subsidiary district, the city council shall be designated, and shall be empowered to act as the ex officio board of directors of the district. The district shall continue to operate as a separate legal entity with all of the powers, rights, duties, obligations, and functions provided for by the principal act, except for any provisions relating to the selection or removal of the members of the board of directors of the district. (§ 57534.) If a court determines that holding office both as a member of city council and as a member of the board of directors is incompatible, the court may order that person to vacate the board of director position but not the position on city council. (§ 57535.) The court must order the position on the board of directors to be filled in accordance with the principal act of the subsidiary district. (§ 57535.)

c. Effective Date of the Establishment of a Subsidiary District

The effective date for the establishment of a subsidiary district is the same as the effective date for a merger, as more particularly described in Section C(2)(c), above.

3. District-Initiated Establishment of a Subsidiary District

The legislative body of a district wishing to establish itself as a subsidiary district may submit a Resolution of Application to the LAFCO Executive Officer of the principal county. (§ 56658(a).) The Application must contain the components set forth in Appendix “B” to this Memorandum, which include, in part, a Resolution of Application (see Appendix “C”) and a Plan for Providing Services (see Appendix “D”).

Before the hearing, the Executive Officer must prepare a report on the Application including his or her recommendation on the Application and give a copy of the report to every

³⁸ Section 56118 specifically provides: “Except for a proposal for the merger of a then existing subsidiary district, any proposal for a merger or establishment of a subsidiary district authorized by this division shall contain a request in the alternative, requesting either a merger or the establishment of a subsidiary district, as may be determined during the course of the proceedings. Any proposal requesting only merger shall be deemed to also include a request for the establishment of a subsidiary district and any proposal requesting only the establishment of a subsidiary district shall be deemed to also include a request for merger.”

³⁹ See, Footnote 4 regarding the conflict between Section 56886 and Section 57302.

affected district, agency, and city. (§ 56665.) At the hearing, LAFCO hears and receives written and oral protests and evidence as well as the Executive Officer’s report and the Plan for Providing Services. (§ 56666.) Section 56668 requires LAFCO to consider the factors set forth in Appendix “A” to this Memorandum in evaluating the proposal. LAFCO may also impose terms and conditions pursuant to Section 56885.5 and 56886.

a. Protest/Election/Certificate of Completion

The protest and election procedures and the requirements for a certificate of completion for the establishment of a subsidiary district initiated by a district are the same as the procedures applicable to district-initiated mergers, as more particularly described in Section C(3)(a), above.

b. Effect of the Establishment of a Subsidiary District⁴⁰

On or after the effective date of the establishment of a subsidiary district, the city council shall be designated, and shall be empowered to act as the ex officio board of directors of the district. The district shall continue to operate as a separate legal entity with all of the powers, rights, duties, obligations, and functions provided for by the principal act, except for any provisions relating to the selection or removal of the members of the board of directors of the district. (§ 57534.) If a court determines that holding office both as a member of city council and as a member of the board of directors is incompatible, the court may order that person to vacate the board of director position but not the position on city council. (§ 57535.) The court must order the position on the board of directors to be filled in accordance with the principal act of the subsidiary district. (§ 57535.)

c. Effective Date of the Establishment of a Subsidiary District

The effective date for the establishment of a subsidiary district is the same as the effective date for a merger, as more particularly described in Section C(3)(c), above.

4. City-Initiated Establishment of a Subsidiary District

The legislative body of a city wishing to establish a subsidiary district may submit a Resolution of Application to the LAFCO Executive Officer of the principal county. (§ 56658(a).) The Application must contain the components set forth in Appendix “B” to this Memorandum, which include, in part, a Resolution of Application (see Appendix “C”) and a Plan for Providing Services (see Appendix “D”).

Section 56861 requires LAFCO to provide notice to subject districts within ten days of receiving such a proposal. Subject districts may then either 1) consent to the proposal or 2) adopt a resolution of intent to submit an alternative proposal. If a subject district files a resolution of intention to file an alternative proposal, the Executive Officer may not take further action on the original proposal for 70 days. (§ 56862.) If the subject district fails to submit an alternative proposal during that 70 day period, it is deemed to have consented to the original proposal. (*Id.*) If the subject district submits a timely alternative proposal, the Executive Officer

⁴⁰ See, Footnote 4 regarding the conflict between Section 56886 and Section 57302.

will analyze and report on both the original proposal and the alternative proposal so that “both proposals may be considered simultaneously at a single hearing.” (*Id.*)

