Tuolumne County LAFCO

LOCAL AGENCY FORMATION COMMISSION OF TUOLUMNE COUNTY

AGENDA

TUOLUMNE COUNTY LAFCO- Special Meeting

April 29, 2024

BOARD OF SUPERVISORS CHAMBERS

2 SOUTH GREEN STREET, SONORA, CA, 4TH FLOOR

4:00 p.m.

You may submit written comments by U.S. Mail to 2 South Green Street, Sonora, CA 95370, or via email to cdd@tuolumnecounty.ca.gov for retention as part of the administrative record. Comments will not be read during the meeting.

COMMISSION BUSINESS:

A. Salute the Flag

B. Minutes of the March 11, and April 8, 2024, Meeting

C. Reports

“Reports” are a brief oral report from a committee or commission member and/or County staff, and no committee or commission action will occur. This item is not intended to include in-depth presentations or reports, as those matters should be placed on an agenda for discussion.

PUBLIC COMMENT: 15 Minutes

The public may speak on any item not on the printed agenda. No action may be taken by the Commission.

PUBLIC HEARING: None.

NEW BUSINESS:

1. Review of Tuolumne Utilities District Resolution 10-24 and March 14, 2024, Jamestown Sanitary District Board Meeting. Commission to Provide Direction if Needed.

OLD BUSINESS:

1. Review of Request for Proposals for Executive Officer and Legal Services. Commission to Provide Direction to Executive Officer.

2. Discussion and direction on drafting the Work Plan and Budget for FY 2024-2025 – Commission to Provide Direction to Executive Officer.

ADJOURNMENT

Disclosure of Campaign Contributions – Government Code Section 84308 requires that campaign disclosure reports provide the public with the identity of contributors and the amounts they give, and the amount that officeholders, candidates, and committees spend. A LAFCO Commissioner must disqualify herself or himself from voting on an application involving an "entitlement for use" (such as an annexation or sphere amendment) if, within 12 months, the Commissioner has received $250.00 or more in campaign contributions from the applicant, any financially interested person who actively supports or opposes the application (such as an attorney, engineer, or planning consultant) representing the applicant or interested party. The law also requires any applicant or participant in a LAFCO proceeding to disclose the contribution amount and name of the recipient Commissioner on the official record of the proceeding. The law also prohibits an applicant from making a contribution of $250.00, or more to a LAFCO Commissioner while a proceeding is pending or for 3 months afterward.

Disclosure of Expenses Supporting and Opposing Proposals - If a person or group contributes or expends $1,000.00 or more in support of, or in opposition to, a proposal before LAFCO, those contributions and expenditures must be disclosed. Pursuant to Section 56100.1 of the Government Code, disclosure shall be made to the Commission's executive officer.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Community Development Department at (209) 533-5633. Notification 48 hours prior to the meeting will enable the County to make reasonable arrangements to ensure accessibility to this meeting (28FR35.102-35.104 ADA Title 11).

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Tuolumne County LAFCO

LOCAL AGENCY FORMATION COMMISSION OF TUOLUMNE COUNTY

April 15, 2024

TO: LAFCO Commissioners

FROM: Quincy Yaley, AICP, Executive Officer

RE: Tuolumne Utilities District Resolution 10-24 and Jamestown Sanitary District 24-195

REQUESTED ACTION

LAFCO Commissioners to discuss the above resolutions and provide direction as necessary.

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1. During the April 8, 2024 LAFCO meeting, the Commissioners directed the following to be placed on their agenda:

   - Tuolumne Utilities District Resolution 10-24 (attached).
   - Jamestown Sanitary District Resolution 24-195 (attached)

   Both of these items are regarding the Municipal Service Reviews for these agencies that are currently underway by LAFCO.

2. A Municipal Service Review is a comprehensive study to determine the adequacy of governmental services being provided by the local agencies under LAFCO jurisdiction (Government Code Section 56430). These studies may be used by LAFCO, other governmental agencies, and the public to better understand and improve provision of services and to identify opportunities for greater cooperation between service providers. The service review is a prerequisite to a sphere of influence update and may lead a LAFCO to recommend actions to other agencies or to take actions under its own authority. Service Reviews are completed in conjunction with the respective district that is the subject of the study and includes opportunity for district and public input into the study.

   Specifically, service reviews are required to address:

   - Growth and population projections for the affected area.

- Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies.

- Financial ability of agencies to provide services.

- Status of, and opportunities for, shared facilities, which may result in recommendations of consolidation or dissolution.

- Accountability for community service needs, including governmental structure and operational efficiencies.

- Any other matter related to effective or efficient service delivery, as required by commission policy.

3. Government Code Section 56430 (b) states: In conducting a service review, the commission shall comprehensively review all of the agencies that provide the identified service or services within the designated geographic area. The commission may assess various alternatives for improving efficiency and affordability of infrastructure and service delivery within and contiguous to the sphere of influence, including, but not limited to, the consolidation of governmental agencies. (highlight added for clarity).

4. LAFCOs should encourage local government agencies to cooperate with each other in pursuit of providing services most efficiently and reducing costs. As an initial step, the LAFCOs can encourage agencies to enter into functional agreements, such as memoranda of understanding or joint powers agreements, in instances where the results of a special study initiated by agencies or a Municipal Service Review finds that such agreements would result in the better provision of services and reduction of costs.

   In instances where the implementation of a functional agreement has provided satisfactory results for all affected agencies, a Commission may encourage agencies to pursue changes of organization, such as consolidations or mergers.

   By law, LAFCO has the power to initiate consolidations and mergers. Although a Commission generally defers operational considerations to local agencies, it can legally initiate proposals for consolidation, or merger, when:

   - There is documentation through a Municipal Service Review or similar study that such a reorganization is physically and economically feasible, and

   - Reasonable efforts have been made by the Commission and affected agencies' staff to encourage the initiation of the action by resolution of one or more of the affected agencies.

   Municipal Service Reviews include a review and analysis of any potential consolidations and mergers of the affected agencies.

5. Evaluating shared facility and district organization is a routine component of MSRs. This evaluation is not a new requirement – past MSRs completed for both of these districts studied the potential for reorganizations. A MSR only produces recommendations – actual reorganization is a separate action, discussed in the attached White Paper "The Metamorphosis of Special Districts: Current Methods for Consolidation, Dissolution, Subsidiary District Formation and Merger."

6. The Executive Officer recommends to continue the Tuolumne Utilities District and Jamestown Sanitary District Municupal Service Reviews as planned with the required routine evaluation of the status of and opportunities for shared facilities/operations. Additional information about these MSRs are in agenda items and minutes from past LAFCO meetings on January 8, 2024, February 12, 2024, March 11, 2024, and April 8, 2024 (https://www.tuolumnecounty.ca.gov/AgendaCenter/Local-Agency-Formation-Commission-7).

RECOMMENDATION

LAFCO Commissioners to discuss the above and provide direction as necessary.

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Resolution No. 10-24

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE TUOLUMNE UTILITIES DISTRICT OPPOSING THE TUOLUMNE COUNTY LAFCO WORKPLAN

Whereas, the Tuolumne Utilities District (TUD) adopted Resolution No. 8-18 supporting TUD representation on the Tuolumne County Local Agency Formation Commission (LAFCo) and related actions; and

Whereas, the Tuolumne County LAFCo gained special district representation in the year 2020, adding one special district LAFCo Commissioner with a fixed four (4) year term, one special district LAFCo Commissioner with an at-large four (4) year term, and one alternate special district LAFCo Commissioner with a four (4) year term; and

Whereas, the special districts in Tuolumne County proportionally share 1/3 of LAFCo's operating costs, and have a vested interest in the workplan and annual budget adopted by LAFCo; and

Whereas, TUD supports and expects LAFCo processes and projects to be developed with the highest level of public transparency, accountability and with solid and clear communication to allow for good decision making by the Commission; and

Whereas, sphere of influence studies for each special district are to be completed by LAFCo every five (5) years or sooner, through the completion of a Municipal Service Review (MSR) which is a standard process of information gathering about how services are provided, evaluation of efficiencies and demand for services, and providing recommendations for the future; and

Whereas, the February 12, 2024, LAFCo agenda included an "Old Business" item described as "*Consideration of modifying the 2023-24 LAFCO Workplan*," which agenda item description provided no other details of what the modification may involve or which parties may be affected by the modification and the meeting's agenda materials provided by the LAFCo Executive Officer (EO) did not include the adopted workplan to be discussed for amendment, or any reports or documents recommending any workplan modifications; and

Whereas, the LAFCo Executive Officer (EO) orally presented at this meeting the "Workplan" modification, suggesting that due to concerns with a new connection prohibition adopted by the Jamestown Sanitary District (JSD), the required Municipal Service Review (MSR) for both JSD and TUD be added to the 2023/24 workplan, with an estimated cost of $49,000 each; and

Whereas, the LAFCo Commissioners held much discussion on the matter, voicing concern with cost of the MSRs and interest in future discussion of by whom, and how the MSRs would be paid for, and ultimately voted to amend the workplan to include the MSRs, but without direction to the EO of when this amended MSR would start or how the amended MSR would be funded; and

Whereas, the Commission's February 12, 2024, agenda materials did not contain the Helix Consulting task order proposal describing the MSR scope of work and cost or any reports or documents recommending any workplan modifications, so neither the Commission nor the public had any idea that the Helix Consulting proposal described the preparation of both MSRs with a focus on consolidation of the two Districts, which is considerably a more costly and controversial process than an MSR update; and

Whereas, neither Jamestown Sanitary or TUD were made aware that the Executive Officer had requested the Task Order from Helix, and had further requested that Helix evaluate the consolidation of the two districts; and

Whereas, there had never been discussion or agreement among the County, LAFCo, JSD or TUD regarding whether consolidation of the districts was supported or would solve any perceived issues; and

Whereas, LAFCo's were created to ensure the orderly and efficient provision of municipal services, and rarely will take action toward consolidation without agreement among the affected Districts; and

Whereas, due to the lack of an adequate agenda item description and proper background materials being attached to the LAFCo agenda, neither TUD nor the public were aware of the consequences of LAFCo's action or of its financial impact to the county until after the time to allege a Brown Act violation had passed.

Now therefore, be it resolved that the Tuolumne Utilities District requests that the Tuolumne County LAFCo immediately:

(a) cease and desist from any and all work on the Helix Consulting, February 8, 2024, task order that includes an evaluation of consolidation of the JSD and TUD; and
(b) direct the EO to secure a proposal for the completion of a standard MSR, completed in accordance with law; the MSR proposal should be publicly reviewed by the Commission prior to execution of a task order approving the work; and
(c) refrain from further work or discussion on the consolidation of JSD with TUD until the public, TUD, and JSD are given the opportunity to discuss consolidation with LAFCo.

