

Tuolumne County LAFCO

LOCAL AGENCY FORMATION COMMISSION OF TUOLUMNE COUNTY

Commissioners

Steve Arreguin
Janice Kwiatkowski
John Feriani
David Goldemberg
Ryan Campbell
Suzanne Cruz
Ann Segerstrom

Alternates

Adam Artzer
Kathleen Haff
Andy Merrill

Executive Officer

Quincy Yaley, AICP

AGENDA

TUOLUMNE COUNTY LAFCO

August 12, 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.

- Link to join meeting via Zoom: <https://us02web.zoom.us/j/88440492335>
- Phone in to join meeting via Zoom: +1 669 444 9171 US

COMMISSION BUSINESS:

- A. Consideration and approval of Janice Kwiatkowski's request to appear remotely for "emergency circumstances" under Government Code Section 24953
- B. Salute the Flag
- C. Minutes of the June 10, 2024
- D. Reports

"Reports" are a brief oral report from a committee or commission member and/or LAFCO 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.

PUBLIC COMMENT: 15 Minutes

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

NEW BUSINESS:

1. Review of the Tuolumne County LAFCO, June 2024 Grand Jury report and consideration of a response to report's findings and recommendations, due September 23, 2024.
2. Review of the County Service Areas in Tuolumne County: Road Maintenance in

Subdivisions, June 2024 Grand Jury report and consideration of a response to report's findings and recommendations, due September 23, 2024.

OLD BUSINESS:

1. Update on status of Municipal Service Reviews for Tuolumne Utilities District, Jamestown Sanitary District, Tuolumne Park and Recreation District, and Tuolumne City Sanitary District.
2. Review of results of RFP for an Executive Officer/Legal Counsel and consideration of providing direction to the Executive Officer on LAFCO staffing.
3. Consideration of approving a proposed update to the LAFCO Policies and Procedures.

PUBLIC HEARING:

None

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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UNAPPROVED

MINUTES OF THE

Local Agency Formation Commission Special Meeting

June 10, 2024, 4:00 PM

Board of Supervisors Chambers County Administration Center 4th Floor
2 S. Green St. Sonora, CA 95370

PRESENT:; Ryan Campbell, Commissioner; David Goldemberg, Commissioner; Mark Plummer, Commissioner; Commissioner; Janice Kwiatkowski, Commissioner; Suzanne Cruz, Commissioner (Alternate); Adam Artzer, Commissioner (Alternate)

ABSENT: Vice-Chair Steve Arreguin

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

COMMISSION BUSINESS:

A. Salute the Flag

Commissioner Campbell called the meeting of June 10, 2024, to order at 4:06 p.m. and led the Commission and audience members in the Pledge of Allegiance.

B. Meeting Minutes of April 29, 2024, and May 13, 2024

The meeting minutes of April 29, 2024, and May 13, 2024, were approved.

C. Reports from Commissioners and staff

PUBLIC COMMENT:

Commissioner Campbell 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. Seeing no one, he closed the public comment period.

NEW BUSINESS:

Public Employee appointment (Authority: Government Code Section 549578(b)(1),(b)(4)) – LAFCO Legal Counsel.

Maria Sullivan noted that this item would no longer be considered under closed session and would be moved to item one under “New Business”.

OLD BUSINESS:

- 1. Review of results of Request for Qualifications for an Executive Officer/Legal Counsel and consideration of LAFCO staffing options. Commission to provide direction to LAFCO Staff as needed.**

Quincy Yaley outlined the two Request for Proposals (RFPs). She noted that staff did not receive a response for an executive officer but did receive one response for legal counsel.

The Commission asked questions of staff regarding the RFP response.

Ms. Yaley noted that if the Commission chose to move forward with outside legal counsel, the budget would need to be updated or the number of meetings would need to decrease to remain within the adopted 2024-2025 LAFCO budget.

Commissioner Campbell opened the public comment period and asked if there was anyone who wished to speak on the item. Seeing no one, he closed the public comment period and referred the item back to the Commission.

Motion: To bring the item back to the next regularly scheduled LAFCO meeting.

Result: **Approved**

First: Commissioner Plummer

Second: Commissioner Kwiatkowski

Ayes: Commissioners Cruz, Plummer, Artzer and Kwiatkowski

Noes: Commissioners Goldemberg and Campbell

Absent: Vice-Chair Arreguin

Motion: a counter motion was made to not move forward with the proposed legal contract

Result: **Failed**

First: Commissioner Campbell

Second: Commissioner Goldemberg

Ayes: Commissioners Campbell and Goldemberg

Noes: Commissioners Plummer, Kwiatkowski, Cruz and Artzer

Absent: Vice-Chair Arreguin

2. Overview of proposed update to LAFCO Policies and Procedures (FY23-24 Workplan Item) and discussion of process for procedure update/Commission feedback. Commission to provide direction to LAFCO Staff as needed.

The Commission asked questions of staff and discussed the proposed update to the LAFCO policies and procedures.

Commissioner Campbell opened the public comment period and asked if there was anyone who wished to speak on the item.

Pete Kampa, Groveland Community Services District Manager, discussed improvements that could be made within the LAFCO policies and procedures manual.

Commissioner Campbell, seeing no one else who wished to speak, closed the public comment period and referred the item back to the Commission.

The Commission directed the Executive Officer to bring the LAFCO Policies and Procedures back to the next regularly scheduled meeting for approval.

PUBLIC HEARING:

Consideration of approving the Final Budget for the Local Agency Formation Commission for Fiscal Year 2024-2025.

Ms. Yaley reported that letters were sent to the city and all special districts regarding the proposed LAFCO budget and no comments were received.

Discussion ensued on training and consultant costs.

Commissioner Campbell opened the public comment period and asked if there was anyone who wished to speak on the item.

A member of the public spoke on wanting the Commission to increase funding for LAFCO training.

Commissioner Campbell, seeing no one else wishing to speak, closed the public comment period and referred the item back to the Commission.

Motion: To approve the Final Budget for the Local Agency Formation Commission for Fiscal Year 2024-2025.

Result: **Approved**

First: Commissioner Plummer

Second: Commissioner Cruz

Ayes: Commissioners Campbell, Goldemberg, Kwiatkowski, Cruz and Artzer

Noes: None

Absent: Vice-Chair Arreguin

ADJOURNMENT

Commissioner Campbell adjourned the meeting at 7:04 p.m.

APPROVED:

Quincy Yaley, AICP
Executive Officer

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Tuolumne County LAFCO

LOCAL AGENCY FORMATION COMMISSION OF TUOLUMNE COUNTY

August 12, 2024

TO: LAFCO Commissioners

FROM: Quincy Yaley, AICP, Executive Officer

REQUESTED ACTION

Review of the Tuolumne County LAFCO June 2024 Grand Jury report and consideration of a response to report's findings and recommendations, due September 23, 2024.

Commissioners

Steve Arreguin
Ryan Campbell
Suzanne Cruz
John Feriani
David Goldemberg
Janice Kwiatkowski
Ann Segerstrom

Alternates

Adam Artzer
Kathleen Haff
Andy Merrill

Executive Officer

Quincy Yaley, AICP

BACKGROUND

The Tuolumne County Civil Grand Jury performed an investigation of LAFCO during its 2023-2024 session and authored a report with its summarized findings and recommendations. Pursuant to Penal Code §933(c), the governing body of the public agency subject to the grand jury's reviewing authority "shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matter under [its] control" no later than 90 days after the grand jury submits a final report. The final report was issued on June 25, 2024, which means a response will be due by September 23, 2024.

GRAND JURY FINDINGS AND RECOMMENDATIONS

In its report, the Grand Jury mainly focused on concerns regarding LAFCO's transparency and amount of information available to the public, LAFCO's staffing model, LAFCO's compliance with state and local requirements, including the timeliness of municipal service reviews and the need for updated policies and procedures, and the LAFCO budget.

The Grand Jury report made the following findings:

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| F1. | The Tuolumne County LAFCO website fails to provide information that is commonly provided by other county LAFCO websites, which includes the following deficiencies:
No adopted budget summaries are available
No roster of LAFCO commissioners including some form of contact information and when current term expires
No identification of key support personnel including Executive Officer and Legal Counsel
No approved Minutes documents available for review
No list, description, or map of special districts subject to LAFCO review and authority |
| F2. | Tuolumne County LAFCO commissioners are not given adequate preparation or orientation when assuming roles as commissioners. For example, Commissioners have served without being provided with the Policy and Procedures Manual. Some did not know such a Manual existed or was statutorily required. |

F3.	LAFCO has no reserve fund as contributions for each fiscal year are based on actual expenditures with no carryover for the next fiscal year.
F4.	While Sphere of Influence maps and Municipal Service Review updates were proposed in the 2019-2020 budget work plan, to catch-up to the standard 5-year review cycle, most of the updates have not been completed. As such, there are a total of 35 districts that have had no SOI or MSR updates in over 11 years.
F5.	LAFCO staff support can be provided by County staff; however, it must be under a contractual agreement. There is no contract between Tuolumne County LAFCO and Tuolumne County, which is a violation of state law requirements.
F6.	LAFCOs have the right to appoint and assign staff to support their activities. However, Tuolumne County has made personnel assignments to LAFCO staff without consulting commissioners. These assignments have not always been in the interest in maintaining continuity or accomplishing LAFCO goals.
F7.	One of the special district seats on LAFCO is to be available to multiple different special districts who provide funding for LAFCO and that seat is subject to vote of the special districts every four years through a Special District Selection Committee. A vote took place that was not in compliance with the state requirements and only a small number of eligible districts participated. However, that decision was accepted by LAFCO, and that commissioner will have that seat until 2026. The majority of eligible special districts lost their opportunity to decide who represents them on LAFCO.
F8.	Present staffing levels and expertise of Tuolumne County employees are inadequate to provide necessary and cost-effective support for LAFCO.
F9.	Annual assignments of Tuolumne County Board of Supervisors to the LAFCO commissioner and alternate commissioner roles have fluctuated among different Supervisors every year and does not provide continuity based on experience in the role of commissioner.