Before LAFCO may take action on a proposal for the establishment of a subsidiary district, LAFCO must hold a public hearing on the proposal. (§ 56662(b).) Section 56668 requires LAFCO to consider the factors set forth in Appendix “A” to this Memorandum in evaluating a proposal for the establishment of a subsidiary district. LAFCO may also impose terms and conditions pursuant to Sections 56885.5 and 56886.

a. Protest/Election/Certificate of Completion

The protest and election procedures and the requirements for a certificate of completion for the establishment of a subsidiary district initiated by a city are the same as the procedures applicable to city initiated mergers, as more particularly described in Section C(3)(a), above.

b. Effect of the Establishment of a Subsidiary District⁴¹

On or after the effective date of the establishment of a subsidiary district, the city council shall be designated, and shall be empowered to act as the ex officio board of directors of the district. The district shall continue to operate as a separate legal entity with all of the powers, rights, duties, obligations, and functions provided for by the principal act, except for any provisions relating to the selection or removal of the members of the board of directors of the district. (§ 57534.) If a court determines that holding office both as a member of city council and as a member of the board of directors is incompatible, the court may order that person to vacate the board of director position but not the position on city council. (§ 57535.) The court must order the position on the board of directors to be filled in accordance with the principal act of the subsidiary district. (§ 57535.)

c. Effective Date of the Establishment of a Subsidiary District

The effective date for the establishment of a subsidiary district is the same as the effective date for a merger, as more particularly described in Section C(3)(c), above.

5. Petition-Initiated Establishment of a Subsidiary District

A proposal to establish a district of limited powers as a subsidiary district of a city may be initiated by petition. Section 56866 requires that the petition be signed as follows:

- (a) For a registered voter district, by either of the following:
 - (1) Five percent of the registered voters of the district.
 - (2) Five percent of the registered voters residing within the territory of the city outside the boundaries of the district.

⁴¹ See, Footnote 4 regarding the conflict between Section 56886 and Section 57302.

- (b) For a landowner-voter district, by either of the following:
 - (1) Five percent of the number of landowner-voters within the district who also own not less than 5 percent of assessed value of land within the district.
 - (2) Five percent of the registered voters residing within the territory of the city outside the boundaries of the district.

Section 56861 requires LAFCO to provide notice to subject districts within ten days of receiving such a proposal. Subject districts may then either 1) consent to the proposal or 2) adopt a resolution of intent to submit an alternative proposal. If a subject district files a resolution of intention to file an alternative proposal, the Executive Officer may not take further action on the original proposal for 70 days. (§ 56862.) If the subject district fails to submit an alternative proposal during that 70 day period, it is deemed to have consented to the original proposal. (*Id.*) If the subject district submits a timely alternative proposal, the Executive Officer will analyze and report on both the original proposal and the alternative proposal so that “both proposals may be considered simultaneously at a single hearing.” (*Id.*)

Before LAFCO may take action on a proposal for the establishment of a subsidiary district, LAFCO must hold a public hearing on the proposal. (§ 56662(b).) Section 56668 requires LAFCO to consider the factors set forth in Appendix “A” to this Memorandum in evaluating a proposal for the establishment of a subsidiary district. LAFCO may also impose terms and conditions pursuant to Section 56885.5 and 56886.

a. Protest/Election/Certificate of Completion

The procedures for protest, election and the requirements for the certificate of completion are the same as a petition-initiated merger, as more particularly described in Section C(4)(a), above.

b. Effect of the Establishment of a Subsidiary District⁴²

On or after the effective date of the establishment of a subsidiary district, the city council shall be designated, and shall be empowered to act as the ex officio board of directors of the district. The district shall continue to operate as a separate legal entity with all of the powers, rights, duties, obligations, and functions provided for by the principal act, except for any provisions relating to the selection or removal of the members of the board of directors of the district. (§ 57534.) If a court determines that holding office both as a member of city council and as a member of the board of directors is incompatible, the court may order that person to vacate the board of director position but not the position on city council. (§ 57535.) The court must order the position on the board of directors to be filled in accordance with the principal act of the subsidiary district. (§ 57535.)

⁴² See, Footnote 4 regarding the conflict between Section 56886 and Section 57302.

c. Effective Date of the Establishment of a Subsidiary District

The effective date for the establishment of a subsidiary district is the same as the effective date for a merger, as more particularly described in Section C(4)(a), above.