PASSED AND ADOPTED by the Board of Directors of Tuolumne Utilities District on March 26, 2024 by the following vote:

AYES: Balen, Kerns, Ringen

NOES: None

ABSENT: Boatright

ABSTAINED: Jacobs

ATTEST:

Jeff Kerns, President
Board of Directors

Melissa McMullen
Executive Secretary/Board Clerk

TUOLUMNE UTILITIES DISTRICT ORGANIZED JULY 1992 CALIFORNIA

RESOLUTION NO. 24-195
A RESOLUTION OF THE JAMESTOWN SANITARY DISTRICT OPPOSING THE TUOLUMNE COUNTY LAFCO WORKPLAN

WHEREAS, the Tuolumne County Local Agency Formation Commission (LAFCo) gained special district representation in the year 2020, adding one special district LAFCo Commissioner with a fixed four (4) year term, one special district LAFCo Commissioner with an at-large four (4) year term, and one alternate special district LAFCo Commissioner with a four (4) year term; and

WHEREAS, the special districts in Tuolumne County proportionally share 1/3 of LAFCo's operating costs, and have a vested interest in the workplan and annual budget adopted by LAFCo; and

WHEREAS, Jamestown Sanitary District (JSD) supports and expects LAFCo processes and projects to be developed with the highest level of public transparency, accountability and with solid and clear communication to allow for good decision making by the Commission; and

WHEREAS, sphere of influence studies for each special district are to be completed by LAFCo every five (5) years or sooner, through the completion of a Municipal Service Review (MSR) which is a standard process of information gathering about how services are provided, evaluation of efficiencies and demand for services, and providing recommendations for the future; and

WHEREAS, the February 12, 2024, LAFCo agenda included an "Old Business" item described as "*Consideration of modifying the 2023-24 LAFCO Workplan*," which agenda item description provided no other details of what the modification may involve or which parties may be affected by the modification and the meeting's agenda materials provided by the LAFCo Executive Officer (EO) did not include the adopted workplan to be discussed for amendment, or any reports or documents recommending any workplan modifications; and

WHEREAS, the LAFCo Executive Officer (EO) orally presented at this meeting the "Workplan" modification, suggesting that due to concerns with a new connection prohibition adopted by the Jamestown Sanitary District (JSD), the required Municipal Service Review (MSR) for both JSD and TUD be added to the 2023/24 workplan, with an estimated cost of $49,000 each; and

WHEREAS, the LAFCo Commissioners held much discussion on the matter, voicing concern with cost of the MSRs and interest in future discussion of by whom, and how the MSRs would be paid for, and ultimately voted to amend the workplan to include the MSRs, but without direction to the EO of when this amended MSR would start or how the amended MSR would be funded; and

WHEREAS, the Commission's February 12, 2024, agenda materials did not contain the Helix Consulting task order proposal describing the MSR scope of work and cost or any reports or documents recommending any workplan modifications, so neither the Commission nor the public had any idea that the Helix Consulting proposal described the preparation of both MSRs with a focus on consolidation of the two Districts, making it a costlier and more controversial process than an MSR update; and

WHEREAS, neither JSD or TUD were made aware that the Executive Officer had requested the Task Order from Helix, and had further requested that Helix evaluate the consolidation of the two districts; and

WHEREAS, there had never been discussion or agreement among the County, LAFCo, JSD or TUD regarding whether consolidation of the districts was supported or would solve any perceived issues; and

WHEREAS, LAFCo's were created to ensure the orderly and efficient provision of municipal services, and rarely will take action toward consolidation without agreement among the affected Districts; and

WHEREAS, due to the lack of an adequate agenda item description and proper background materials being attached to the LAFCo agenda, neither JSD nor the public were aware of the consequences of LAFCo's action or of its financial impact to the county until after the time to allege a Brown Act violation had passed.

Now therefore, be it resolved that the Jamestown Sanitary District requests that the Tuolumne County LAFCo immediately:

(a) cease and desist from any and all work on the Helix Consulting, February 9, 2024, task order that includes an evaluation of consolidation of the JSD and TUD; and
(b) direct the EO to secure a proposal for the completion of a standard MSR, completed in accordance with law; the MSR proposal should be publicly reviewed by the Commission prior to execution of a task order approving the work; and
(c) refrain from further work or discussion on the consolidation of JSD with TUD until the public, TUD, and JSD are given the opportunity to discuss consolidation with LAFCo.

Passed and adopted by said Board at a public meeting held on April 11, 2024 by the following vote:

AYES: Directors Miller-Cripps, Robbins, Riddle, Selby and York

NOES: None

ABSENT: None

ABSENTION: None

Signed:

Judy L Selby

Judy L. Selby
Board Chair

Signed and Attest:

Jill McClintock

Jill McClintock
Administration Supervisor/District Secretary

California Association of Local Agency Formation Commissions
CALAFCO
Sharing information and resources

WHITE PAPER

The Metamorphosis of Special Districts:

Current Methods for Consolidation, Dissolution, Subsidiary District Formation and Merger

Clark A. Alsop
Paula C. P. de Sousa
Greta Proctor
Best Best & Krieger

August, 2008

Prepared as a service to CALAFCO members

For information on reprints, please contact:
California Association of Local Agency Formation Commissions
801 12th Street, Suite 611
Sacramento, CA 95814

916/442-6536

www.calafco.org

BEST BEST & KRIEGER
ATTORNEYS AT LAW

Updated: August 13, 2008

MEMORANDUM

TO: CALAFCO

FROM: Clark A. Alsop
Paula C. P. de Sousa
Greta Proctor

RE: CALAFCO: The Metamorphosis of Special Districts: Current Methods for Consolidation, Dissolution, Subsidiary District Formation and Merger

This Memorandum is intended to provide an overview of the typical methods for the reorganization of special districts. Of course, the procedures and processes for consolidations, dissolutions, mergers and the establishment of subsidiary districts may take various forms not delineated herein. Each LAFCO should work with its legal counsel in order to ensure that the appropriate procedures are followed.

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. What restrictions are on these processes to modify special districts, if any?

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. The following are limitations specific 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 if certain procedures are followed.

   B. Merger: A city must consent to a merger regardless of whether LAFCO initiated the merger proceedings or whether the voters approved the merger.

[1] All further citations are to the Government Code unless otherwise specified.

C. Establishment of a Subsidiary District: A subsidiary district may only be established if it meets certain statutorily mandated requirements related to the amount of district territory and the number of district voters also located within the city's boundaries.

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, consolidation of two or more special districts not formed pursuant to the same principal act is permitted if certain procedures are followed. Additionally, since 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 the proceedings to form a new district must conform to 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.

2. LAFCO-Initiated Consolidation

LAFCO may only initiate a consolidation 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).) 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 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.

[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.

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

Although not required, where LAFCO initiates a consolidation, LAFCO is "encouraged" by Section 56853(c) to utilize a reorganization committee to review the proposal to consolidate. Section 56668 requires LAFCO to consider the factors set forth in Appendix "A" to this Memorandum in evaluating the proposal to consolidate.

a. Protest/Election/Certificate of Completion

LAFCO is not required to place the consolidation before the voters unless written protests have been filed in accordance with Section 57113's requirements. (§ 56854(a)(5).) Section 57113(a) requires that LAFCO submit a consolidation to the voters if LAFCO receives a petition prior to the conclusion of the protest hearing signed by the following:

> (1) In the case of inhabited territory:
>
> (A) At least 10 percent of the number of landowners within any affected district within the affected territory who own at least 10 percent of the assessed value of land within the territory. . ., or;
>
> (B) At least 10 percent of the voters entitled to vote as a result of residing within, or owning land within, any affected district within the affected territory. . . .
>
> (2) In the case of a landowner-voter district, that the territory is uninhabited and a petition requesting that the proposal be submitted to confirmation by the voters has been signed by at least 10 percent of the number of landowners within any affected district within the affected territory, owning at least 10 percent of the assessed value of land within the territory. . . .

(§ 57113(a)(1) and (2) (emphasis added).)

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,[3] provide the question to be submitted to the voters, specify any consolidation terms and conditions, and state the vote required to confirm the consolidation. (§§ 57118, 57115.) The election procedures and requirements are set forth in Section 57125 et seq.

If an election is held and the majority of voters vote against the consolidation in any of the districts ordered to be consolidated, LAFCO must adopt a certificate of completion terminating proceedings. (§§ 57177.5, 57179.) However, if the majority of the voters vote for a

[3] The affected districts in which no election is held are deemed to have consented to the proposal.

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

b. Effect of Consolidation

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 the predecessor districts" which consolidated to form a new district. (§ 57500.)[4] 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.)

c. Effective Date

Finally, the consolidation's effective date is the date set forth in LAFCO's resolution so long as it is not earlier than the date the certificate of completion is executed or later than 9 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 day 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").

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 proposal to consolidate. LAFCO may also impose terms and conditions pursuant to Sections 56885.5 and 56886.

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[4] *But see*, Section 57302 regarding effect of Section 57500 et seq. when specific terms and conditions are imposed by LAFCO pursuant to Section 56886.

i. *Protest/Election/Certificate of Completion*

An election must be held where an affected city or agency has not objected by resolution but a written protest is received that meets the voter/landowner petition requirements of Section 57081(b). (§ 56854(a)(1).) Section 57081 sets forth the following protest threshold:

> (1) In the case of inhabited territory, that a petition requesting that the proposal be submitted to confirmation by the voters has been signed by either of the following:
>
> (A) At least 25 percent of the number of landowners within the territory subject to the consolidation or reorganization 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, the territory.
>
> (2) In the case of a landowner-voter district, that the territory is uninhabited and a petition requesting that the proposal be submitted to confirmation by the voters has been signed by at least 25 percent of the number of landowners within the territory subject to the consolidation or reorganization, owning at least 25 percent of the assessed value of land within the territory.

(Id.) If an affected city or district files a resolution of objection, then an election must be held in each affected district if a written protest is received that meets voter/landowner petition thresholds of Section 57114(a)(1) - (2) and (b), which provides:

> (a) (1) In the case of inhabited territory, that a petition requesting that the proposal be submitted to confirmation by the voters has been signed by either of the following:
>
> (A) At least 25 percent of the number of landowners within any affected district 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, <u>any affected district within the affected territory</u>.