The report also contains the following recommendations:

R1.	Tuolumne County LAFCO commissioners and Tuolumne County leadership and staff should fully assist and expedite the proposed move from County-staff provided support to a contract with an outside agency or firm. Any support staffing continuing to remain provided by County-staff should be subject to a formal contract between LAFCO and Tuolumne County. (Findings 8, 6, 5)
R2.	Tuolumne County LAFCO website needs improvements in order to make it easier to locate and find minutes, identify commissioners, list and status of all districts subject to LAFCO, current and previous budgets, and any other information necessary to make LAFCO more transparent and accountable. (Finding 1)
R3.	Tuolumne County LAFCO staff should prepare a realistic schedule to review and update all Sphere of Influence (SOI) and Municipal Service Reviews (MSR) for all districts that have not been so updated within the last 5 years. Once approved by LAFCO, that schedule of progress should be available for all to view on the LAFCO website and updated at least twice per year. (Finding 4)
R4.	All decisions regarding personnel responsible for staff support for LAFCO, including but not limited to Executive Officer, Assistant Executive Officer, and Legal Counsel, should be at the discretion of LAFCO commissioners after careful consideration of experience, cost-effectiveness, and subject to at least one interview with LAFCO or an ad-hoc committee determined by LAFCO. (Finding 6)

R5.	Tuolumne County LAFCO should budget for participation by commissioners and staff in formal education opportunities such as CALAFCO conferences. LAFCO staff should provide local workshops for new commissioners to attend to introduce them to LAFCO laws and practices. These should also be advertised on the website and open to the public to attend at no cost. (Findings 2, 8)
R6.	Tuolumne County LAFCO budgets should include a contribution to a reserve fund to be carried over from year to year. In a year when the estimated budget contributions are not fully expended, those remaining contributions should roll to the reserve fund. (Finding 3)
R7.	Tuolumne County LAFCO should complete an update of Policy and Procedures Manual as soon as possible. Any detail necessary to remove ambiguities about how and when the Special Districts Selection Committee determines the succession of representatives from the special districts to the two Commission seats should be addressed in that update. Orientation for new commissioners should take place immediately after their appointment and understanding the Policy and Procedures Manual should be a point of emphasis during all orientation and subsequent training. (Findings 2, 7)
R8.	Tuolumne County Board of Supervisors should encourage multiple year assignments of the Supervisors to the role of LAFCO commissioner, in the interest of providing more knowledgeable and experienced members of the Commission. (Finding 9)

LAFCO RESPONSE

The Grand Jury has directed LAFCO to provide a response to Findings F1-F9 and Recommendations R1-R7, pursuant to Penal Code §933. The Commission should consider its response to the findings and recommendations with one of the following, as required by Penal Code §933.05:

- The respondent agrees with the finding.
- The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.
- As to each grand jury recommendation the responding entity shall report one of the following actions:
 - The recommendation has been implemented, with a summary regarding the implemented action.
 - The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe of implementation.
 - The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
 - The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

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LAFCO GRAND JURY REPORT – DRAFT RESPONSES

FINDING	DRAFT RESPONSE
F1. The Tuolumne County LAFCO website fails to provide information that is commonly provided by other county LAFCO websites, which includes the following deficiencies: - No adopted budget summaries are available - No roster of LAFCO commissioners including some form of contact information and when current term expires - No identification of key support personnel including Executive Officer and Legal Counsel - No approved Minutes documents available for review - No list, description, or map of special districts subject to LAFCO review and authority	Disagree Partially. It is unclear what should be considered “commonly provided” information. The report indicates that the Grand Jury reviewed approximately 4 LAFCO websites out of the 58 County LAFCOs in California. The LAFCO website is not required to contain any specific information beyond what is required by the Brown Act, nor does it need to be managed in the same or similar manner as other LAFCOs. The Tuolumne County LAFCO website does include all legally required information. All of the additional information listed in the report is available from the Commission Executive Officer, whose contact information is on the LAFCO website. And while there are not direct links on the LAFCO homepage for the items listed in the finding, this information, with the exception of a roster, is available within the posted Agendas and accompanying Minutes on the LAFCO website. Larger LAFCOs have extensive staffing resources who can provide and maintain information on a website. Currently there is not funding within the LAFCO budget to dedicate to additional staff to enhance or improve the website. The Commission will take into consideration any enhancements or improvements that may be made to the website within the current year’s budget.
F2. Tuolumne County LAFCO commissioners are not given adequate preparation or orientation when assuming roles as commissioners. For example, Commissioners have served without being provided with the Policy and Procedures Manual. Some did not know such a Manual existed or was statutorily required.	Disagree Partially. The LAFCO Clerk completes an onboarding process with each new Commissioner. This includes providing them information about the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH), the Tuolumne LAFCO policy handbook, and a roster. This year, materials from a “LAFCO 101” training that was provided by LAFCO Counsel was also included in the welcome packet.

	Commissioners are also given access to the California Association of Local Agency Formation Commissions (CALAFCO), a statewide organization who assists member LAFCOs with educational, technical, and legislative resources. CALAFCO organizes an annual conference and trainings throughout the year for Commissioners and staff. Commissioners routinely attend the trainings and annual conference. Four Commissioners, the Executive Officer, and LAFCO Counsel are planning to attend the 2024 LAFCO conference in October 2024. From time to time, subject matter experts attend local LAFCO meetings to speak to the Commission about different responsibilities and procedures related to LAFCO. The Commission voted in 2023 to update the policy handbook. Revisions have been ongoing and were on the agendas at three recent meetings: April 8 and May 13, and June 10, 2024. Once the updates have been completed and approved, it will be redistributed to the members and posted on the LAFCO website.
F3. LAFCO has no reserve fund as contributions for each fiscal year are based on actual expenditures with no carryover for the next fiscal year.	Agree. LAFCO does not have a reserve fund. The Commission will consider whether to include this in the updated policy handbook.
F4. While Sphere of Influence maps and Municipal Service Review updates were proposed in the 2019-2020 budget work plan, to catch-up to the standard 5-year review cycle, most of the updates have not been completed. As such, there are a total of 35 districts that have had no SOI or MSR updates in over 11 years.	Disagree Partially. The Government Code states that the Commission shall, as necessary, review and update each Sphere of Influence (SOI) every 5 years¹. In order to prepare and update SOIs, the Commission shall conduct a service review of the municipal services provided in the county or other appropriate area designated by the Commission². The timing of MSRs is not strictly mandated under the Government Code, and the Commission may determine whether a review is necessary. LAFCO law also provides that “any provisions in this division governing the time within which an official or the commission is to act shall in all instances, except for notice requirements and the requirements of subdivision (h) of Section 56658

¹ CA Government Code Section 56425(g)

² CA Government Code Section 56430

	[notice on an application] and subdivision (b) of Section 56895 [requests for amendments to or reconsideration of resolutions], be deemed directory, rather than mandatory³.” The Commission directs the timing of MSRs in an annual workplan. The Grand Jury report specifically mentions the proposed 2019-2020 workplan, which was significantly curtailed due to limited staffing resources during the Covid pandemic and the resulting shutdowns that occurred. During the April 29, 2024, LAFCO meeting, the Commission approved a MSR Completion Schedule which will be used to create the annual workplan moving forward. The Commission also adopted a significantly increased budget in 2024-2025 in order to complete additional MSRs. The Commission is currently considering how to best staff LAFCO to complete multiple MSRs in a cost-effective manner.
F5. LAFCO staff support can be provided by County staff; however, it must be under a contractual agreement. There is no contract between Tuolumne County LAFCO and Tuolumne County, which is a violation of state law requirements.	Disagree Wholly. The Grand Jury misinterprets the Government Code. LAFCO law allows the Commission to “appoint an executive officer⁴,” “appoint legal counsel to advise it⁵,” and “appoint staff as it deems appropriate⁶.” The Government Code also gives the Commission the power to “appoint and assign staff personnel and to employ <i>or contract</i> for professional or consulting services to carry out and effect the functions of the commission⁷.” The Attorney General has addressed the designation of the Executive Officer, Legal Counsel and staff in past opinions⁸. The Attorney General noted that “personnel to assist the Commissions may be obtained in two ways: (1) County officers or other employees may serve, and in doing so, do not lose their status as county employees; or (2) the Commission may employ or contract for professional or consulting services to carry out its functions, and may further appoint and assign staff personnel where the assistance rendered by the county boundary commission is insufficient.