6. Limitations on the Establishment of a Subsidiary District

A proposal for the establishment of a subsidiary district cannot go forward without the consent of the subject city. (§ 57107(c).) Additionally a subsidiary district may only be established if on the date of LAFCO's order the statutory requirements regarding the amount of subsidiary district territory and the number of district voters within the governing city's territory are met.

APPENDIX "A"
FACTORS

Section 56668.

Factors to be considered in the review of a proposal shall include, but not be limited to, all of the following:

- (a) Population and population density; land area and land use; assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; and the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next 10 years.
- (b) The need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; and probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas. "Services," as used in this subdivision, refers to governmental services whether or not the services are services that would be provided by local agencies subject to this division, and includes the public facilities necessary to provide those services.
- (c) The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county.
- (d) The conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities in Section 56377.
- (e) The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Section 56016.
- (f) The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.
- (g) A regional transportation plan adopted pursuant to Section 65080.
- (h) The proposal's consistency with city or county general and specific plans.
- (i) The sphere of influence of any local agency that may be applicable to the proposal being reviewed.
- (j) The comments of any affected local agency or other public agency.

- (k) The ability of the newly formed or receiving entity to provide the services that are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.
- (l) Timely availability of water supplies adequate for projected needs as specified in Section 65352.5.
- (m) The extent to which the proposal will affect a city or cities and the county in achieving their respective fair shares of the regional housing needs as determined by the appropriate council of governments consistent with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7.
- (n) Any information or comments from the landowner or landowners, voters, or residents of the affected territory.
- (o) Any information relating to existing land use designations.
- (p) The extent to which the proposal will promote environmental justice. As used in this subdivision, "environmental justice" means the fair treatment and meaningful involvement of people of all races, cultures, incomes, and national origins, with respect to the location of public facilities and the provision of public services, to ensure a healthy environment for all people such that the effects of pollution are not disproportionately borne by any particular populations or communities.
- (q) Information contained in a local hazard mitigation plan, information contained in a safety element of a general plan, and any maps that identify land as a very high fire hazard zone pursuant to Section 51178 or maps that identify land determined to be in a state responsibility area pursuant to Section 4102 of the Public Resources Code, if it is determined that such information is relevant to the area that is the subject of the proposal.

Section 56668.3.

- (a) If the proposed change of organization or reorganization includes a city detachment or district annexation, except a special reorganization, and the proceeding has not been terminated based upon receipt of a resolution requesting termination pursuant to either Section 56751 or Section 56857, factors to be considered by the commission shall include all of the following:
 - (1) In the case of district annexation, whether the proposed annexation will be for the interest of landowners or present or future inhabitants within the district and within the territory proposed to be annexed to the district.
 - (2) In the case of a city detachment, whether the proposed detachment will be for the interest of the landowners or present or future inhabitants within the city and within the territory proposed to be detached from the city

- (3) Any factors which may be considered by the commission as provided in Section 56668.
 - (4) Any resolution raising objections to the action that may be filed by an affected agency.
 - (5) Any other matters which the commission deems material.
- (b) The commission shall give great weight to any resolution raising objections to the action that is filed by a city or a district. The commission's consideration shall be based only on financial or service related concerns expressed in the protest. Except for findings regarding the value of written protests, the commission is not required to make any express findings concerning any of the factors considered by the commission.

Section 56668.5.

The commission may, but is not required to, consider the regional growth goals and policies established by a collaboration of elected officials only, formally representing their local jurisdictions in an official capacity on a regional or subregional basis. This section does not grant any new powers or authority to the commission or any other body to establish regional growth goals and policies independent of the powers granted by other laws.

APPENDIX “B”
CONTENTS OF A PROPOSAL APPLICATION

Each application must include the following information:

- a. A petition or resolution of application initiating the proposal;
- b. A statement of the nature of each proposal;
- c. A map and description, acceptable to the executive officer, of the boundaries of the affected territory for each proposed change of organization or reorganization;
- d. Any data and information as may be required by any regulation of the commission;
- e. Any additional data and information, as may be required by the executive officer, pertaining to any of the matters or factors which may be considered by the commission;
- f. The names of the officers or persons, not to exceed three in number, who are to be furnished with copies of the report by the executive officer and who are to be given mailed notice of the hearing.

(§ 56652.)