(2) In the case of a landowner-voter district, that the territory is uninhabited and a petition requesting that the proposal be submitted to confirmation by the voters has been signed by at least 25 percent of the number of landowners within any affected district within the affected territory, owning at least 25 percent of the assessed value of land within the territory of that district.

(b) If a petition that meets the requirements of this section has been filed, the commission shall approve the proposal subject to confirmation by the voters of each district that has filed such a petition.

(<u>Id</u>. (emphasis added).)

If LAFCO is required to submit a consolidation to the voters pursuant to Section 57081, the election will be held within the territory of each district ordered to be consolidated. (§ 57118(a).) If on the other hand, LAFCO is required to submit a consolidation to the voters pursuant to Section 57114, the election will be held separately within the territory of each affected district that has filed a petition of landowners and/or voters meeting the requirements of Section 57114.[5] (§ 57118(f).) 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 <u>et</u> <u>seq</u>.

If an election is held and the majority of voters vote against the consolidation, LAFCO must adopt a certificate of completion terminating proceedings. (§ 57179.) However, if the majority of the voters vote for a consolidation of the districts, 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. *<u>Effect of Consolidation</u>*

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 the predecessor districts" which consolidated to form a new district. (§ 57500.)[6] Included in these rights and duties, a consolidated district becomes liable for all debts of the predecessor districts.

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[5] *See*, Footnote 3.
[6] *See*, Footnote 4.

(§ 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 consolidation's effective date is the date set forth in LAFCO's resolution so long as it is not earlier than the date the certificate of completion is executed or 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 day 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 a Resolution 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 also impose terms and conditions pursuant to Section 56885.5 and 56886.

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 thirty (30) days following that mailing without the districts' written consent. (§ 56853(b).) During this thirty (30) day time period, either district may file with the LAFCO's Executive Officer a written demand for LAFCO to 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(d).)

i. *Protest/Election/Certificate of Completion*

Upon receiving the proposals to consolidate from the districts, LAFCO must approve, or conditionally approve, the consolidation unless LAFCO receives a protest petition from the statutorily-mandated number of landowners/votes 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, then LAFCO cannot approve the proposal to consolidate until it considers the conflicting proposal. (§ 56657.)

An election must be held where an affected city or agency has not objected by resolution but a written protest is received that meets the voter/landowner petition requirements of Section 57081(b). (§ 56854(a)(1).) If an affected city or district files a resolution of objection, then an election must be held if a written protest has been signed meeting the threshold level set forth in Section 57114(a). These thresholds are set forth in Section A(3), above.

If LAFCO is required to submit a consolidation to the voters pursuant to Section 57081, the election will be held within the territory of each district ordered to be consolidated. (§ 57118(a).) If on the other hand, LAFCO is required to submit a consolidation to the voters pursuant to Section 57114, the election will be held separately within the territory of each affected district that has filed a petition meeting the requirements of Section 57114.[7] (§ 57118(f).) 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 majority of voters within the territory of each district vote against the consolidation, LAFCO must adopt a certificate of completion terminating proceedings. (§§ 57177.5(a), 57179.) However, if the majority of the voters vote for a consolidation of the districts, 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*

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 the predecessor districts" which consolidated to form a new district. (§ 57500.)[8] 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 consolidation's effective date is the date set forth in LAFCO's resolution so long as it is not earlier than the date the certificate of completion is executed or 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 day 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. (§ 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:

[7] *See*, Footnote 3.
[8] *See*, Footnote 4.

> (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 district constituting not less than 5 percent of the number of landowner-voters owning land within each of the several districts 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 Section 56700(a) attached to this Memorandum as Appendix “C.” Within thirty days 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 required number of signatures. (§ 56706.) Once an application is deemed complete by the Executive Officer, the Executive Officer issues a certificate of filing to the applicant. (§ 56658(e)-(i).) Within ninety days of issuing the certificate of filing, the Executive Officer must set a hearing. (§ 56658.)

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. <u>Protest Election/Certificate of Completion</u>

LAFCO is still not required to place the consolidation before the voters unless written protests have been filed meeting 1) Section 57081, if an affected city or district has not objected by resolution to the proposal, or 2) Section 57114, if an affected city or district has objected by resolution to the proposal. (§ 56854(a)(1) and (2).) These threshold limits are delineated in Section A(3), above.

If LAFCO is required to submit a consolidation to the voters pursuant to Section 57081, the election will be held within the territory of each district ordered to be consolidated. (§ 57118(a).). If on the other hand, LAFCO is required to submit a consolidation to the voters pursuant to Section 57114, the election will be held separately within the territory of each affected district that has filed a petition meeting the requirements of Section 57114.[9] (§ 57118(f).) 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 <u>et</u> <u>seq</u>.

[9] *See*, Footnote 3.

If an election is held and the majority of voters within the territory of each district vote against the consolidation, LAFCO must adopt a certificate of completion terminating proceedings. (§§ 57177.5(a), 57179.) However, if the majority of the voters 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, the LAFCO must still execute a certificate of completion and make the requisite filings. (§ 57200.)

b. Effect of Consolidation

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 the predecessor districts" which consolidated to form a new district. (§ 57500.)[10] 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.)

c. Effective Date

Finally, the consolidation's effective date is the date set forth in LAFCO's resolution so long as it is not earlier than the date the certificate of completion is executed or 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 day 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,[11] 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 merge 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.

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[10] *See*, Footnote 4.

[11] 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.

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 Sections 56378 or 56430. (§ 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.

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. (§ 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," an 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.

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

Any proposal for reorganization that includes the consolidation of two or more special districts not formed pursuant to the same principal act shall only be approved by the commission if both of 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 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).)

At present, the procedures for a dissolution may be commenced by the district, by petition or by LAFCO itself. The Act defines the term "dissolution" as:

> The dissolution, disincorporation, extinguishment, and 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.)

2. LAFCO-Initiated Dissolution

A dissolution may be initiated by LAFCO if it is consistent with a recommendation or conclusion of a study prepared pursuant to Section 56378, 56425, or 56430 and LAFCO makes the determinations specified in Section 56881(b). (§ 56375(a).) 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 the LAFCO to consider the factors set forth in Appendix "A" to this Memorandum in evaluating the proposal to dissolve.

a. <u>Protest/Election/Certificate of Completion</u>

LAFCO is not required to place the dissolution before the voters, unless written protests have been filed in accordance with Section 57113's requirements. (§ 56854(a)(3).) Section 57113 requires LAFCO submit a dissolution to the voters if LAFCO receives a petition prior to the conclusion of the protest hearing signed by the following:

> (1) (A) At least 10 percent of the number of landowners within <u>any affected district within the affected territory</u> who own at least 10 percent of the assessed value of land within the territory. . . .
>
> (B) At least 10 percent of the voters entitled to vote as a result of residing within, or owning land within, <u>any affected district within the affected territory</u>. . . .
>
> (2) In the case of a landowner-voter district, that the territory is uninhabited and a petition requesting that the proposal be submitted to confirmation by the voters has been signed by at least 10 percent of the number of landowners within <u>any affected district within the affected territory</u>, owning at least 10 percent of the assessed value of land within the territory. . . .

If a sufficient protest is made, LAFCO is required to submit the dissolution to the voters. LAFCO's resolution must designate 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 <u>et</u> <u>seq</u>.

If an election is held and the majority of voters vote against the dissolution, 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. (§ 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. <u>Effect of Dissolution</u>

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.)[12] 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, 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.) 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.) 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. <u>Effective Date</u>

Finally, the dissolution's effective date is the date set forth in LAFCO's resolution so long as it is not earlier than the date the certificate of completion is executed or 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 day the dissolution is recorded by the county recorder, or if there are two counties involved, on the last date of recordation. (§ 57202(c).)

3. <u>District- Initiated Dissolution</u>

The legislative body of a district may begin the process to dissolve the district by adopting a Resolution of Application. (§§ 56658(a); 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"). At least twenty days before adopting the resolution, however, the district may give mailed notice to the LAFCO and any affected districts and counties. (§ 56654.)

[12] *See*, Footnote 4.

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 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 dissolve. 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 still not required to place the dissolution before the voters unless written protests have been filed meeting Section 57081, if an affected city or district has not objected by resolution to the proposal, or Section 57114, if an affected city or district has objected by resolution to the proposal. (§ 56854(a)(1) and (2).) These threshold limits are delineated in Section A(3), above.

If LAFCO is required to submit a dissolution to the voters pursuant to Section 57081, the election will be held within the territory of the district ordered to be dissolved. (§ 57118(a).) If on the other hand, LAFCO is required to submit a dissolution to the voters pursuant to Section 57114, the election will be held separately within the territory of each affected district that has filed a petition meeting the requirements of Section 57114.[13] (§ 57118(f).) 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 majority of voters vote against the dissolution, 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. (§ 57114.) 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 Dissolution

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.)[14] 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, 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.) 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

[13] *See*, Footnote 3.
[14] *See*, Footnote 4.

dissolved district. (§ 57451.) 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 not earlier than the date the certificate of completion is executed or 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 day 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. (§ 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,[15] petitions for the dissolution of a district must be signed by:

(a) For resident 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.

[15] Section 56871 sets forth the petition requirements for the dissolution of districts in existence for at least three years that have not exercised their corporate powers if 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(e)-(i).) Within ninety days of issuing the certificate of filing, the Executive Officer must set a hearing. (§ 56658.) Within thirty-five 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 sixty 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

An election must be held where an affected city or agency has not objected by resolution but a written protest is received that meets the voter/landowner petition requirements of Section 57081(b). (§ 56854(a)(1).) If an affected city or district files a resolution of objection, then an election must be held if a written protest has been signed meeting the threshold level set forth in Section 57114(a). These thresholds are set forth in Section 3(A), above.

If LAFCO is required to submit a dissolution to the voters pursuant to Section 57081, the election will be held within the territory of each district ordered to be dissolved. (§ 57118(a).) If on the other hand, LAFCO is required to submit a dissolution to the voters pursuant to Section 57114, the election will be held separately within the territory of each affected district that has filed a petition meeting the requirements of Section 57114.[16] (§ 57118(f).) 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 majority of voters vote against the dissolution, 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. (§ 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 Dissolution

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.)[17] 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

[16] *See*, Footnote 3.
[17] *See*, Footnote 4.

to the existing successor district. (§§ 57451, 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.) 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.) 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 not earlier than the date the certificate of completion is executed or 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 day 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 district.

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.

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 verbatim.