³ CA Government Code Section 56106

⁴ CA Government Code Section 56384(a)

⁵ CA Government Code Section 56384(b)

⁶ CA Government Code Section 56384(c)

⁷ CA Government Code Section 56375(k)

⁸ 45 Ops. Cal. Atty. Gen. 82 and 51 Ops. Cal. Atty Gen. 235

	When the Commission fails to appoint an executive officer, the County Administrator or County Clerk so serves.” The distinction made by the Attorney General in the above quote is important, in that LAFCO can either use County employees or appoint and assign their own staff from other sources. The Attorney General further notes that, where a LAFCO commission chooses to utilize county staff, the County Counsel would be available to represent and advise such commissions. As set forth in LAFCO’s Policy and Procedure Manual, the Commission has elected to utilize County staff to serve as Executive Officer, Assistant Executive Officer, Legal Counsel and Department Support Technician. The Community Development Department (“CDD”) Director fills the role of LAFCO Executive Officer, who then selects the appropriate support staff. The CDD Director is a County employee, appointed by the Board of Supervisors, and the duties of LAFCO EO are detailed in that job description. LAFCO does not have the legal authority to hire or fire the CDD Director. The same is true for LAFCO Counsel and supporting staff. The LAFCO Policy and Procedure Manual allows County Counsel to represent LAFCO. County Counsel is also a County employee appointed by the Board of Supervisors. County Counsel assigns its attorney staff to clients based on a combination of factors, including competency, knowledge and experience. If the Commission continues to use County staff to perform the functions of LAFCO, it will consider entering into a retention agreement with the County to clarify roles and responsibilities. However, a retention agreement is not a requirement under the law. Upon consultation, other County LAFCOs have advised that they typically enter contracts when they hire employees directly or when they hire independent contractors, but not when they use staff of another agency. Although a retention agreement between agencies is commonly used, it is not universal, nor is it legally required.
F6. LAFCOs have the right to appoint and assign staff to support their activities. However, Tuolumne County has made personnel assignments to LAFCO staff without consulting commissioners. These	Disagree Wholly. For the reasons mentioned in Response F5, LAFCO has the right to designate Tuolumne County to fulfill their staffing requirements, but LAFCO cannot directly appoint the individuals who fill the County-provided roles.

assignments have not always been in the interest in maintaining continuity or accomplishing LAFCO goals.	Pursuant to the Policy and Procedure Manual, LAFCO staffing is provided by Tuolumne County staff. The CDD Director operates as the EO and utilizes the appropriate support staff within that department to fill the roles of Assistant Executive Officer and Department Support Technician. The County provides legal counsel through County Counsel's office. No evidence has been presented to LAFCO that demonstrates how personnel assignments to LAFCO have "not always been in the interest in maintaining continuity or accomplishing LAFCO goals." In fact, many of the issues addressed in the Grand Jury report are the result of budget and funding constraints, and not the result of personnel assignments. County staff have the competency, experience, and knowledge to assist LAFCO in accomplishing its goals, and also have access to resources and, when needed, subject matter experts. Staff attend regular CALAFCO trainings and also belong to statewide Executive Officer and Legal Counsel associations and listservs, and have an active shared staffing agreement with Marin, Santa Cruz, and San Benito LAFCOs who can provide assistance when necessary.
F7. One of the special district seats on LAFCO is to be available to multiple different special districts who provide funding for LAFCO and that seat is subject to vote of the special districts every four years through a Special District Selection Committee. A vote took place that was not in compliance with the state requirements and only a small number of eligible districts participated. However, that decision was accepted by LAFCO, and that commissioner will have that seat until 2026. The majority of eligible special districts lost their opportunity to decide who represents them on LAFCO.	Agree. In reviewing the process of the election of the Special District Selection Committee, the Special District appointment made in 2023 was nonstandard. This decision was indirectly accepted by LAFCO as no formal action was taken by the Commission to seat the member. If the special districts wish to revisit this action, the Government Code allows the Executive Officer to "call a noticed meeting of the Special District Selection Committee upon receipt of a written request by one or more members of the selection committee representing districts having 10 percent or more of the assessed value of taxable property within the county, as shown on the last equalized county assessment roll⁹."

⁹ CA Government Code Section 56632

F8. Present staffing levels and expertise of Tuolumne County employees are inadequate to provide necessary and cost-effective support for LAFCO.	Disagree Wholly. There is no evidence in the report to support this finding regarding expertise of Tuolumne County employees. The report concludes that meeting cancellations and MSRs not being completed more frequently is a result of inadequate staffing. However, the report acknowledges that the LAFCO budget will need to increase in order to update SOI maps and MSRs. The budget, not staff, directly dictates how many Commission meetings can be held, how many staff members can be assigned to LAFCO, and how many SOI maps and MSRs can be performed in a fiscal year. Staffing levels are directly tied to the LAFCO budget. The Commission may consider a future budget increase to support additional LAFCO staff. The report further notes that, because no one is currently assigned to the Assistant EO role for LAFCO, the EO currently provides all professional support to LAFCO, and at higher rates than an Assistant EO would, which is not cost-effective. The current LAFCO EO has over 25 years of experience in community planning and LAFCO matters and projects. This depth of experience permits LAFCO work to be completed efficiently and cost-effectively, as those with less experience generally require additional time to complete the same task, which essentially eliminates any cost savings that might otherwise result. All staff assigned to LAFCO are competent and have the knowledge and experience in performing the work of LAFCO. As mentioned in Response F6, staff have access to resources and, when needed, subject matter experts. Staff attend regular CALAFCO trainings and also belong to statewide LAFCO Executive Officer and Legal Counsel associations and listservs, and have an active shared staffing agreement with Marin, Santa Cruz, and San Benito LAFCOs to provide assistance when necessary. The Executive Officer, in working with budget constraints, has discretion regarding how to best accomplish a project or a required task to maximize the limited funding available. Legal Counsel is competent and knowledgeable in not only LAFCO law (Cortese Knox Hertzberg Act), but also public agency law, contracts law, and all other areas of law in which legal counsel routinely engage as LAFCO counsel. To the extent that a project or issue requires complicated subject matter expertise, LAFCO
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	staff utilize subject matter experts, which is standard practice in the industry. LAFCO is not aware of any specific concerns or complaints made about the quality of the work performed by staff, and the Grand Jury report does not address any work quality issues related to LAFCO staff.
F9. Annual assignments of Tuolumne County Board of Supervisors to the LAFCO commissioner and alternate commissioner roles have fluctuated among different Supervisors every year and does not provide continuity based on experience in the role of commissioner.	Disagree Wholly. In 2019, County Board of Supervisor appointments were extended from one year to two years. LAFCO does not have the authority to direct the appointments of County or City commissioners, including the length of their appointments.

RECOMMENDATION	RESPONSE
R1. Tuolumne County LAFCO commissioners and Tuolumne County leadership and staff should fully assist and expedite the proposed move from County-staff provided support to a contract with an outside agency or firm. Any support staffing continuing to remain provided by County-staff should be subject to a formal contract between LAFCO and Tuolumne County. (Findings 8, 6, 5)	Recommendation requires further analysis. The Commission is currently considering whether changes to LAFCO staffing should be implemented .and has been exploring this matter for over a year. Two Requests for Proposals have recently been released and no responses for Executive Officer services have been received. The Commission will consider executing a retention agreement with County staff to clarify roles and responsibilities if it chooses to continue using County staff.
R2. Tuolumne County LAFCO website needs improvements in order to make it easier to locate and find minutes, identify commissioners, list and status of all districts subject to LAFCO, current and previous budgets, and any other information necessary to make LAFCO more transparent and accountable. (Finding 1)	Recommendation requires further analysis. The Commission will consider whether enhancements or improvements can or should be made with the current budget and/or whether to increase the budget in the next fiscal year to address website modifications.
R3. Tuolumne County LAFCO staff should prepare a realistic schedule to review and update all Sphere of Influence (SOI) and Municipal Service Reviews (MSR) for all districts that have not been so updated	Recommendation will not be implemented because it is not warranted. As noted in Response F4, LAFCO law gives the Commission discretion regarding how often to update SOIs and MSRs and how to prioritize those MSRs. The Commission must also consider budget restraints when