APPENDIX “C”

CONTENTS OF A RESOLUTION OR PETITION OF APPLICATION

A resolution of application must include the following:

- a. State the proposal is made [pursuant to Part 3 of Division 3 of the Act [(§ 56650 et seq.)];
- b. State the nature of the proposal and list all proposed changes of organization;
- c. Set forth a description of the boundaries of the affected territory accompanied by a map showing the boundaries;
- d. Set forth any proposed terms and conditions;
- e. State the reason or reasons for the proposal;
- f. State whether the petition is signed by registered voters or owners of land.
- g. Designate not to exceed three persons as chief petitioners, setting forth their names and mailing addresses.
- h. Request that the proceedings be taken for the proposal [pursuant to Part 3 of Division 3 of the Act (§ 56650 et seq.)]; and
- i. State whether the proposal is consistent with the sphere of influence of any affected city or affected district.

(§§ 56654 and 56700.)

APPENDIX “D”
PLAN FOR PROVIDING SERVICES

Local agencies submitting a resolution of application for a change of organization must submit a plan for providing services which must include the following:

- b. . . .
1. An enumeration and description of the services currently provided or to be extended to the affected territory;
 2. The level and range of those services;
 3. An indication of when those services can feasibly be extended to the affected territory, if new services are proposed;
 4. An indication of any improvement or upgrading of structures, roads, sewer or water facility, or other conditions the local agency would impose or require within the affected territory if the change of organization or reorganization is completed;
 5. Information with respect to how those services would be financed.

(§ 56653(b).)

MENDOCINO Local Agency Formation Commission

Staff Report

MEETING November 1, 2021
TO Mendocino Local Agency Formation Commission
FROM Uma Hinman, Executive Officer
SUBJECT **Applications and Work Load**

RECOMMENDATION

Informational report.

BACKGROUND

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 delegates Local Agency Formation Commissions (LAFCo) with regulatory and planning duties to coordinate the logical formation and development of local government agencies. This includes approving or disapproving proposals for reorganizations (i.e., annexations, detachments, dissolutions, etc.), activation of latent powers, sphere of influence amendments, and outside service agreements.

ACTIVE PROPOSALS

Following is a description of the status of each of the proposals currently on file with LAFCo.

Ukiah Valley Fire District Annexation of the City of Ukiah (LAFCo File No. A-2021-02)

The proposal was approved by the Commission at its October 4, 2021 meeting. The required Protest Hearing will be held during a Special Meeting of the Commission and has been noticed for November 8, 2021. The deadline for the State Board of Equalization is December 1st of each year in order to process the jurisdictional changes for the year after the following (i.e., complete BOE submittal by December 1, 2021 changes will reflect in the 2023 tax year).

City of Ukiah Annexation of City-Owned Properties (LAFCo File No. A-2021-01)

On February 22, 2021, LAFCo received an application from the City of Ukiah proposing to annex City-owned parcels that are used for government purposes and consisting of approximately 446 acres in total. Parcels include the City's Wastewater Treatment Plant, solid waste transfer station, a portion of the municipal airport and open space. The application referral and notice to the County to initiate the tax share negotiation were routed and comments received. An incomplete letter identifying additional information needs was sent to the City of Ukiah on March 23, 2021. The tax share negotiation process is in progress. No further information has been received.

City of Ukiah Detachment of UVSD Served Areas (LAFCo File No. D-2020-01)

In April 2020, the City of Ukiah submitted a request to restart a 2014 application for detachment of Ukiah Valley Sanitation District (UVSD) served areas from the City that had been deemed incomplete and placed on-hold by the City in 2015. LAFCo staff responded to the City in May, requiring a new application

submittal due to the lapse of time and change in conditions, as well as noting the application as premature pending completion of the UVSD SOI Update. The application will be processed concurrently with the City of Ukiah Municipal Service Review and Sphere of Influence Update. The City submitted an Appeal to the Commission of the Executive Officer's determination that the application is incomplete (letter dated April 26, 2021). The Commission continued the item to June 7, 2021 (Item 5d). The Appeal has been temporarily placed on hold by the City, pending progress on sphere policy amendments that are in process.

City of Ukiah Pre-Application for Annexation of Areas North of the City (LAFCo File No. P-2020-02)

Pre-Application request for consultation on the process and potential issues regarding the City's proposal to annex the Brush Street Triangle and Masonite area properties. Staff is coordinating with City staff regarding appropriate process and timing of application processing.