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 extinguishment, termination, and cessation of the existence of a district of limited powers by the merger of that district with 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 the LAFCO makes the determinations specified in Section 56881(b). (§ 56375(a).) 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 the LAFCO may take action on a proposal to merger LAFCO must hold a public hearing on the proposal. (§ 56662(b).) Section 56668 requires the LAFCO to consider the factors set forth in Appendix "A" to this Memorandum in evaluating a merger proposal.

It is interesting to note that 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.[18]

a. Protest/Election/Certificate of Completion

LAFCO is not required to place a merger before the voters where the legislative body of the city and the district's board have by resolution consented to the merger. (§ 57107(b).) Notwithstanding Section 57107, an election must be held where written protests have been filed in accordance with Section 57113. (§ 56854(a)(3).) Section 57113 requires LAFCO to submit a merger to the voters if LAFCO receives a petition prior to the conclusion of the protest hearing signed by the following:

(1) (A) At least 10 percent of the number of landowners within any affected district within the affected territory who own at least 10 percent of the assessed value of land within the territory. . . .

(B) At least 10 percent of the voters entitled to vote as a result of residing within, or owning land within, any affected district within the affected territory. . . .

(2) In the case of a landowner-voter district, that the territory is uninhabited and a petition requesting that the proposal be submitted to confirmation by the voters has been signed by at least 10 percent of the number of landowners within any affected district within the affected territory, owning at least 10 percent of the assessed value of land within the territory. . . .

[18] 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."

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.)[19] 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 majority of voters vote against the merger, 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, LAFCO Executive Officer must execute a certificate of completion confirming the order of merger. (§ 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.)

Regardless of any election results, LAFCO cannot order a merger without the consent of the affected city. (§ 56854(b).)

b. Effect of Merger

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.)[20] 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.)

[19] Pursuant to Section 57108, however, that 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.

[20] *See*, Footnote 4.

c. Effective Date

Finally, the merger's effective date is the date set forth in LAFCO's resolution so long as it is not earlier than the date the certificate of completion is executed or later than 9 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 day 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 thirty days of receiving the Application, the Executive Officer must determine if it is complete and acceptable for filing. (§ 56658(d).) 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(f).) An 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 "C." (§ 56658(f).) Within ninety days of accepting a proposal for filing, the Executive Officer must set a hearing date. (§ 56658(i).)

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.

a. Protest/Election/Certificate of Completion

LAFCO is not required to place a merger before the voters where the legislative body of the city and the district's board have by resolution consented to the merger. (§ 57107(b).) Notwithstanding Section 57107, LAFCO is required to place the merger before the voters if written protests have been filed meeting 1) Section 57081, if an affected city or district has not objected by resolution to the proposal, or 2) Section 57114, if an affected city or district has objected by resolution to the proposal. (§ 56854(a)(1) and (2).) These threshold limits are delineated in Section A(3), above.

If LAFCO is required to submit a merger to the voters pursuant to Section 57081, the election will be held within the territory of each district ordered to be merged. (§ 57118(a).) If on the other hand, LAFCO is required to submit a merger to the voters pursuant to Section 57114, the election will be held separately within the territory of each affected district that has filed a petition meeting the requirements of Section 57114.[21] (§ 57118(f).) 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 majority of voters vote against the merger, 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 the merger, the LAFCO Executive Officer must execute a certificate of completion confirming the order of merger. (§ 57177.5(a).) If no election is required to be held, the LAFCO must still execute a certificate of completion and make the requisite filings. (§ 57200.)

Regardless of any election results, LAFCO cannot order a merger without the consent of the affected city. (§ 56854(b).)

b. Effect of Merger

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.)[22] 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 not earlier than the date the certificate of completion is executed or 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 day the merger is recorded by the county recorder, or if there are two counties involved, on the last date of recordation. (§ 57202(c).)

[21] The affected districts in which no election is held are deemed to have consented to the proposal. Further, if a specific protest is filed under Section 57108, the election shall be held only within the district to be merged or established as a subsidiary district.
[22] *See*, Footnote 4.

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 for change of organization must file a notice of intention to circulate a petition with LAFCO. (§ 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 resident 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(e)-(i).) Within ninety days of issuing the certificate of filing, the Executive Officer must set a hearing. (§ 56658.)

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 not required to place a merger before the voters where the legislative body of the city and the district's board have by resolution consented to the merger. (§ 57107(b).) Notwithstanding Section 57107, LAFCO is required to place the merger before the voters if written protests have been filed meeting 1) Section 57081, if an affected city or district has not objected by resolution to the proposal, or 2) Section 57114, if an affected city or district has objected by resolution to the proposal. (§ 56854(a)(1) and (2).) These threshold limits are delineated in Section A(3), above.

If LAFCO is required to submit a merger to the voters pursuant to Section 57081, the election will be held within the territory of each district ordered to be merged. (§ 57118(a).) If on the other hand, LAFCO is required to submit a merger to the voters pursuant to Section 57114, the election will be held separately within the territory of each affected district that has filed a petition meeting the requirements of Section 57114.[23] (§ 57118(f).) 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 majority of voters vote against the merger, 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. (§ 57177.5(a).) If no election is required to be held, the LAFCO must still execute a certificate of completion and make the requisite filings. (§ 57200.)

Regardless of any election results, LAFCO cannot order a merger without the consent of the affected city. (§ 56854(b).)

b. Effect of Merger

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.)[24] 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.)

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[23] The affected districts in which no election is held are deemed to have consented to the proposal. Further, if a specific protest is filed under Section 57108, the election shall be held only within the district to be merged or established as a subsidiary district.

[24] *See*, Footnote 4.

c. Effective Date

Finally, the merger's effective date is the date set forth in LAFCO's resolution so long as it is not earlier than the date the certificate of completion is executed or 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 day 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

The affected city must consent to the merger. (§ 56854 (b).)

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 section 56073, 56401, 56405.

For purposes of the current version of the Act, the term "subsidiary district" is a district of limited powers 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).) 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 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.

It is interesting to note that 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.[25]

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), above.

b. Effect of the Establishment of a Subsidiary District

On or after the effective date of the establishment of a subsidiary district, the city council shall be designated as, and 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

[25] 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."

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), 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 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), above.

b. Effect of the Establishment of a Subsidiary District

On or after the effective date of the establishment of a subsidiary district, the city council shall be designated as, and 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), 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 seventy days. (§ 56862.) If the subject district fails to submit an alternative proposal during that seventy 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, the LAFCO must hold a public hearing on the proposal. (§ 56662(b).) Section 56668 requires the 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), above.

b. Effect of the Establishment of a Subsidiary District

On or after the effective date of the establishment of a subsidiary district, the city council shall be designated as, and 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), 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 resident 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.

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 seventy days. (§ 56862.) If the subject district fails to submit an alternative proposal during that seventy 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), above.

b. Effect of the Establishment of a Subsidiary District

On or after the effective date of the establishment of a subsidiary district, the city council shall be designated as, and 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(4), above.

6. Limitations on the Establishment of a Subsidiary District

Aside from the requirements related to the amount of district territory and the number of district voters that are located within the city's boundaries percentage, a proposal for the establishment of a subsidiary district cannot go forward without the consent of the city. (§ 56854(b).)

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; per capita assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; 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; 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 which 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 set forth 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) Consistency with city or county general and specific plans.

(h) The sphere of influence of any local agency which may be applicable to the proposal being reviewed.

(i) The comments of any affected local agency or other public agency.

(j) The ability of the newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.

(k) Timely availability of water supplies adequate for projected needs as specified in Section 65352.5.

(l) 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.

(m) Any information or comments from the landowner or owners, voters, or residents of the affected territory.

(n) Any information relating to existing land use designations.

(o) The extent to which the proposal will promote environmental justice. As used in this subdivision, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services.

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) 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) The commission’s resolution making determinations.

(3) Any factors which may be considered by the commission as provided in Section 56668.

(4) Any resolution objecting to the action which may be filed by an affected agency.

(5) Any other matters which the commission deems material.

(b) The commission must give great weight to any resolution objecting to the action which 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 other 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.

Section 57115.

Any resolution of the commission forwarding a change of organization or a reorganization for confirmation by the voters shall, in addition to any applicable requirements contained in Sections 57100 to 57111, inclusive, do all of the following:

(a) Designate the affected territory within which the special election or elections shall be held.

(b) Provide for the question or questions to be submitted to the voters.

(c) Specify any terms or conditions provided for in the change of organization or reorganization.

(d) State the vote required for confirmation of the change of organization or reorganization.

Section 57177.5.

In the case of elections on an order of consolidation of cities or districts, the commission shall take one of the following actions:

(a) Execute a certificate of completion confirming the order of consolidation if, within the territory of each city or district ordered to be consolidated, a majority of the votes cast on the question favored the consolidation.

(b) Execute a certificate of completion terminating proceedings if, in one of the cities or districts ordered to be consolidated, the votes cast in favor of consolidation did not constitute a majority.

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 subject territory for each proposed change of organization or reorganization;

d. Any data and information as may be required by any regulation at 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 to be extended to the affected territory;

2. The level and range of those services;

3. An indication of when those services can feasiblely be extended to the affected territory;

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).)

Tuolumne County LAFCO

LOCAL AGENCY FORMATION COMMISSION OF TUOLUMNE COUNTY

April 26, 2024

TO: LAFCO Commissioners

FROM: Quincy Yaley, AICP, Executive Officer

RE: Request for Proposals for Executive Officer and Legal Services – Status Report

REQUESTED ACTION

Commissioners may provide feedback and direction regarding the Request for Proposals for an Executive Officer.

---

1. On January 8, 2024, LAFCO Commissioners voted to direct the Executive Officer to prepare and release a Request for Proposals (RFP) for an Executive Officer and Legal Counsel for Tuolumne County LAFCO.

2. The RFQ was released on January 26, 2024 and was posted on the County's Bid/RFQ/RFP availability page. After being available to the public till February 19, 2024, no responses to the RFP were submitted to LAFCO for review.

3. At the March 11, 2024 LAFCO meeting, the Commission agreed to form an ad-hoc committee to rewrite the RFP. This committee met and included Commissioners John Feriani, Mark Plummer, and Steve Arreguin. The City of Sonora's legal counsel was also present at the initial meeting.

4. At the April 8th LAFCO meeting, legal counsel indicated that they needed to review the RFP prior to its release. The ad hoc committee met again the week of April 22. The most recent draft of the RFP is included with this staff report.