within the last 5 years. Once approved by LAFCO, that schedule of progress should be available for all to view on the LAFCO website and updated at least twice per year. (Finding 4)	determining how many MSRs can be completed and how often. Additionally, the Commission approved a MSR Completion Schedule in April, 2024, which will be used to create the work plan.
R4. All decisions regarding personnel responsible for staff support for LAFCO, including but not limited to Executive Officer, Assistant Executive Officer, and Legal Counsel, should be at the discretion of LAFCO commissioners after careful consideration of experience, cost-effectiveness, and subject to at least one interview with LAFCO or an ad-hoc committee determined by LAFCO. (Finding 6)	Recommendation will not be implemented because it is not warranted. LAFCO already has the options of utilizing County staff, hiring its own staff, or contracting with another individual or agency. However, as explained in Response F6, the Commission does not control County staff and does not have the authority to select individual County staff members to fill LAFCO roles. LAFCO is currently assessing whether it will implement staffing changes. LAFCO has published two recent Requests for Proposals seeking an Executive Officer and/or Legal Counsel. There were no responses to the request for an EO, and one proposal received for a Legal Counsel firm is currently under review.
R5. Tuolumne County LAFCO should budget for participation by commissioners and staff in formal education opportunities such as CALAFCO conferences. LAFCO staff should provide local workshops for new commissioners to attend to introduce them to LAFCO laws and practices. These should also be advertised on the website and open to the public to attend at no cost. (Findings 2, 8)	Recommendation has been implemented. Commissioners and staff have routinely attended CALAFCO trainings in the past, and LAFCO brings in subject matter experts from time to time to present to the Commission. Tuolumne County also offers occasional training for all Committees and Commissions regarding AB1234, Contracts and the Public Records Act. Four Commissioners will be attending the CALAFCO conference in October of 2024 as the expenses were paid for with available funding in the 2023-24 fiscal year budget. There is also funding in the 2024-25 budget to provide local training to the Commissioners by subject matter experts. For trainings that occur during Commission meetings, they will be available for the public to attend at no cost. The Commission will consider the appropriateness of advertising workshops on the website.
R6. Tuolumne County LAFCO budgets should include a contribution to a reserve fund to be carried over from year to year. In a year when the estimated budget contributions are not fully expended, those remaining contributions should roll to the reserve fund. (Finding 3)	Recommendation requires further analysis. The Commission will consider including provision of a reserve fund in the Policy and Procedure Manual that is currently under review. The handbook update is anticipated to be completed by the end of 2024.

R7. Tuolumne County LAFCO should complete an update of Policy and Procedures Manual as soon as possible. Any detail necessary to remove ambiguities about how and when the Special Districts Selection Committee determines the succession of representatives from the special districts to the two Commission seats should be addressed in that update. Orientation for new commissioners should take place immediately after their appointment, and understanding the Policy and Procedures Manual should be a point of emphasis during all orientation and subsequent training. (Findings 2, 7)	Recommendation is being implemented. The handbook is anticipated to be updated by the end of 2024 and will include Policy Guidelines regarding the Special District Selection Committee. Commissioners are attending the CALAFCO Conference in October 2024 which serves as a component of their orientation. This year, local trainings will be provided by subject matter experts. LAFCO staff will continue to provide resources to new Commissioners that include the Cortese Knox Hertzberg Act and the Tuolumne LAFCO policy handbook.
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Tuolumne County LAFCO

LOCAL AGENCY FORMATION COMMISSION OF TUOLUMNE COUNTY

August 5, 2024

TO: LAFCO Commissioners

FROM: Quincy Yaley, AICP, Executive Officer

REQUESTED ACTION

Review of the County Service Areas in Tuolumne County: Road Maintenance in Subdivisions June 2024 Grand Jury report and consideration of a response to report's finding and recommendation, due September 23, 2024.

Commissioners

Steve Arreguin
Ryan Campbell
Suzanne Cruz
John Feriani
David Goldemberg
Janice Kwiatkowski
Ann Segerstrom

Alternates

Adam Artzer
Kathleen Haff
Andy Merrill

Executive Officer

Quincy Yaley, AICP

BACKGROUND

The Tuolumne County Civil Grand Jury performed an investigation of County Service Areas (CSA) during its 2023-2024 session and authored a report with its summarized findings and recommendations. Pursuant to Penal Code §933(c), the governing body of the public agency subject to the grand jury's reviewing authority "shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matter under [its] control" no later than 90 days after the grand jury submits a final report. The final report was issued on June 25, 2024, which means a response will be due by September 23, 2024.

GRAND JURY FINDINGS AND RECOMMENDATIONS

In its report, the Grand Jury focused on three areas: the CSA policy manual, the CSA engineering reports, and that the Sphere of Influence analysis has not been done by LAFCO for many years.

The Grand Jury report made the following finding relative to the scope of authority of LAFCO:

F10. LAFCO has not reviewed Sphere of Influence for CSAs in the last five year [sic] which doesn't allow for reassessment of non-contributors. Those benefiting from a CSA regularly should be members of that CSA.

The report also contains the following recommendations:

R10. Within the next nine months, LAFCO should do Sphere of Influence (SOI) analysis that addresses any other landowners who may primarily use the CSA roads for access and expand the CSA to include those parcels. (Finding 10)

FINDING	DRAFT RESPONSE
F10. LAFCO has not reviewed Sphere of Influence for CSAs in the last five year [sic] which doesn't allow for reassessment of non-contributors. Those benefiting from a CSA regularly should be members of that CSA.	Agree. The SOIs were last evaluated in 2013. LAFCOs are instructed to review SOIs every five years or as necessary. The information in the Grand Jury Report may be used by LAFCO to assist in determining the timing of the next SOI review.

RECOMMENDATION	DRAFT RESPONSE
R10. Within the next nine months, LAFCO should do Sphere of Influence (SOI) analysis that addresses any other landowners who may primarily use the CSA roads for access and expand the CSA to include those parcels. (Finding 10)	Recommendation needs further analysis. LAFCO needs to decide the priority of completing a review of the CSA SOIs when the next annual workplan is determined in 2025. It should be noted that expanding a SOI does not automatically include adding new properties to a CSA – the actual boundary of the CSA would need to be modified if the County wished to add properties into a CSA, and the feasibility of adding those properties into a CSA would need to be evaluated.

Tuolumne County LAFCO

LOCAL AGENCY FORMATION COMMISSION OF TUOLUMNE COUNTY

July 10, 2024

TO: LAFCO Commissioners

FROM: Quincy Yaley, AICP, Executive Officer

REQUESTED ACTION

Update on status of Municipal Service Reviews for Tuolumne Utilities District, Jamestown Sanitary District, Tuolumne Park and Recreation District, and Tuolumne City Sanitary District.

Commissioners

Steve Arreguin
Ryan Campbell
Suzanne Cruz
John Feriani
David Goldemberg
Janice Kwiatkowski
Ann Segerstrom

Alternates

Adam Artzer
Kathleen Haff
Andy Merrill

Executive Officer

Quincy Yaley, AICP

1. Tuolumne County LAFCO has engaged Helix Environmental to prepare the Jamestown Sanitary District (JSD) and Tuolumne Utilities District (TUD) Municipal Service Review (MSR) reports. LAFCO staff have been tasked with completing MSRs for Tuolumne Park and Recreation District (TPRD) and Tuolumne City Sanitary District (TCSD).
2. Helix Environmental provided administrative draft MSR for JSD to LAFCO staff on July 7, and for TUD on July 12, 2024. LAFCO staff will review these draft reports, work with the districts to obtain any missing or additional information and provide comments back to the consultant. The consultant will then make the necessary revisions and provide a draft back to LAFCO staff. Staff will make any final revisions, which will include consultation with staff from the respective districts, prior to making the report available to the public.
3. On April 16, 2024, the Executive Officer sent a Request for Information to TCSD. A response was requested to be provided by May 10. On June 14, follow up correspondence was sent to TCSD as no information had been provided. The Executive Officer then received correspondence from TCSD indicating they would be responding as soon as possible to the request for information.
4. On April 16, 2024, the Executive Officer sent a Request for Information to TPRD. A response was requested to be provided by May 10. On May 20, TPRD staff reached out to the Executive Officer to receive clarification on the MSR process. The Executive Officer met with the TPRD staff to review the data request and provided an overview of the MSR process. TPRD staff indicated the data would be submitted to LAFCO soon.
5. Staff will continue working with Helix Environmental on completing the MSRs for JSD and TUD. Staff is eager to receive information from TCSD and TRPD. Once received, staff will begin to complete both of those MSRs in hopes of maintaining the schedule approved by LAFCO at the April 26, 2024 meeting (attached to this report).

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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
Tuolumne Sanitary	2013	100 hours @ \$225 \$22,500	100 hours @ \$120 \$12,000	In Process-Complete FY 2024-25
Twain Harte CSD	2013	150 hours @ \$225 \$33,750	150 hours @ \$120 \$18,000	Complete FY 2024-25
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

Tuolumne County LAFCO

LOCAL AGENCY FORMATION COMMISSION OF TUOLUMNE COUNTY

July 11, 2024

TO: LAFCO Commissioners

FROM: Quincy Yaley, AICP, Executive Officer

RE: Review of results of RFP for an Executive Officer/Legal Counsel and consideration of providing direction to the Executive Officer on LAFCO staffing

Commissioners

Steve Arreguin
Ryan Campbell
Suzanne Cruz
John Feriani
David Goldemberg
Janice Kwiatkowski
Ann Segerstrom

Alternates

Adam Artzer
Kathleen Haff
Andy Merrill

Executive Officer

Quincy Yaley, AICP

1. On January 8, 2024, the Commissioner directed the Executive Officer to release a Request for Proposals (RFP) for an Executive Officer/Legal Counsel. The RFP was released on January 26 and was posted on the County's Bid/RFP/RFP webpage. Anyone who had requested notifications when bids are posted would have received the RFP, and the Executive Officer also sent the RFP to consulting firms who are members of CALAFCO. After being available until February 19, no responses were received.
2. A second RFP was released on May 1, 2024 and closed on May 31, 2024. It was circulated in the same manner as the previous RFP. The Commission indicated they would like to review responses to that RFP in a closed session, however because the current LAFCO procedures do not allow for this type of item to be discussed in closed session, the matter was heard in open session on June 10, 2024 and the Commission decided to postpone the item to a future agenda.
3. One response was received to provide legal counsel and is attached to this report. The Commission may move forward to select the responding firm to provide legal counsel or may not choose to engage with the firm. LAFCO is not required to choose any firm that responded to the RFP. As discussed in previous meetings, changes to LAFCO staffing by moving to consultants will result in the need to revise the approved LAFCO budget.
4. No responses were received for Executive Officer services. Therefore, the Commission may:
 - Re-open the existing RFP.
 - Modify the RFP and open a new recruitment.
 - Decide to staff LAFCO in another manner.
 - Continue with the existing staffing model currently in place.
 - Provide other direction on how LAFCO will be staffed.