Millview County Water District Pre-Application for Annexation of Masonite Properties (LAFCo File No. P-2020-04)

Pre-Application request for consultation on process and draft documents associated with the MCWD's proposal to annex the Masonite area properties. LAFCo staff have participated in several conference calls with the District and its consultants regarding the proposal and has provided feedback on draft CEQA and application materials.

See Attachment 1 Summary Table – Application Activity and Potential Future Proposals.

POTENTIAL FUTURE PROPOSALS

LAFCo staff has been made aware of the following potential future proposals that may come before the Commission for consideration.

City of Ukiah Annexation of Western Hills (Hull Properties)

The City has routed a project referral package stating its intent to acquire and annex approximately 695 acres in the Western Hills for open space preservation, while allowing the potential for future low density residential development on the approximately 55 easternmost acres, consistent with existing development in the Western Hills within the City of Ukiah limits. LAFCo received and provided written comments on the project referral in February and a revised referral in March. Staff also provided written comments on the Draft Initial Study/Mitigated Negative Declaration for the project in May. On August 25, 2021, the City of Ukiah Planning Commission considered and recommended to the City Council approval of the Western Hills Open Land Acquisition and Limited Development Agreement Project and adoption of the Draft Initial Study and Mitigated Negative Declaration. The City Council adopted the project's CEQA document at its September 15, 2021.

Elk Community Services District Activation of Latent Powers for Wastewater Services

The ECSD is preparing an application to activate latent powers for the provision of wastewater services. The District will be assuming ownership and operation of a community leach field within the community of Elk. It is anticipated that the application will be submitted within the next month. Staff has been coordinating with District representatives in development of the application materials.

See Attachment 1 Summary Table – Application Activity and Potential Future Proposals.

WORK PLAN

Local policy directs the Commission to annually adopt a Work Plan for purposes of providing a comprehensive overview of municipal service reviews and sphere of influence updates over the course of the fiscal year. This report provides an update on progress made in terms of accomplishing the activities scheduled in the Work Plan. This report also serves to inform the Commission of any changes in circumstances or priorities.

The Fiscal Year 2021-22 Work Plan includes the following agencies:

- Covelo Community Services District (completed)
- Ukiah Valley Fire District (completed)
- County Service Area 3
- City of Ukiah
- Ukiah Valley Sanitation District

See Attachment 2 Summary Table – Work Plan Tracking and Status.

Attachment 1 Summary Table – Application Activity and Potential Future Proposals

Attachment 2 Summary Table – Work Plan Tracking and Status

Attachment 1. Summary Table - Application Activity and Potential Future Proposals

APPLICATION ACTIVITY								
<i>Project status as of October 27, 2021</i>								
LAFCo File No.¹	Applicant	Project Name	Date Application Received	Certificate of Filing	LAFCo Hearing Date	Certificate of Completion	BOE Submittal Date	Additional Comments
D-2020-01	Ukiah	City of Ukiah Detachment of UVSD Served Areas	2014; 4/29/2020					Incomplete
P-2020-02	Ukiah	City of Ukiah Pre-Application for Annexation of Areas North of the City	8/12/2020	N/A	N/A	N/A	N/A	Incomplete
P-2020-04	MCWD	Millview County Water District Pre-Application for Annexation of Masonite Properties	10/23/2020	N/A	N/A	N/A	N/A	Incomplete
A-2021-01	Ukiah	City of Ukiah Annexation of City-Owned Properties	3/1/2021					Incomplete
A-2021-02	UVFD	Ukiah Valley Fire District Annexation of the City of Ukiah	6/29/2021	9/29/21	10/4/21 11/8/21			Approved; Protest Hearing noticed for 11/8/21
O-2021-04	Fort Bragg	City of Fort Bragg Application for an Out of Agency Service Agreement for water services on Minnesota Lane	8/25/2021	N/A	10/4/21	N/A	N/A	Complete: Executive Officer approval 9/16/21; ratified by Commission 10/4/21
Potential Future Proposals								
N/A	Ukiah	City of Ukiah Annexation of Western Hills (Hull Properties)						City Council adopted CEQA MND in September 2021
N/A	ECSD	Elk Community Services District Activation of Latent Powers for Wastewater Services						

¹Key: A – Annexation
 C – Consolidation
 D – Detachment
 F – Formation

L – Activation of Latent Powers
 O – Out of Agency Service Agreement
 P – Pre-application Review Request
 R – Reorganization