NEXT STEPS

5. LAFCO Commissioners can provide further direction to the Executive Officer regarding this RFP.

S:\Commissions\LAFCO\RFPs\RFP for Executive Officer and Legal services\RFQ AHC Counsel review staff report.docx

2 SOUTH GREEN STREET, SONORA CA 95370 E LAFCO@CO.TUOLUMNE.CA.US
T 209-533-5961 W HTTPS://WWW.TUOLUMNECOUNTY.CA.GOV/LAFCO

REQUEST FOR PROPOSAL

LAFCO EXECUTIVE OFFICER AND/OR LEGAL SERVICES

TUOLUMNE COUNTY

Deadline for Submission of Proposals:
MAY 31, 2024

RESPONSES MUST BE SUBMITTED ELECTRONICALLY AND/OR BY HARDCOPY TO:

https://procurement.opengov.com/portal/tuolumnecountyca

OR MAIL TO:

Tuolumne County LAFCO
2 S. Green St.
Sonora, CA 95370
Attn: John Feriani

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I. INTRODUCTION

A. Summary

The Tuolumne County Local Agency Formation Commission ("Tuolumne LAFCO") seeks proposals from qualified professionals or firms to perform Executive Officer services. LAFCO is also seeking proposals from qualified professionals or firms to perform Legal services. Proposals offering either Executive Officer services, Legal services or both will be considered.

The Executive Officer is appointed by, reports to, and serves at the will of the Commission. The Executive Officer position is authorized by Section 56384 of the California Government Code and has responsibility for overall policy development, program planning, fiscal and personnel management, general administration, contract administration, and operation of Tuolumne LAFCO. The Executive Officer will also be responsible for conducting day-to-day business and administration of the Commission, and making reports and recommendations to the Commission on matters that require the Commission's consideration and action. This person/firm will serve as an independent contractor to the Commission.

B. Background

The Commission has seven members, including two from the Tuolumne County Board of Supervisors, two from the City of Sonora, one member from the public, and two special district members. There are 19 independent special districts, 9 lighting districts, and 45 community service areas under the authority of Tuolumne LAFCO.

Tuolumne LAFCO is considering changing its current staffing model of using Tuolumne County staff for all direct and indirect tasks/costs needed to run Tuolumne LAFCO. Currently, Tuolumne LAFCO utilizes the following staff of Tuolumne County: Community Development Department (Director, planners, and administrative staff), Auditor Controller, Human Resources/Risk Management, and County Counsel. Regarding use of facilities, Tuolumne LAFCO uses County buildings for meetings, vehicles for travel, and employee and agency insurance, etc.

The Commission wishes to transition to an independent Executive Officer in charge of all Tuolumne LAFCO requirements and operations. The Commission also seeks to identify the costs of employing new staff for Tuolumne LAFCO, compared to the current model where County staff provides part-time

Executive Officer services.

Alternative staffing models that individuals/firms can provide, including auditing/accounting, are also encouraged to be proposed in any submittal. The Commission is open to discussing other staffing models with interested applicants, so long as the full slate of Executive Officer services can be provided (staffing, administration, human resources, bookkeeping/fiscal support). Services may be provided on an hourly basis or in another fashion.

C. Contact Information

John Feriani, LAFCO Commission Chair
Board President, Tuolumne City Sanitary District
Email: jaferiani@icloud.com

D. RFP Timeline

Release of RFP	April 30, 2024
Deadline for Receiving Questions	May 26, 2024, 12:00pm
Deadline for RFP Responses	May 31, 2024, 12:00pm
Evaluation by Review Committee (tentative)	May 31, 2024 – June 3, 2024
Interview Period (tentative)	June 3, 2024 – June 7, 2024
Commencement of Negotiation Period (tentative)	June 14, 2024
Notice of Contract Award (tentative)	On or before July 1, 2024
Contract Execution (tentative)	July 1, 2024

II. SCOPE OF SERVICES

The duties and responsibilities assigned to the Executive Officer will include but are not limited to the following:

A. Administrative duties include the following: development, oversight, and review of an annual work plan; assignment of work activities, projects, and programs; monitoring workflow and the day-to-day business of the Commission; personnel management, including supervision of employees or subcontractors; and preparation and management of contracts.
B. Scheduling and preparing for regular and special meetings of the Commission, including preparation and timely transmittal of the meeting agenda and related reports, and providing recommendations and presentations at Commission meetings.
C. Reviewing and updating Tuolumne LAFCO Policies and Procedures.
D. Processing applications for city and district formations, annexations, reorganizations, consolidations, detachments, and extension of services by contract.
E. Preparing notices, filings, agreements, and reports consistent with the requirements of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (or the "Act").
F. Preparing special reports and studies to the Commission as mandated by the Act, such

as municipal services reviews (MSR) and spheres of influence (SOI).

G. Preparation of the Tuolumne LAFCO budget including the following: preparation and implementation of the budget, forecasting revenue and expenses, identifying and recommending alternatives for implementation of the budget subject to the review of the Commission, as well as scheduling and noticing all budget hearings and communication.
H. Administration of the adopted Tuolumne LAFCO budget by maintaining budget controls, records, files, and making timely payments of claims and deposits of revenues.
I. Planning, assigning, and supervising work of support staff.
J. Outreach and liaison duties include the following: representing the Commission before public and private policy making agencies and community groups; coordinating the LAFCO processes and discretionary actions of other agencies; facilitating workshops and attending meetings as directed by the Commission to understand community and agency concerns affected by LAFCO policies and decision-making.
K. Compliance and review in accordance with the California Environmental Quality Act (CEQA), including preparation of necessary documents (*e.g.,* Notices of Exemption, Initial Studies, Negative Declarations, and Mitigation Monitoring Plans) as may be required, and review and drafting comments on CEQA documents prepared by other agencies which affect Tuolumne LAFCO.
L. Monitoring new and proposed state and local legislation that pertains to LAFCO; preparing reports to the Commission that includes a recommendation of support or opposition to proposed legislation.
M. Actively participating in related organizations, such as CALAFCO or other professional associations.
N. Coordinating with LAFCO legal counsel (or providing legal counsel, if proposing legal services) on legal issues and other matters that may require an oral or written interpretation or opinion from legal counsel.
O. Representing LAFCO before other local governmental agencies at community meetings and at other public forums.

III. QUALIFICATIONS

A. Experience with Local Agency Formation Commissions and ability to provide the scope of services described herein.
B. Knowledge of the procedures, requirements, and applications of the Cortese-Knox-Hertzberg Local Government Reorganization Act.
C. Experience with local governmental agencies and demonstrated knowledge of the laws, codes, guidelines, and principles which apply to local governmental agencies.
D. Knowledge of the California Environmental Quality Act and its application to LAFCO actions.
E. Principles and practices of public administration, organizational analysis, leadership, team building, and conflict resolution.
F. Ability to work cooperatively with the Tuolumne LAFCO Commissioners.
G. Ability to perform the work, stay within budget, and meet deadlines.

H. *If proposing legal services*, licensed attorney with experience in Local Agency Formation Commissions, knowledge of the procedures, requirements, and applications of the Cortese-Knox-Hertzberg Local Government Reorganization Act, and knowledge of the California Environmental Quality Act and its application to LAFCO actions.

IV. PROPOSAL PACKAGE REQUIREMENTS

Proposals are to be straightforward, clear, concise, and responsive to the information requested. Clarity and brevity are preferable to volume. In order for proposals to be considered complete, proposers must provide the following information:

A. **Cover Letter.** The cover letter should describe the proposer's applicable experience and how the applicant proposes to meet the requirements of this RFP. Explanation in the letter may include if the proposer will provide the services at an individual level or with broader firm support.

B. **Resume/CV.** Please include a resume for all key personnel who may provide the services, describing applicable education, experience, and certifications/licenses.

C. **(If applicable) Firm Description / Statement of Qualifications / Experience.** For firms that are interested in providing responses, please provide documentation explaining your organization and staff that may assist in providing Executive Officer services. This section shall contain names, contact numbers, and descriptions of experience of all key personnel who would be assigned to perform the services. Resumes shall be provided for each staff member included in the RFP. This section shall include the contact person information, address, and telephone number of the company office that will be providing the services. Each company shall identify itself as to the type of organizational entity (corporation, sole proprietorship, partnership, etc.). Any supplemental information that the company believes is pertinent to the selection process may also be provided.

D. **References.** Provide at least three (3) references of local agencies for whom services have been performed that are comparable in quality and scope to that specified in this RFP. The references shall include names, positions, addresses, telephone numbers, and email addresses of individuals for whom prior work was performed and include an explanation of the services provided.

E. **Price.** The proposal shall include a fee schedule or explanation of the salary or rates desired. The rates should include any and all costs associated with the fulfillment of the scope of services (materials, equipment, supplies, travel fees, etc.). All expenses should be included in the billing rate structure.

F. **Disclosure.** Please disclose any and all past or current business and personal relationships with any current LAFCO official or districts/agencies associated with Tuolumne LAFCO.

V. EVALUATION PROCESS

A. Submittal of Proposals

Proposals will be received as instructed above and must be received before 12:00 pm on the deadline.

Proposals shall be submitted via email and/or hard copy (hand delivered or mailed). Any proposal received after said time and/or date or in any other format other than as instructed herein will not be accepted.

B. Questions and Responses

Questions regarding the RFP must be submitted exclusively in writing by 12:00 PM on the deadline provided via Tuolumne County's e-Procurement platform in the Q&A tab. Except for questions that might render the award of this contract invalid, LAFCO will not respond to any questions submitted after this time. The Review Committee will use an addendum to the RFP to post any questions received along with written responses on the Tuolumne County e-Procurement platform, https://procurement.opengov.com/portal/tuolumnecountyca. **It is the responsibility of the proposers to check the County website to review the questions and responses**. Any oral responses to questions are not binding on LAFCO.

C. Evaluation of Proposals

The objective is to perform a thorough and fair evaluation of submitted proposals and facilitate the selection of a contractor that best satisfies Tuolumne LAFCO's requirements. The following describes the evaluation process and associated components.

1. Factors to be considered in evaluating each proposer:
    a. Thoroughness of the submitted qualifications;
    b. Professional excellence and experience in similar employment;
    c. Costs of providing the services;
    d. Review of references;
    e. Capability to respond to requests and to start and complete work in a timely manner; and
    f. Ability to meet the contract requirements.

2. Selection Process:
    a. A Review Committee composed of Tuolumne LAFCO representatives will be responsible for evaluating each proposal.
    b. The Review Committee may request additional items deemed necessary to assist in the evaluation process.
    c. Based on the responses received, the Review Committee will schedule interviews with selected applicants.
    d. The Review Committee will compile a list of its top proposals, ranked in order of preference.
    e. The Review Committee will thereafter provide its recommendation to the Commission.