RECOMMENDATION

Provide direction to the Executive Officer regarding future LAFCO staffing.

S:\Commissions\LAFCO\RFPs\RFP for Executive Officer and Legal services\RFP responses staff report v3.docx

May 29, 2024

[REDACTED]

Quincy Yaley, Director
Community Development Department
Tuolumne County
48 Yaney Avenue, 4th Floor
Sonora, CA 95370

Re: **Response to RFP 2024-0159 LAFCO Legal Services Tuolumne County**

Dear Quincy,

INTRODUCTION. Thank you for the opportunity to propose our services as Legal Counsel to the Tuolumne Local Agency Formation Commission. I and everyone at Colantuono, Highsmith & Whatley would be very pleased to represent your Commission.

Submitted with this cover letter is a formal proposal that addresses the requirements of the Request for Proposals. Our firm is well positioned and prepared to provide the full range of services identified in the Scope of Services for legal services only. We do not propose to provide Executive Officer Services.

EXPERIENCE. We propose Michael G. Colantuono and Mackenzie D. Anderson with primary responsibility for providing legal services. CHW's other attorneys will also be available to assist the Commission based on need and expertise. As detailed in our enclosed resumes, we are very well qualified to serve as LAFCO's General Counsel. Our firm presently serves as General Counsel to Calaveras, Napa, San Diego, and Yuba LAFCOs. We have provided special counsel services to Glenn, Imperial, Monterey, Nevada, Orange, San Bernardino, San Luis Obispo, Shasta, Solano, Sonoma, Santa Cruz, Tuolumne, Ventura and Yolo LAFCOs, as well. Michael is General Counsel of Calaveras LAFCO and previously served in that role for San Diego and Yuba LAFCOs and he was a member of the Committee on Local Governance for the Twenty-First Century, responsible for a major rewrite of the Cortese-Knox-Hertzberg Act governing LAFCOs. Mackenzie is Assistant General Counsel of the Calaveras, Napa and Yuba LAFCOs.

RESUMES. Michael's and Mackenzie's resumes are enclosed. Biographical statements as to all CHW attorneys can be found at <https://chwlaw.us/attorneys/>.

FIRM DESCRIPTION. CHW is a California Professional Corporation with 32 attorneys. It is a municipal law firm with offices in Pasadena, Grass Valley, Sacramento, Solana Beach, and Sonoma that represents public and private clients throughout California in municipal law, including public revenues, land use, elections, labor and employment, post-redevelopment, housing, public works contracting, utility services, the California Environmental Quality Act (CEQA), the Cortese-Knox-Hertzberg Act regarding Local Agency Formation Commissions, sex offender and marijuana regulation and related public safety topics, and associated litigation. Our core commitment is to provide advice our clients find helpful, understandable, and fairly priced.

Michael and Mackenzie's contact data are:

Michael G. Colantuono
Colantuono, Highsmith & Whatley, PC
420 Sierra College Drive, Ste. 140
Grass Valley, CA 94945
(530) 432-7357
MColantuono@chwlaw.us

Mackenzie D. Anderson
Colantuono, Highsmith & Whatley, PC
333 University Avenue, Ste. 200
Sacramento, CA 95825
(916) 400-0370
MAnderson@chwlaw.us

Michael will serve as the contact person for this proposal.

REFERENCES. These clients can serve as references for this proposal. We provide general counsel services to each of them.

John Benoit, Executive Officer
Calaveras and Yuba LAFCOs
PO Box 2695
Granite Bay, CA 95764
(707) 592-7528
j.benoit4@icloud.com

Brendon Freeman, Executive Officer
Napa LAFCO
1754 Second Street, Suite C
Napa, CA 94 559
(707) 259-8645
BFreeman@napa.lafco.ca.gov

Keene Simonds, Executive Officer
San Diego LAFCO
9335 Hazard Way, Ste. 200
San Diego, CA 92123
(858) 614-7755
Keene.Simonds@sdcounty.ca.gov

PRICE. Our hourly rates are based upon the experience, reputation, and ability of the attorneys and legal assistants performing the services. We can offer a discounted rate by providing general counsel legal services at our standard rates (which range from \$255 to \$605 per hour for attorneys) capped at \$325 per hour and litigation, reimbursable, and special services at our standard rates capped at \$350 per hour. We will increase these rates annually by the lesser of the consumer price index for all urban consumers in the Western United States or 5 percent.

This means the Commission will not be charged more per hour, even if the attorney's standard rate is higher, and will be charged less if the attorney's standard rate is lower. We always perform legal services with a basic tenet in mind: the Commission should be provided the highest level of service by the most cost-efficient attorney, depending on the task and the Commission's input. Our proposal is firm and irrevocable for 90 days after the date of this letter and thereafter, if the Commission has not yet made a decision regarding its Legal Counsel, provided we have an opportunity to reevaluate our proposed rates. We submit a complete rate table with this proposal.

DISCLOSURE. We presently serve Tuolumne County and Tuolumne LAFCO as special counsel, but have never represented any of the cities or special districts in the County. We also represent the adjacent counties of Alpine and Calaveras and Michael serves as General Counsel of Calaveras LAFCO.

CONTRACT EXCEPTIONS. We have reviewed the professional services agreement included as Attachment A to the RFP and can agree to its terms with two exceptions:

1. We propose to exclude workers compensation coverage from the waiver of subrogation. This is costly and burdensome to us and of very little value to you as to professional services not provided on your premises, as will typically be the case.
2. We propose to limit our duty to indemnify Tuolumne LAFCO by adding the word "negligent" before performance in the form of agreement.

If we can provide any further information to assist your review of this proposal, please let me know. Thank you for the opportunity to propose our services as Legal Counsel to the Tuolumne Local Agency Formation Commission.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'MGC', with a stylized flourish extending from the end.

Michael G. Colantuono

MGC:tsw
Enclosures:
Resumes (2)
Firm Description
References
Price
Disclosure
Fee Schedule

**PROPOSAL TO
TUOLUMNE LOCAL AGENCY
FORMATION COMMISSION
FOR
LEGAL COUNSEL SERVICES**

Due: May 31, 2024

SUBMITTED BY:

Michael G. Colantuono, Esq.
Colantuono, Highsmith & Whatley, PC
420 Sierra College Drive, Suite 140
Grass Valley, CA 95945-5091

Telephone: (530) 432-7357
E-mail: MColantuono@chwlaw.us

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Part 1. Description and Summary of Qualifications

Description of Law Firm

Colantuono, Highsmith & Whatley is a 32-lawyer municipal law firm established in 2002 with offices in Sacramento, Grass Valley, Pasadena, Sonoma, and Solana Beach. Our attorneys are among a small number in private practice with deep expertise in the Cortese-Knox-Hertzberg Act (CKH).

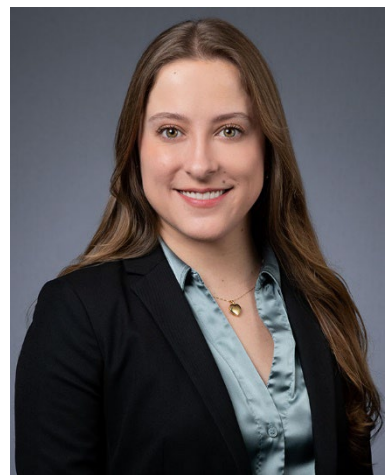
The firm's core commitment is to provide advice our clients find helpful, understandable, and fairly priced. We represent public agencies generally, serving as Legal Counsel to Calaveras, San Diego, Napa, and Yuba LAFCOs and City Attorney to the Cities of Auburn, Barstow, Calabasas, Etna, Grass Valley, Lakeport, Ojai, Martinez, Montague, Sierra Madre, Sonoma, Weed, Yreka, and the Town of Yountville. We also serve as general and special counsel in advisory and litigation matters for counties, cities, and special districts of various kinds throughout the state.

In our service as general counsel and in our special counsel practice, we provide advice to public agencies on all facets of public agency law, including the Brown Act, conflicts of interest law, the Public Records Act, land use and planning, the California Environmental Quality Act (CEQA), public revenues and financing, labor and employment, redevelopment dissolution, housing, election law, and any related litigation. The firm prides itself on its extensive public law experience, its commitment to problem-solving, and a focus on ethical, creative, affirmative, and intelligent advice and representation, which our clients find both helpful and understandable.