Attachment 2. Summary Table – Work Plan Tracking and Status

FY 2021-22 ESTIMATED WORK PLAN IMPLEMENTATION SCHEDULE AND STATUS						
<i>Work Plan status as of October 27, 2021</i>						
<p>Subject to Change: The estimated schedule and costs for the Fiscal Year 2021-22 Work Plan are subject to change based on agency responsiveness, timely provision of requested information, complexity of issues, level of public and affected agency controversy, and changing needs and priorities.</p>						
<p>CEQA: Based on LAFCo practice, the work plan assumes minimal costs for CEQA compliance related to preparing a Notice of Exemption, unless an agency proposes a non-coterminous SOI and pays for any necessary studies and preparation of a Negative Declaration or Environmental Impact Report.</p>						
<p>Rolling Work Plan: It is difficult to completely contain staff activities in a single fiscal year; therefore, completion of a study may roll over to the next fiscal year. This estimated work plan implementation schedule is intended to enhance communication and transparency.</p>						
Agency	Request for Information	Admin Draft	Public Workshop	Public Hearing	Final Study	Status/Notes
Ukiah Valley Sanitation District	Complete	Pending	TBD	TBD	TBD	The UVSD has provided a response to the Request for Information (RFI) and staff has been collecting available documentation for the MSR/SOI report. Staff has been discussing funding options and timing with UVSD staff. The UVSD Board has provided direction to its staff to work with LAFCo to develop funding terms for consideration by the Board and Commission. LAFCo and District staff are coordinating next steps for the SOI Update. Staff is researching the original UVSD sphere of influence.
City of Ukiah	Pending	Pending	TBD	TBD	TBD	On December 7, 2020, the Commission approved a consultant selection for the City of Ukiah MSR/SOI Update and directed staff to negotiate and execute agreements with the City of Ukiah for funding and the Planwest Partners Team for preparing the City’s MSR/SOI Update. The City has offered to fully fund the Update in order to expedite the process, which would otherwise have required a minimum of two years for LAFCo to fund through its normal budget cycles. An MOU agreement between the City and LAFCo for funding the MSR/SOI Update will need to be developed. LAFCo and City staff and are coordinating the next steps for the SOI Update.
Ukiah Valley Fire District	Complete	Complete	9/13/21	10/4/21	10/8/21	Project complete and posted to website.

County Service Area 3	In progress	In progress	TBD	TBD	TBD	<p>This will be the first MSR/SOI study for the CSA. Staff is working with County GIS to develop a current map of the CSA and has initiated the Administrative Draft.</p> <p>The County is considering utilizing CSA 3 for a number of local and regional needs including the Sherwood Road secondary access for Brooktrails. The County Board of Supervisors' (BOS) August 3, 2021 agenda included an item to consider establishing a benefit zone for the Sherwood Road secondary access for Brooktrails Township. LAFCo staff submitted a comment letter to the BOS requesting a continuation of the item to allow time to coordinate with LAFCo regarding the current authorized services for CSA 3 (attached).</p>
Covelo CSD	Complete	Complete	7/12/21	9/13/21	9/24/21	Project complete and posted to website.



The New Era: State of the State

WHAT YOU NEED TO KNOW ABOUT EXTREME WEATHER,
WATER & FIRE ISSUES

California faces new challenges as communities combat the effects of climate change such as extended fire seasons, extreme weather patterns, impacts to water supply, and threats to agricultural and open space land. Coupled with the need for more housing and increased development in rural areas, State and local decision-makers are confronted with a "new now and future normal." In this not-to-be-missed session, we will highlight State responses, forecasts and planning, and provide insight on how districts, cities, counties, and LAFCoS can collaborate to address these issues, including what actions and perspective shifts are needed to support this "new now and future normal."

For more details on the session and speakers [visit the CALAFCO website.](#)

November 3, 2021
10:30 a.m. – 12 p.m.

COST

Free to CALAFCO Members
Non-Members: \$125

SPEAKERS

E. Joaquin Esquivel
Chair, California State Water Resources Control Board

Erik de Kok
*Deputy Director, Planning & Community Development,
Governor's Office of Planning & Research*

Chief David Fulcher
Southern Region Chief, CAL FIRE

Michael Colantuono
*Shareholder, Colantuono, Highsmith & Whatley,
LAFCo Legal Counsel*

Moderator
Pamela Miller, Executive Director, CALAFCO



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DEADLINE TO REGISTER: November 1, 2021, at 5 p.m. No late registrations accepted.

This session is worth 1.5 AICP CM Credits.