3. Award:
    a. A contract will be offered to the proposer who will be most advantageous to Tuolumne LAFCO, with price and all other factors considered.
    b. Tuolumne LAFCO will negotiate with the highest-ranked proposer to develop the scope of work and contract for mutual satisfaction.
    c. If a contract cannot be successfully negotiated, Tuolumne LAFCO reserves the right to terminate negotiations and begin negotiations with the next highest-ranked proposer. Upon termination of negotiations, proposers will receive notice of award or non-award.

d. Proposers are advised that Tuolumne LAFCO reserves the following discretion: to reject any or all proposals, and to consider historic formation and facts discovered during the evaluation process, whether gained from the proposal or another source.

i. Completeness of Proposal
Scoring Method: Pass / Fail
Weight (Points): 25 (*25% of Total*)
ii. Qualifications
Scoring Method: 0-100 Points
Weight (Points): 25 (*25% of Total*)
iii. Service Delivery/Methodology
Scoring Method: 0-100 Points
Weight (Points): 25 (*25% of Total*)
iv. Reasonable Cost of Service
Scoring Method: 0-100 Points
Weight (Points): 25 (*25% of Total*)

D. Successful Proposal as Part of the Contract Services

Proposals received in response to this RFP, at Tuolumne LAFCO 's discretion, may be incorporated into the awarded contract and may serve as basic terms and conditions for the ultimate contract. Therefore, proposers are advised that, if successful, they will be held responsible for levels of services proposed at the funding levels quoted. Tuolumne County LAFCO reserves the right to negotiate modifications or revisions to any awarded contract.

E. Proposal Terms and Conditions

- All costs incurred in the preparation of a proposal are the responsibility of each proposer and will not be reimbursed by Tuolumne LAFCO.
- It is the responsibility of each proposer to be familiar with all of the specifications, terms, and conditions of the RFP. By the submission of a proposal, the proposer certifies that if awarded a contract, proposer will make no claim against Tuolumne LAFCO based upon ignorance or misunderstanding of the specifications.
- Each proposer shall submit its proposal with the understanding that the proposal will become a part of the official file on this matter and shall be subject to disclosure in compliance with the California Public Records Act, if requested by a member of the public. It is the responsibility of the proposer to clearly identify information in their proposals that they consider to be confidential under the California Public Records Act. To the extent that Tuolumne LAFCO agrees with that designation, such information will be held in confidence whenever possible. All other information will be considered public.
- By submitting a proposal, each proposer certifies that all statements in this proposal are true. This constitutes a warranty, the falsity of which shall include the right, at Tuolumne LAFCO's option, of declaring any contract made as a result thereof null and void.
- Proposals shall be completed and submitted in accordance with the instructions of this RFP. If a proposal is not submitted in the form specified in this RFP, it may be rejected, unless the Review Committee determines that the nonconformity is either a

minor irregularity or that the defect or variation in the proposal is immaterial or inconsequential. The Review Committee may give the proposer an opportunity to cure any deficiency resulting from a minor irregularity or an immaterial or inconsequential defect, or it may waive such deficiency, whichever is most advantageous to Tuolumne LAFCO.

- The proposer is cautioned that it is the proposer's sole responsibility to submit the information requested by this RFP. Tuolumne LAFCO is under no obligation to solicit such information if it is not included in the proposal. Failure of the individual or firm to submit such information may cause an adverse impact to the evaluation of the proposal.
- Any individual who is currently employed with the County of Tuolumne shall not be eligible to respond to this RFP.
- Tuolumne LAFCO reserves the right to issue addenda to modify the terms and conditions of this RFP, including modifications to the RFP deadline or to the attachments to this RFP. Each proposer is solely responsible for obtaining and reviewing any and all addenda before submitting its RFP response.

F. Other Requirements

In order to contract with Tuolumne County LAFCO, a proposer must also meet the following requirements:

- Make available its federal Tax Identification Number (TIN) or Social Security Number (SSN).
- Comply with all Federal, State and local rules, regulations and policies, including but not limited to the standard professional services agreement language used by Tuolumne LAFCO.
- Maintain insurance coverage to include worker's compensation, general liability, auto liability, and professional liability, unless waived by Tuolumne LAFCO.

G. Protest/Appeal Process

The following procedure is provided in the event that a proposer wishes to protest the RFP process or appeal the recommendation to award a contract for LAFCO Executive Officer services once the Notices of Award/Non-Award have been issued.

- Any protest must be submitted in writing to LAFCO c/o Community Development Department, 2 South Green Street, Sonora, CA, Attention: Quincy Yaley
- The protest must be submitted before 5:00 pm of the tenth (10th) business day following the date of the Notice of Award.
- The protest must contain a complete statement of the basis for the protest. The protest must include the name, address, telephone number and e-mail address of the person representing the protesting party.
- The procedure and time limits are mandatory and are the proposer’s sole and exclusive remedy in the event of a bid protest.

Proposer’s failure to comply with these procedures shall constitute a waiver of any right to further pursue the protest, including filing a Government Code claim or legal proceedings.

Upon receipt of written protest/appeal, a protest review committee will review and provide an opportunity to settle the protest/appeal by mutual agreement, and may schedule a meeting to discuss or issue a written response to advise of an appeal/protest decision within five (5) business days of receipt of the appeal/protest.

VI. CONTRACT INFORMATION

A. Sample Agreement

A sample agreement is attached to this RFP, which details standard terms and conditions required by Tuolumne LAFCO. The terms of the agreement listed below are not subject to negotiation.

1. Funding Availability

It is mutually agreed that in the unlikely event the LAFCO budget of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, LAFCO shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement. Contractor's assumption of risk of possible non-appropriation is part of the consideration for this Agreement. Tuolumne LAFCO budget decisions are subject to the Commission.

If funding for any fiscal year is reduced or deleted by the LAFCO budget for purposes of this program, LAFCO shall have the option to either cancel this Agreement with no liability occurring to LAFCO or offer an Agreement amendment to Contractor to reflect the reduced amount.

2. Termination

The contract will be subject to termination by either party upon 30 days' advance written notice of intent to terminate. Tuolumne LAFCO may terminate the contract at any time, without written notice, upon a material breach of contract by the Contractor.

3. Insurance

A. Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Contractor, his agents, representatives, employees or subcontractors. Coverage shall be at least as broad as:

i. Commercial General Liability (CGL): Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury, and personal & advertising injury with limits no less than $2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 05 09 or 25 04 05 09) or the general aggregate limit shall be twice the required occurrence limit.

ii. Automobile Liability: ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, covering hired, (Code 8) and non-owned autos (Code 9), with limit no less than $1,000,000 per accident for bodily injury and property damage.

iii. Workers' Compensation: as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than $1,000,000 per accident for bodily injury or disease.

[INCLUDE THE FOLLOWING IF MALPRACTICE IS REQUIRED, see below]

iv. **Professional Liability (Errors and Omissions):** Insurance appropriates to the Contractor's profession, with limit no less than $2,000,000 per occurrence or claim, $2,000,000 aggregate.

If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the Tuolumne LAFCO requires and shall be entitled to the broader coverage and/or the higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the LAFCO.

B. Other Insurance Provisions: The insurance policies are to contain, or be endorsed to contain, the following provisions:

i. Additional Insured Status. Tuolumne LAFCO, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 if a later edition is used).

ii. Primary Coverage. For any claims related to this contract, the Contractor's insurance coverage shall be primary and non-contributory and at least as broad as ISO CG 20 01 04 13 as respects LAFCO, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by LAFCO, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it. This requirement shall also apply to any Excess or Umbrella liability policies.

iii. Umbrella or Excess Policy. The Contractor may use Umbrella or Excess Policies to provide the liability limits as required in this agreement. This form of insurance will be acceptable provided that all of the Primary and Umbrella or Excess Policies shall provide all of the insurance coverages herein required, including, but not limited to, primary and non-contributory, additional insured, Self-Insured Retentions (SIRs), indemnity, and defense requirements. The Umbrella or Excess policies shall be provided on a true "following form" or broader coverage basis, with coverage at least as broad as provided on the underlying Commercial General Liability insurance. No insurance policies maintained by the additional Insured, whether primary or excess, and which also apply to a loss covered hereunder, shall be called upon to contribute to a loss until the Contractor's primary and excess liability policies are exhausted.

iv. Notice of Cancellation. Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to Tuolumne LAFCO.

v. Waiver of Subrogation. Contractor hereby grants to LAFCO a waiver of any right to subrogation which any insurer of said Contractor may acquire against LAFCO by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not LAFCO has received a waiver of subrogation endorsement from the insurer.

vi. Self-Insured Retentions. Self-insured retentions must be declared to and approved by LAFCO. Tuolumne LAFCO may require the Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or LAFCO. The CGL and any policies, including Excess liability policies, may not be subject to a self-insured retention (SIR) or deductible that exceeds $25,000**,** unless approved in writing by LAFCO. Any and all deductibles and SIRs shall be the sole responsibility of Contractor or subcontractor who procured such insurance and shall not apply to the Indemnified Additional Insured Parties. Tuolumne LAFCO may deduct from any amounts otherwise due Contractor to fund the SIR/deductible. Policies shall NOT contain any self-insured retention (SIR) provision that limits the satisfaction of the SIR to the Named Insured. The policy must also provide that Defense costs, including the Allocated Loss Adjustment Expenses, will satisfy the SIR or deductible. Tuolumne LAFCO reserves the right to obtain a copy of any policies and endorsements for verification.

vii. Acceptability of Insurers. Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to LAFCO.

viii. Verification of Coverage. Contractor shall furnish LAFCO with original Certificates and amendatory endorsements, or copies of the applicable policy language effecting coverage required by this clause and a copy of the Declarations and Endorsement Page of the CGL and any Excess policies listing all policy endorsements. All certificates and endorsements and copies of the Declarations & Endorsements pages are to be received and approved by LAFCO before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. Tuolumne LAFCO reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time. Tuolumne LAFCO reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

ix. Special Risks or Circumstances. Tuolumne LAFCO reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

x. Failure to Comply: Upon failure to comply with any of these insurance requirements, this Agreement may be forthwith declared suspended or terminated. Failure to obtain and/or maintain any required insurance shall not relieve any liability under this Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the indemnification obligations.

[INCLUDE THE FOLLOWING IF MALPRACTICE IS REQUIRED] *(Examples are insurance agents, professional architects and engineers, doctors, certified public accountants, lawyers, etc.). However, other professional Contractors, such as computer or software designers, and services providers such as claims administrators, should also have professional liability. If in doubt, consult with your risk management or insurance advisors.*]

xi. Claims Made Policies. If any of the required policies provide claims-made coverage:

1. The Retroactive Date must be shown and must be before the date of the contract

or the beginning of contract work.