Description of Personnel

Mackenzie Anderson

Mackenzie is an Associate in Colantuono, Highsmith & Whatley's municipal advisory practice group and resident in our Sacramento office. She provides a wide range of support for our municipal clients in such topics as public records, conflicts of interest, and land use. She is Assistant City Attorney for the City of Grass Valley and the City of Lakeport as well as Assistant Town Attorney for the Town of Yountville. She supports our general and special counsel clients in public law matters including open meetings, public records, conflicts of interest, land use and CEQA, public works construction, taxation, marijuana regulation, LAFCO issues and other topics.



While in law school, Mackenzie worked for federal and local agencies, including the Equal Employment Opportunity Commission and the Santa Clara District Attorney's Office. She graduated from U.C. Berkeley Law with Pro Bono Honors. Before law school, she graduated from Philadelphia's Temple University *summa cum laude* with a BA in English and a minor in Political Science. During that time, she interned with the Stanislaus Family Justice Center, Philadelphia District Attorney's Office, and Philadelphia Mayor's Office, gaining exposure to a variety of local government and public service issues.

Practice Areas:

- Municipal Advisory
- California Public Records Act
- Conflict of Interest Laws
- California Environmental Quality Act
- Land Use
- Code Enforcement
- LAFCO Law

Michael G. Colantuono

Michael adds a depth of experience to our team. Michael was appointed by the Assembly Rules Committee to the Commission on Local Governance in the 21st Century which produced a report entitled “Growth Within Bounds” that led to the adoption of A.B. 2838 in 2000 to comprehensively revise CKH. As one of two lawyers in private practice on the Commission, Michael played an active role in drafting and negotiating the language of A.B. 2838.



Beyond his service on that Commission, Michael has been an active public lawyer representing local governments in LAFCO and other matters since 1989. As managing shareholder of the firm, Michael has handled a number of lawsuits for LAFCOs as well, including a disputed island annexation involving a Home Depot site surrounded by El Cajon in which we represented San Diego LAFCO. He has handled a number of annexation and related disputes for Yuba LAFCO, and a disputed annexation to the City of Huntington Beach involving the question of whether Proposition 218 applies to inhabited island annexations. This case led to the published decision in *Citizens Association of Sunset Beach v. Orange County LAFCO*, an important victory for all LAFCOs and cities in our State.

Michael is perhaps California’s leading expert on the law of local government revenues, handling more than a dozen cases on that subject in the California Supreme Court since 2004 and appearing in every division of the California Court of Appeal. California Chief Justice Ronald M. George presented him with the 2010 Public Lawyer of the Year Award on behalf of the California State Bar. The State Bar has certified him as an Appellate Specialist and he is a member of the California Academy of Appellate Lawyers, a prestigious association of about 125 of California’s most distinguished appellate advocates. Two successive Speakers of the California Assembly appointed him as a member of the Board of Trustees of the California Bar, the state agency which regulates the practice of law in California. His fellow Trustees elected him Treasurer and President of the Bar and the California Supreme Court appointed him as Chair of the Board of Trustees. He was named to the Daily Journal’s “Top 25 Municipal Lawyers in California” every year since its list began in 2011.

Michael currently serves as General Counsel for Calaveras LAFCO and special counsel to several other LAFCOs, as well as City Attorney for the City of Grass Valley. He previously served as City Attorney of Auburn (2005–2019), Barstow (1997–2004), Calabasas (2003–2012), Cudahy (1994–1999), La Habra Heights (1994–2004), Monrovia (1999–2002), and Sierra Madre (2004–2006), as General Counsel to the Barstow (1997–

2004) and Sierra Madre (2004–2006) Redevelopment Agencies, and as General Counsel of the Big Bear City Community Services District (1994–2001).

Michael graduated *magna cum laude* from Harvard University (BA 1983) and received his law degree from University of California, Boalt Hall School of Law (JD 1988), graduating first in his class. While in law school, he was an Articles Editor of the California Law Review and made a member of the Order of the Coif upon graduation. Michael was law clerk to the Honorable James R. Browning, Judge of the United States Court of Appeals for the Ninth Circuit, in 1988–1989.

Michael comments on local government and municipal finance topics on Threads (colantuonomichael) and LinkedIn (Michael Colantuono).

Licenses:

- California State Bar No. 143551; Admitted December 1989

Education:

- J.D., 1988: University of California, Boalt Hall School of Law (Berkeley)
- B.A., 1983: Harvard University

Practice Areas:

- Appellate Litigation
- Conflicts of Interest
- Constitutional Law
- Election Law
- Local Agency Formation Commission (LAFCO) Law
- Land Use, Planning and CEQA
- Municipal Litigation
- Public Law
- Municipal Revenues (Taxes, Assessments, Fees, and Charges)
- Post-Redevelopment
- Public Utilities

Part 2. Related Work Experience and References

In our CKH practice, we have advised LAFCOs, cities, and special districts on all aspects of LAFCO-related issues including changes of organization, spheres of influence and municipal service reviews, the provision of services outside jurisdictional boundaries, and conducting protest proceedings, as well as handling a number of significant LAFCO-related litigation matters.

As part of our everyday practice for public entities, we have drafted legislation on every imaginable topic of interest to a public entity, as well as supporting staff reports. We regularly review and draft simple and complex agreements including indemnity and defense agreements, agreements pertaining to real property (whether for acquisition or regulation, including easements, right of way access or abandonment), construction and subdivision agreements, professional services agreements, Memoranda of Understanding with bargaining units, and public works project bidding documents.

The firm also includes California's leading experts on local government revenues, including Propositions 13, 26 and 218. Michael, one of the firm's founding members, leads the team on all public financing matters, which often informs LAFCO's consideration of annexation applications that will result in the imposition of new taxes or assessments on the affected territory. He recently chaired the League of California Cities Committee that wrote the League's Propositions 26 and 218 Implementation Guide. In addition, we maintain a labor and employment team, of which Terri Highsmith is lead counsel with assistance as needed from Gary Bell, David Ruderman, and Michael in both transactional and litigation matters. Terri has more than 25 years of experience advising public agency clients regarding all aspects of public employment law.

In addition to advisory work in all areas of interest to a public entity, our firm also represents public entities in litigation matters, as needed, from simple code enforcement to complex matters of first impression impacting agencies on a statewide basis. Our litigators have broad experience in public-sector litigation and such private-sector topics as general commercial litigation, employment law, and unfair competition. We have a successful litigation track record at all levels, including an extensive practice in the California Courts of Appeal and the California Supreme Court.

In sum, we are well prepared to provide all services listed in the RFP, in addition to any other legal services we may be called upon to provide the Commission, including:

1. Serving as LAFCO legal counsel and representative in all Commission matters, including litigation and administrative proceedings as necessary;
2. Providing general legal advice to the Commission or the Executive Officer when requested, typically on matters of general municipal or administrative law,

including CEQA, and on matters relating to the Cortese-Knox-Hertzberg Act or case law specifically involving local government boundaries or organizations in California;

3. Serving as on-call legal counsel to the Commission, mainly from a remote location, unless attendance at meetings is requested in advance;

4. Attending in-person meetings with the Executive Officer and/or Commission committees when required or maintain telephone and e-mail contact as needed;

5. Reviewing and commenting upon monthly agendas, staff reports, resolutions, correspondence, administrative policies, and other documents prepared by LAFCO staff as requested and in a timely manner;

6. Preparing legal opinions on specified issues;

7. Preparing and/or reviewing contracts and indemnification agreements on request;

8. Preparing occasional reports and present information at public hearings and representing the Commission as legal counsel during meetings as needed.

Part 3. Approach

Colantuono, Highsmith & Whatley is unique for its approach in the delivery of legal services. Our philosophy is to anticipate and find solutions to our clients' problems, and to help our clients achieve their goals. We focus on preventative law directed at addressing legal problems before the parties find that they must resort to time-consuming and expensive litigation. Often, we find that a matter can be resolved with a creative, legal negotiated solution that takes into account and meets the goals of our client and the other parties. If litigation is required, however, we are well equipped to vigorously represent our clients' interests in court. At the same time, we are alert for opportunities to settle litigation and thereby to reduce our clients' costs.

We view the role of Legal Counsel as a close partnership with the Executive Officer. In coordination with the Executive Officer, the Legal Counsel's role is to advise decision-makers of the law, including the various options and associated risks, so they may carry out the policies and objectives of the Commission. The Legal Counsel is not a policy maker or a manager but rather assists those in these positions with accurate, timely, and helpful advice. The Legal Counsel also provides unbiased, neutral advice to the Commission regarding its operations. The Legal Counsel's work includes written advice in memoranda and email communications, oral advice when appropriate during meetings, in-person and by telephone, defending the Commission in litigation and

hearings, and initiating litigation on behalf of the Commission when directed to do so by the Commission. We are committed to providing a high level of service for all work identified in the RFP, in addition to any other legal services we may be called upon to provide the Commission. In addition, Michael has no meeting conflicts with the Commission's regular meetings scheduled for the second Monday of each month at 4:00 p.m.

Part 4. Project Cost

Although our rates range from \$255 to \$605 per hour based on the experience, reputation, and ability of our attorneys, we would be pleased to discount our rates to our standard rates capped at \$325 per hour for general counsel services and at \$350 per hour for litigation and special counsel services, should they be needed. The LAFCOs our firm represents, as well as many of our public agency clients with a relatively smaller demand for legal services, are billed only for services rendered on an as-needed basis as determined by the Executive Officer. We bill on a monthly basis in increments of one-tenth of an hour. We find this arrangement works well for LAFCOs because they often have an uneven demand for legal services, driven by applications for large or controversial changes of organization or reorganization. We believe this fee structure will work for Tuolumne LAFCO and will provide potentially substantial savings.