2. Insurance must be maintained, and evidence of insurance must be provided, for at least five (5) years after completion of the contract of work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work.

4. Hold Harmless/Indemnification

Contractor shall hold harmless, defend and indemnify Tuolumne LAFCO and its officers, officials, employees and volunteers from and against any and all liability, loss, damage, expense, costs (including without limitation costs and fees of litigation) of every nature arising out of or in connection with Contractor's performance of work hereunder or its failure to comply with any of its obligations contained in the agreement, except such loss or damage which was caused by the sole negligence or willful misconduct of LAFCO.

If such indemnification becomes necessary, the counsel for LAFCO shall have the absolute right and discretion to approve or disapprove of any and all counsel employed to defend LAFCO. This indemnification clause shall survive the termination or expiration of this Agreement.

[END]

Tuolumne County LAFCO

LOCAL AGENCY FORMATION COMMISSION OF TUOLUMNE COUNTY

April 26, 2024

TO: LAFCO Commissioners

FROM: Quincy Yaley, AICP, Executive Officer

RE: Follow up Discussion and Direction on the Workplan and Budget for FY 2024-2025

REQUESTED ACTION

LAFCO Commissioners to discuss and provide direction to the Executive Officer on how to draft the Fiscal Year 2024-2025 Budget and Workplan.

Background

Pursuant to Section 56381 of the California Government Code, LAFCO must adopt a final budget by June 15th of each year for the next fiscal year, which begins on July 1st. The Executive Officer brings the draft budget to the Commission at the May meeting, and the final budget will be heard at the June meeting. After approving the draft budget, the statute requires that it be sent to LAFCO members (the City of Sonora, County of Tuolumne, and all the Special Districts) in Tuolumne County for review and comment before adoption of final budget in June.

At the April 8, 2024 meeting, the Commission directed to have the Executive Officer bring a Staff to schedule a special meeting and bring a workplan that would fit within a $80,000 budget. It was also requested to have a schedule with estimated costs of completing Municipal Service Reviews.

Attachments from the April 8, 2024 meeting, and additional information on Municipal Service Reviews are found in the agenda packet here: https://www.tuolumnecounty.ca.gov/AgendaCenter/ViewFile/Agenda/_04082024-2295.

Preliminary Workplan and Draft Budget

With a budget of $80,000, the following workplan is proposed, in addition to working on any property owner/agency submitted applications (ie annexation for Groveland Community Services District):

- Complete Tuolumne Utilities District (TUD) and Jamestown Sanitary District (JSD) Municipal Service Review

Because the Commission decided to not amend the 23-24 Fiscal Year budget to include the full cost of the TUD and JSD MSRs, those costs will need to be covered by the FY 2024-25 budget. Therefore, in order to achieve the direction from the April 8 meeting, the MSRs for Tuolumne City Sanitary District (TCSD) and Tuolumne Park and Recreation District (TPRD) will need to be delayed until after FY 2024-25, unless funding is expanded beyond $80,000.

With an $80,000 annual budget, no new MSRs would be completed next fiscal year; only the TUD and JSD MSRs would be completed. Additionally, meetings will be reduced to match historical frequency prior to the FY 2023-25. Travel and training is recommended to be eliminated and staff and Commissioners would only receive free training (or training could be paid by Commissioner districts).

Due to the limited amount of MSRs able to be completed with an $80,000 budget and the reduction in training and meeting frequency, the Executive Officer has proposed an alternative budget for consideration. The workplan for the alternative budget includes the items above as well as having staff complete the TCSD and TPRD MSRs. Additional meetings are proposed, as well as bringing in LAFCO Subject Matter Experts for in-house training in lieu of attending the CALAFCO conferences. Funding saved from not attending the conferences would be reallocated to completing the TCSD and TPRD MSRs.

LAFCO BUDGET			
Cost Center	FY 2023-24	FY 24-25 LAFCO 4/8 MOTION ($80K)	FY 24-25 EO ALTERNATIVE
Dues and Memberships	$1,965	$2,000	$2,000
Office Expenses	$500	$500	$500
Publications/Legal Notices	$1,000	$1,000	$1,000
Travel and Training	$16,350	$0	$5,000
Personnel and Consultants	$58,000	$76,624	$117,248
TOTAL	**$76,915**	**$80,124**	**$125,748**

<u>Conclusion</u>

Attachment A lists anticipated costs the April 8 Approved Motion from the Commission and an alternative proposal. The Executive Officer is requesting direction on the 2024-25 Fiscal Year Workplan and Budget. Formal approval of the draft budget is scheduled for May 13, 2024.

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Attachment A. Budget Details and Municipal Service Review Schedule

A. Staff Time

General Staff Time Annual Costs (Not meeting or project related, includes RFP work)	
Executive Officer	$ 10,000
Legal Counsel	$ 4,000
Administrative/Fiscal	$6,000
Total	**$ 20,000**

B. Monthly Meeting Time/Costs

Staff	*Hours*	*Rate*	*Total*	
EO Prep	8	$ 180	$ 1,440	
EO Attend	4	$ 180	$ 720	
Clerk	12	$ 83	$ 996	
Counsel	8	$ 125	$ 1,000	
TOTAL	Per meeting		$ 4,156	
April 8 Budget Direction			**EO Alternative Budget**	
4 meetings		**$16,624**	**8 meetings**	**$33,248**

C. Annual Travel/Training Costs

Training	*Registration*	*Hotel (3 nts)*	*Travel/Meals*	*Cost per person*	*TOTALS*
Annual Conference (3 Commissioners, 2 Staff members)	$650 per attendee	$250 per night	$500 per person	$1,900	$9,500 *plus $7K staff time*
Annual Staff Training (2 Staff Members)	$400 per attendee	$250 per night	$500 per person	$1,650	$3,300 *plus $7K staff time*
TOTAL					$26,800
April 8 Budget Direction		**$0**	**EO Alternative Budget**		**$5,000**

D. Workplan/Municipal Service Reviews FY 2024-25

District/Agency	*Consultant (c)*	*LAFCO Staff (s)*
Tuolumne Utilities District	Finish Report: $20,000	n/a
Jamestown Sanitary District	Finish Report: $20,000	n/a
Tuolumne Park and Recreation	$24,000	$12,000
Tuolumne City Sanitary District	$24,000	$12,000
April 8 Budget Direction	**TUD (c), JSD (c)**	**$40,000**
EO Alternative Budget	**TUD (c), JSD (c), TPRD (s), TCSD (s)**	**$64,000**

Estimated Costs and Schedule for Municipal Service Reviews				
Municipal Service Review	Year Completed	Estimated Cost by Consultant (avg rate estimated)	Estimated Cost by Staff (average rate)	Estimated Completion Date
Jamestown Sanitary	2013	$49,000	n/a	In Process-Complete FY 2024-25
Tuolumne Utilities District	2013	$49,000	n/a	In Process-Complete FY 2024-25
Tuolumne Park and Recreation	2013	100 hours @ $225 $22,500	100 hours @ $120 $12,000	In Process-Complete FY 2024-25 w/Alternative Budget
Tuolumne Sanitary	2013	100 hours @ $225 $22,500	100 hours @ $120 $12,000	In Process-Complete FY 2024-25 w/Alternative Budget
Twain Harte CSD	2013	150 hours @ $225 $33,750	150 hours @ $120 $18,000	Complete FY 2024-25 w/Alternative Budget
City of Sonora	2018	200 hours @ $225 $45,000	200 hours @ $120 $24,000	Complete FY 2025-26
Groveland CSD	2020	200 hours @ $225 $45,000	200 hours @ $120 $24,000	Complete FY 2025-26
Tuolumne Fire Protection District	2018	150 hours @ $225 $33,750	150 hours @ $120 $18,000	Complete FY 2026-27
Combined Fire Districts Columbia Mi Wuk/Sugar Pine Jamestown Strawberry	2018	200 hours @ $225 $45,000	200 hours @ $120 $24,000	Complete FY 2026-27
Leland Meadows	2013	50 hours @ $225 $11,250	50 hours @ $120 $6,000	Complete FY 2026-27
Lighting Districts Groveland Tuolumne Rolling Hills Valle Vista Volponi Acres Columbia	2013	100 hours @ $225 $22,500	100 hours @ $120 $12,000	Complete FY 2027-28
Cemetery Districts Carter's Cemetery District Columbia Cemetery District Jamestown Cemetery District Oak Grove Cemetery District Shaws Flat-Springfield	2013	100 hours @ $225 $22,500	100 hours @ $120 $12,000	Complete FY 2027-28

UNAPPROVED

MINUTES OF THE Local Agency Formation Commission
March 11, 2024, 4:00 PM
Board of Supervisors Chambers County Administration Center 4th Floor
2 S. Green St. Sonora, CA 95370

PRESENT: Chair John Feriani, Vice-Chair Steve Arreguin, Commissioner Ryan Campbell, Kathleen Haff- Alternate, Mark Plummer, Matt Hawkins

ABSENT: Commissioner Glen Jacobs

STAFF: Quincy Yaley, Executive Officer; Maria Sullivan, LAFCO Council

COMMISSION BUSINESS:

A. Salute the Flag

Chair Feriani called the meeting of March 11, 2024, to order at 4:00 p.m. and led the Commission and audience members in the Pledge of Allegiance.

PUBLIC COMMENT:

Chair Feriani opened the 15-minute public comment period, during which anyone wishing to could come forward and address the Commission on any item not on the printed Agenda. He indicated that there would be a three-minute time limit of public comment.

Members of the public spoke on the agenda format, goals and priorities the Commission should address.

B. Meeting Minutes for January 8, 2024 and February 5, 2024

The Commission discussed the format of the meeting minutes and unanimously agreed to a condensed version for future meeting minutes.

Chair Feriani opened the public comment period.

Members of the public spoke in favor of a condensed version of meeting minutes.

Chair Feriani closed the public comment period and referred the item back to the Commission.

Motion: to Approve Meeting Minutes for January 8, 2024, and February 5, 2024, with the restated language and future bullet points and action items to be included.

Result: **Approved**
First: Commissioner Plummer
Second: Commissioner Campbell
Ayes: Vice-Chair Arreguin and Commissioners Haff, Campbell, Hawkins, and Plummer
Noes: John Feriani, Chair
Absent: Commissioner Jacobs

C. Reports from Commissioners and staff

**** Reports are a brief oral report from a Commission member and/or LAFFCO staff, and no Commission action will occur. This item is not intended to include in depth presentations or reports, as those matters should be placed on an agenda for discussion****

Quincy Yaley, Executive Officer, noted she had no reports for the Commission.

PUBLIC HEARING:

1. **Protest Hearing – Dissolution of the following County Service Areas (CSA): Jupiter Subdivision Unit 1 CSA, No. 4, Lake Don Pedro Units 4 and 5 CSA No. 8, Curtis Creek Ranch Unit 2 CSA No. 31, Sunny Hill Subdivision CSA No. 40, Buena Oaks Estates CSA No. 45, Mountain Ridge Estates CSA No. 46, Yosemite Estates CSA No. 50, Gina Avenue CSA No. 52, Vilas Lane CSA No. 55, and Granite Ridge Subdivision CSA No. 61 and their respective Spheres of Influence.**

Ms. Yaley reviewed the protest hearing instructions with the Commission and explained in depth Resolution 304-1.

Chair Feriani opened the public comment period and noted that anyone could come forward and submit new protest petitions to the Executive Officer.

Chair Feriani closed the public comment period for additional protest petitions and opens the public comment period for Resolution 304-1.

Members of the public spoke on Resolutions 304-1 and the history of County Service Areas.

Chair Feriani closed the public comment period and referred the item back to the Commission.

A discussion ensued between the Commission and staff on county level involvement and who would inherit any liabilities if the resolution passed.

Chair Feriani reopened the public comment period.

A member of the public cited the provision in Tuolumne County ordinance code.

Chair Feriani closed the public comment period and referred the item back to the Commission.

Motion: To approve Resolution 304-1: Dissolution of the following County Service Areas (CSA): Jupiter Subdivision Unit 1 CSA, No. 4, Lake Don Pedro Units 4 and 5 CSA No. 8, Curtis Creek Ranch Unit 2 CSA No. 31, Sunny Hill Subdivision CSA No. 40, Buena Oaks Estates CSA No. 45, Mountain Ridge Estates CSA No. 46, Yosemite Estates CSA No. 50, Gina Avenue CSA No. 52, Vilas Lane CSA No. 55, and Granite Ridge Subdivision CSA No. 61 and their respective Spheres of Influence

Result: **Approved**
First: Commissioner Plummer
Second: Vice-Chair Arreguin
Ayes: Unanimous
Absent: Commissioner Jacobs

OLD BUSINESS:

1. Results of Request for Proposals for Executive Officer and Legal Services

(Chair Feriani requested that this item be moved to the end of the meeting)

Ms. Yaley reported on the results of the Request for Proposals (RFP) and asked for direction from the Commission.

The Commission asked the staff questions of RFP timing, the formation of an Ad Hoc Committee and other possible alternatives.

Staff addressed the Commissions questions and restated their recommendations.

The Commission agrees by consensus to form an ad Hoc Committee to specify RFP criteria for an Executive Officer and legal services.

Chair Feriani opened the public comment period.

Members of the public spoke on the LAFCO policies and procedures update and supported the idea of an Ad Hoc Committee for the RFP.

Chair Feriani closed the public comment period.

2. Out of Agency Agreement for Groveland Community Services District- Update on Authority to Grant a Fee Waiver.

Maria Sullivan, LAFCO legal counsel reported on her findings on LAFCO's authority on fee waiver and stated her recommendation.

The Commission had questions on the timeline for implementation, collection of original fee amount and future implications, if the fee is waived.

Staff addressed the Commissions questions and stated their recommendations.

The Commission asked additional questions regarding waiving fees for new applications.

Staff clarified the implementation timelines and offered an option to reduce the fee rather than waiving the fee entirely.

Chair Feriani opened the public comment period.

Pete Kampa, General Manager of Groveland Community Services District spoke on the Out of Agency Agreement and application fees.

Chair Feriani closed the public comment period and referred the item back to the Commission.

Motion: To grant a fee waiver for a Groveland Community Services District- Out of Agency Agreement.
Result: **<u>Approved</u>**
First: Commissioner Haff
Second: Commissioner Plummer
Ayes: Unanimous
Absent: Commissioner Jacobs

NEW BUSINESS:

1. Requests of LAFCO Chair- Commission to Provide Direction to Executive Officer.

Chair Feriani reviews with lists of requests included in the agenda packet

A discussion ensues and Ms. Yaley reviews the Commission's feedback and discussion points.

Chair Feriani opened the public comment period.

Member of the public addressed the requests by the LAFCO Chair.

Ms. Yaley responds to the public's comments.

Member of the public suggested the consultant contracts come before the Commission as the next scheduled meeting. They recommended delaying major changes until the upcoming term expirations are finalized.

Chair Feriani closed the public comment period and referred the item back to the Commission.

Motion: To approve Requests of LAFCO Chair- Commission to Provide Direction to Executive Officer. First request, for agenda items to be backed up with information that would allow the Commissioners to make an informed decision on each item. Second request, if a special district, CSA, city, county agency, etc., is to be the topic of an agenda item, LAFCO staff shall notify the entity under discussion. Last request, for the LAFCO Chair and LAFCO Executive Officer to meet prior to finalize agenda before it is distributed.

Result: **Approved**

First: Commissioner Haff

Second: Commissioner Plummer

Ayes: Unanimous

Absent: Commissioner Jacobs

ADJOURNMENT

Chair Feriani adjourned the meeting at 6:07 p.m.

APPROVED:

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Quincy Yaley, AICP
Executive Officer

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UNAPPROVED

MINUTES OF THE Local Agency Formation Commission
April 8, 2024, 4:00 PM
Board of Supervisors Chambers County Administration Center 4th Floor
2 S. Green St. Sonora, CA 95370

PRESENT: John Feriani, Chair; Steve Arreguin, Vice Chair; Ryan Campbell, Commissioner; David Goldemberg, Commissioner; Mark Plummer, Commissioner; Matt Hawkins, Commissioner; Glen Jacobs, Commissioner

ABSENT: None

STAFF: Quincy Yaley, Executive Officer; Maria Sullivan, LAFCO Counsel

COMMISSION BUSINESS:

A. Salute the Flag

Chair Feriani called the meeting of April 8, 2024, to order at 4:20 p.m. and Commissioner Mark Plummer led the Commission and audience members in the Pledge of Allegiance.

PUBLIC COMMENT:

Chair Feriani opened the 15-minute public comment period, during which anyone wishing to could come forward and address the Commission on any item not on the printed Agenda. He indicated that there would be a three-minute time limit of public comment.

Members of the public addressed the Commission regarding the agenda format and what goals and priorities the LAFCO Commission should be addressing.

B. Meeting Minutes for March 11, 2024

The Commission postponed the approval of the March 11, 2024, Meeting Minutes.

C. Reports from Commissioners and staff

**** Reports are a brief oral report from a Commission member and/or LAFFCO staff, and no Commission action will occur. This item is not intended to include in depth presentations or reports, as those matters should be placed on an agenda for discussion****

Quincy Yaley, LAFCO Executive Officer, reported on upcoming agenda items and asked for direction from the Commission.

The Commission unanimously decided to schedule a special meeting to discuss the Tuolumne Utilities District Resolution, the Request for Proposal with recommendations from County Council, and LAFCO budget item.

PUBLIC HEARING: None

NEW BUSINESS:

1. Tuolumne County Multi-Jurisdiction Hazard Mitigation Plan Update – presentation by the Office of Emergency Services

Dore Bietz, Assistant Director for Tuolumne County Office of Emergency Services gave a PowerPoint presentation to the Commission.

2. Report from Ad Hoc Committee on Request for Proposals for Executive Officer and Legal Services (no staff report)-– Commission to Provide Direction to Ad Hoc Committee.

The Commission discussed the draft Request for Proposals from the Ad Hoc Committee and how the results were obtained, in addition, if it was within the Commission's policies and procedures.

Chair Feriani opened the public comment period.

Members of the public addressed the Commission on the report from the Ad Hoc Committee.

Chair Feriani closed the public comment period and referred the item back to the Commission for discussion.

**** Commissioner Hawkins left the meeting****

3. Discussion and direction on drafting the Work Plan and Budget for FY 2024-2025– Commission to Provide Direction to Executive Officer.

Ms. Yaley addressed the Commission regarding drafting the Work plan and Budget for FY 2024-2025 and asked for direction from the Commission.

Chair Feriani opened the public comment period and set no time limit.

Members of the public commented on the Work Plan and Budget for FY 2024-2025.

Chair Feriani closed the public comment period and referred the item back to the Commission for discussion.

Chair Feriani reopened the public comment period and set no time limit.

Members of the public commented on the Commissions discussion of the Work Plan and Budget for FY 2024-2025.

Chair Feriani closed the public comment period and refers the item back to the Commission for discussion.

Motion:	Direct the Executive Officer to develop a Work Plan that fits within an $80,000.00 budget.
Result:	**Approved**
First:	Commissioner Campbell
Second:	Commissioner Goldemberg
Ayes:	Commissioners Campbell, Goldemberg, Plummer, and Vice-Chair Arreguin
Noes:	Commissioner Jacobs and Chair Feriani
Absent:	Commissioner Hawkins

Chair Feriani called for a five-minute break of the meeting.

OLD BUSINESS:

1. Overview of proposed update to LAFCO Policies and Procedures (FY23-24 Workplan Item). Commission to Provide Direction to Executive Officer.

Chair Feriani tabled the agenda item until the next schedule LAFCO meeting.

2. Consideration of an Out of Agency Agreement for the Groveland Community Services District to Serve the Airport Estates Project pursuant to Government Code Section 56133.

The Commission had additional questions for Staff regarding the motion made for the Work Plan.

Staff clarified the motion for the Commission and further explained the recommendation.

Chair Feriani moved to the agenda item for the Out of Agency Agreement for the Groveland Community Services District.

Ms. Yaley reviewed the agenda items history along with the recommendation.

Chair Feriani opened the public comment period and set no time limit.

Members of the public commented on the Out of Agency Agreement.

Chair Feriani closed the public comment and referred the item back to the Commission.

Motion:	To Approve the Out of Agency Agreement for the Groveland Community Services District to Serve the Airport Estates Project pursuant to Government Code Section 56133. For one year, with the opportunity for a one-year extension as needed, granted by the LAFCO Executive Officer.
Result:	**Approved**
First:	Commissioner Campbell
Second:	Commissioner Plummer
Ayes:	Unanimous
Absent:	Commissioner Hawkins

ADJOURNMENT

Chair Feriani adjourned the meeting at 7:37 p.m.

APPROVED:

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Quincy Yaley, AICP
Executive Officer