We propose to provide special legal services and litigation services at our standard rates capped at \$350 per hour. Work to be reimbursed to LAFCO by developers and others is billed at our standard rates also capped at \$350 per hour, which allows us to keep the rates that LAFCO pays lower.

For travel, we would charge only one-half the discounted rate for travel to and from Tuolumne County from our offices. In addition, we ask for mileage reimbursement at the IRS rate, but no other travel expenses will be charged unless LAFCO should need us to stay overnight (as for a two-day meeting).

Finally, we charge \$0.20 per page for in-house copies and \$1 per page of outgoing faxes (which have become quite rare given the utility of e-mail). All other costs we incur in representing you are charged at our actual cost, without markup. We find that out-of-pocket expenses for our general counsel clients in non-litigation matters, other than mileage, are very small.

Public agencies vary considerably in the way they use counsel and we pride ourselves on our ability to meet our clients' varied needs efficiently and at the lowest cost consistent with effective representation. In the end, we pledge that the financial arrangement between Tuolumne LAFCO and CHW will be fair to both parties and we will never send a bill to you without first reviewing it with that commitment in mind.

Litigation, Special Counsel, and Reimbursable Services Rates

Special counsel services include those services that fall outside general counsel services (defined above) and litigation, such as:

- Real estate legal services other than routine review of escrow documents, title reports and standard sale or purchase contracts.
- Labor, employment and personnel legal services prior to the initiation of litigation, but excluding facilitating the Executive Officer's annual performance review and basic review of agreements prepared as part of the normal course of the Commission's work.
- Litigation services, including advice and representation concerning actual or threatened litigation, administrative proceedings and court proceedings, and any and all matters assigned by LAFCO.

We find that, unlike other general counsel clients, LAFCOs have a very small demand for these types of special counsel services.

Attachment A

FIRM PROFILE

Colantuono, Highsmith & Whatley is a municipal law firm with offices in Grass Valley, Pasadena, Sacramento, Sonoma and Solana Beach that represents public and private clients throughout California in municipal law, including public revenues, land use, elections, labor and employment, post-redevelopment, housing, public works contracting, utility services, the California Environmental Quality Act (CEQA), the Cortese-Knox-Hertzberg Act regarding Local Agency Formation Commissions, cannabis regulation and related public safety topics, and associated litigation. Our core commitment is to provide advice our clients find helpful, understandable, and fairly priced.

The firm was recognized as one of California's Top Ranked Law Firms by Martindale-Hubbell in 2014 and Michael Colantuono, Terri Highsmith, Jeff Walter, Jenni Pancake, and Michael Allderdice have each achieved the highest AV rating from Martindale-Hubbell. Michael and Jennifer L. Pancake were named 2020 California Lawyers of the Year by the Daily Journal for their victory in the California Supreme Court in an inverse condemnation case. Michael (2011–2013) and Holly Whatley (2013) have been listed as among the Top Municipal Lawyers in California by the Daily Journal. Michael was awarded the 2010 Public Lawyer of the Year Award by the California State Bar, is a former President of the City Attorneys Department of the League of California Cities, former President and Chair of the Board of Trustees of the State Bar, and former President of the California Academy of Appellate Lawyers—a prestigious organization of about 125 of the most respected appellate advocates in our State. Michael is also certified as an Appellate Specialist by the California State Bar.

Our firm includes California's leading experts on local government revenues, including Propositions 13, 62, 26 and 218 and our attorneys have argued more than a dozen government revenue cases in the California Supreme Court since 2004. Our litigators have broad experience in public-sector litigation and such private-sector topics as general commercial litigation, labor and employment, unfair competition and intellectual property. We have especially deep experience in class action challenges to local government revenue measures of all types. We are handling challenges to water, electric and gas rates for cities, counties and special districts around California.

The firm serves as general counsel or city or town attorney of the Cities of Auburn, Barstow, Calabasas, Grass Valley, Etna, Lakeport, Martinez, Montague, Novato, Ojai,

Sierra Madre, Sonoma, Weed, Yreka, and the Town of Yountville, and the Successor Agencies to the Auburn, Barstow, and Sierra Madre Redevelopment Agencies, the Garden Valley, Higgins, Ophir Hill, North San Juan, and Penn Valley Fire Districts, the Orangeline Development Authority (dba Eco Rapid Transit), the SELACO Workforce Investment Board, the Calaveras, Napa, San Diego and Yuba County LAFCOs, the Oak Tree Park and Recreation District, the Pine Grove Community Services District, the Tahoe Forest Hospital District and the First Five Yuba Commission.

The firm serves as special counsel to local governments throughout California. Present and recent clients include the Cities of Anaheim, Belmont, Berkeley, Brentwood, Burbank, Cerritos, Chula Vista, Concord, Culver City, Cupertino, Fremont, Fresno, Glendale, Lakewood, Lathrop, Livermore, Lodi, Long Beach, Los Angeles, Monterey, Morgan Hill, Mountain View, Newport Beach, Oakland, Oxnard, Pacific Grove, Palo Alto, Paramount, Pasadena, Pico Rivera, Redding, Redondo Beach, Rialto, Richmond, Riverside, Sacramento, Salinas, San Diego, San Jose, San Luis Obispo, San Mateo, Santa Ana, Santa Clara, Santa Fe Springs, Santa Maria, Santa Rosa, Sausalito, Simi Valley, South Lake Tahoe, Sunnyvale, Torrance, Tracy, Tulare, Vallejo, Ventura, Vernon, and Vista; the Counties of Marin, Mariposa, Riverside, San Benito and Solano; the Goleta Water District, the Montecito Water District, the Newhall Water District, the Pajaro Valley Water Management Agency and the Monterey Peninsula Water Management Agency; Monterey Regional Water Pollution Control Authority and the Goleta West Sanitary District; the McKinleyville and Santa Lucia Community Services Districts; the Plumas Hospital District; the Los Angeles and San Diego Tourism Marketing District Corporations and the Calaveras, Monterey, Orange, San Bernardino, San Diego, San Luis Obispo and Yolo County LAFCOs. The firm has previously represented the Cities of Irvine, Oakland, San Bernardino, and San Francisco.

Attachment B

Fee Schedule

Proposal to Tuolumne LAFCO

May 29, 2024

Proposed Rates

More Senior Counsel	\$325 per hour for advisory work; \$350 for litigation
5-year lawyers	\$315
4-year lawyers	\$300
3-year lawyers	\$290
2-year lawyers	\$280
1st-year Lawyers	\$255
Law Clerks	\$225
Paralegals	\$200
Legal Assistants	\$180

INFLATION ADJUSTMENT: We propose to raise these rates on July 1 of each year during the contract term (other than 2024) by the lesser of 5 percent or the annual increase in the CPI for All Urban Consumers in the Western United States.

Attachment B

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Tuolumne County LAFCO

LOCAL AGENCY FORMATION COMMISSION OF TUOLUMNE COUNTY

August 5, 2024

TO: LAFCO Commissioners

FROM: Quincy Yaley, AICP, Executive Officer

RE: EXECUTIVE OFFICER'S REPORT - Updated Policy and Procedure Manual

REQUESTED ACTION

Consideration of approving a proposed update to the LAFCO Policies and Procedures.

Commissioners

Steve Arreguin
John Feriani
David Goldemberg
Glen Jacobs
Kathleen Haff
Matt Hawkins
Mark Plummer

Alternates

Adam Artzer
Ryan Campbell
Suzanne Cruz

Executive Officer

Quincy Yaley, AICP

1. Tuolumne County LAFCO has a locally adopted set of policies and procedures that were originally approved in 2001 and last updated in 2011. In the 2023-24 Workplan approved by the Commission, updating the procedures was identified to be completed by the Executive Officer. The Executive Officer has been working with LAFCO legal counsel to complete this task.
2. This item has been scheduled for two LAFCO meetings (4/8/2024 and 5/13/2024), but due to lengthy meetings was postponed. At the June 10, 2024 LAFCO meeting, the Commissioners discussed the policies and were instructed to provide feedback to the Executive Officer. During the meeting, comments were also received from the public. Any specific changes not discussed in the meeting were requested to be forwarded to the Executive Officer. To date, no comments have been received.
3. Since the June 8, 2024 meeting, additional updates have been made which are included in the draft redline document. Changes made since June are highlighted in yellow.
4. The current Policy and Procedure Manual is located on the Commission website at <https://www.tuolumnecounty.ca.gov/DocumentCenter/View/27031/2011-CURRENT-LAFCO-PROCEDURES>
5. The Commission may make additional changes to the policy handbook, may direct staff to make additional changes, and/or may approve the document. Nothing precludes the Commission from making further revisions to the handbook should it be warranted in the future.

S:\Commissions\LAFCO\Procedures\2022 procedure update\July 2024 procedure update memo.docx

Tuolumne County LAFCO

LOCAL AGENCY FORMATION COMMISSION OF TUOLUMNE COUNTY

POLICY AND PROCEDURE MANUAL

Adopted 11/16/01

Amendments Noted In Text
6/27/05

3/23/09

8/9/10

3/14/11

August 2024

PREFACE

Since the establishment of Local Agency Formation Commissions in 1963, various acts of the State Legislature have defined, amended, and expanded the role of LAFCOs in the State of California. This manual is, therefore, a dynamic document which must change as State directions, State mandates, and local needs change.

This manual is divided into six sections:

- Section One presents a background of statewide problems which led to the creation of LAFCOs in every county in the State (except the city and county of San Francisco) to place the current LAFCO role within an historical context.
- Section Two provides an overview of the statutes that govern and provide direction to **Tuolumne County** LAFCOs. The statutes outlined herein are not exhaustive, but they reflect the scope of LAFCO responsibilities and the elements of LAFCO decision-making.
- Section Three lists the adopted policy guidelines of the Tuolumne County LAFCO. Recognizing that the needs of one county may be substantially different from another county, the State allows significant flexibility to each Commission, authorizing the LAFCO in many cases to apply the statutes "based on local conditions and circumstances". ~~Sections four, five and six set forth These Tuolumne County LAFCO's local policies are therefore the catalyst for implementation of State laws designed to "discourage urban sprawl and encourage the logical and orderly formation and development of local agencies". which have been tailored to meet the unique needs of the County. establishes the organizational operating policies for LAFCO, including budget requirements and purchasing policies.~~
- Section Four ~~establishes the organizational operating policies for LAFCO, including budget requirements and purchasing policies.~~
- Section Five lists the locally adopted Rules of Order by which the Commission conducts its hearings. Rules, which are not directly required by State law, are subject to change by a majority vote of the Commission members.
- **Section Six includes directions on how to process LAFCO applications within Tuolumne County.**

Several appendices have been included to clarify the following topics:

Appendix A – LAFCO Environmental Analysis Rules
Appendix B – Sphere of Influence Review Policies
Appendix C – Special District Selection Committee
Appendix D – Indemnification Agreement Policy
Appendix E – Conflict of Interest Code

SECTION 1: BACKGROUND ON LAFCO

During the postwar 1940s and 1950s, California experienced a tremendous population increase. Along with this came land speculation and a development boom never before witnessed any place in the nation. Prime agricultural, ranch, and orchard lands were converted into sprawling residential tracts almost overnight.

As a result of this era of growth, the traditional purpose and structure of local government in California also underwent significant change. The demand for housing and municipal services mushroomed and the speculative nature of development caused developers to seek the most expeditious and economical means of providing basic services such as water, roads, fire protection, and sewers. During this period special district after special district was formed - many of them overlapping each other and providing like services to whoever asked for them without consideration of future development, land use, and long-range service financing.

Special districts became the local government of suburbia and municipalities suffered. With development moving away, cities experienced a deteriorating revenue base and a residual population of lower income residents. To counteract this, cities began annexing whatever territory they could. However, because of existing annexation statutes, cities were able to annex only the undeveloped land beyond or around developing suburbia. This type of annexation led to premature, unplanned development and irregular city boundaries.

By the late 1950s, California's agricultural industry dwindled and cities began seeking State assistance to correct their blighted conditions. In 1958, Governor Edmund G. Brown, Sr., appointed a blue-ribbon Commission to look into the cause and effect of these related happenings and to formulate solutions for restraining and correcting the situation.

As a result of these studies, the Legislature formed the California Boundary Commission. This Commission was organized at the State level and given review and comment authority over the boundaries of city annexations and incorporations.

The functioning of the Boundary Commission proved unsatisfactory from the beginning. It could offer no controlling solution to the creation of multiple special districts, and it did not have the authority to change the trend.

During 1961 and 1962, the Assembly Committee on Municipal and County Government held several lengthy hearings. All elements of local government participated. It was decided that the problems facing the areas had to be dealt with on a local county level; that whatever institution was formed had to have decisive regulatory power. Local answers to problems of urban sprawl and growth of local agencies required equal participation by the county and the cities to arrive at practical, workable solutions.

These principles became the cornerstone of the Knox-Nisbet Act, enacted in 1963, which created a local agency formation Commission in each county in the State and charged them with the responsibility to discourage urban sprawl and encourage orderly growth and development of cities, districts, and communities. It is the regulatory body which sits between the citizens and various governmental agencies that provide municipal services.

In 2000, the Cortese-Knox-Hertzberg Reorganization Act was enacted. This Act was a comprehensive revision of the Cortese-Knox Local Government Reorganization act of 1985. This 1985 act was a consolidation of the following three laws:

- The Knox-Nisbet Act of 1963, which established local agency formation Commissions (LAFCOs) with regulatory authority over local agency boundary changes.
- The District Reorganization Act of 1965 (DRA), which combined separate laws governing special district boundaries into a single law.
- The Municipal Organization Act of 1977 (MORAGA), which consolidated laws on city incorporation and annexation into one law.

Assembly Speaker Robert M. Hertzberg introduced AB 2838 in 2000 to comprehensively revise the Cortese-Knox Act. His bill incorporated many of the recommendations made by the Commission on Local Governance for the 21st Century in its report. "Growth Within Bounds." The extent of the revisions resulting from AB 2838 is reflected in the Act's title, Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. This act provided LAFCO with more authority over special districts, by transferring the conducting authority proceedings to LAFCO and granting the authority to LAFCOs to initiate various changes in organization of special districts. (Amended 8/9/10)

~~The declared State policy for LAFCO is found in Section 56301 of the Government Code:~~

~~"Among the purposes of a Local Agency Formation Commission are the discouragement of urban sprawl and the encouragement of the orderly formation and development of local agencies based upon local conditions and circumstances."~~

~~"One of the objectives of the Local Agency Formation Commission is to make studies and to obtain and furnish information which will contribute to the logical and reasonable development of local governments in each county and to shape the development of local governmental agencies so as to advantageously provide for present and future needs of each county and its communities."~~

SECTION 2: TUOLUMNE COUNTY LAFCO POWERS

The powers of Tuolumne County LAFCO include, but are not limited, to the following:

- A. Review and approve or disapprove proposals with or without amendment, wholly, partially, or conditionally:
- Annexation of territory to cities or special districts.
 - Exclusion of land from cities or special districts.
 - The consolidation of two or more cities, or two or more special districts formed under the same principal act.
 - The formation of new special districts and the incorporation of new cities.
 - The dissolution of special districts and disincorporation of cities.
 - The merger of cities and special districts.
 - Reorganizations which involve boundary changes to two or more cities or special districts as part of one proceeding.
 - Review of city or special district contracts for service outside of their boundaries.
 - Conduct, or delegate to the Executive Officer, the review and approval of proposals that would extend services into previously unserved territory within unincorporated areas, pursuant to Government Code Section 56133.
 - Conduct service reviews of the municipal services provided in the county on a regional or subregional basis, and provide written Statements with respect to infrastructure needs, growth and population projections, financing constraints, cost avoidance opportunities, opportunities for shared facilities, and other factors in Government Code Section 56430. These reviews can occur in conjunction with sphere of influence studies and should be conducted at least once every five years or as necessary, as determined by the Commission. (Jan 2024)
 - Initiate and conduct special studies of existing governmental agencies including, but not limited to, inventorying such agencies and determining their maximum service area and service capacities.
 - Initiate proposals for consolidation of special districts, the merger of a special district with a city, the dissolution of a special district, the establishment of a subsidiary special district, or a reorganization which includes any of these outlined changes.
 - Conduct Protest Hearings or delegate the responsibility to the Executive Officer.
- B. Adopt evaluation standards and procedures for the evaluation of proposals which shall include, but are not limited to, the following factors identified in Government Code Section 56668:
- Conformity of the proposal and its anticipated effects on Commission policies on providing planned, orderly, efficient patterns of urban development and priorities.
 - Conformance with local city or county general plans.
 - The sphere of influence of any local agency which might be affected.
 - Effect of the proposed action and of alternative actions on adjacent areas, mutual social and economic interests, and local governmental structure of the county.
 - Land area and land use.
 - Population and population density.
 - Determine if the area is inhabited or uninhabited.
 - Proximity to other populated areas.
 - Likelihood of significant growth during the next ten years.
 - Effect of proposal on maintaining physical and economic integrity of lands in agricultural

- preserves and open space uses.
 - The proposed boundaries in relation to lines of assessment or ownership; the creation of islands or corridors of unincorporated territory.
 - Natural boundaries and drainage basins.
 - Assessed value.
- C. Review plans for service, which shall be prepared and submitted by each local agency affected by a proposed change of organization, regardless of whether that proposal is initiated by resolution or petition. In the case of a proposed annexation, the plan for service must demonstrate that the range and level of services currently available within the study area will, at least, be maintained by the annexing agency. For those proposals involving a reorganization consisting of annexations to multiple agencies, the plan for service shall also be required for each affected agency.
- D. Establish and review Spheres of Influence as described in Government Code Section 56425. LAFCO is required to establish spheres of influence for each city and special district in the County. Additional Sphere of Influence policies are in Appendix B.
- E. When necessary, form reorganization committees for reorganization proposals and adopt standards and procedures for the evaluation of any plan of reorganization or alternate plan reported on by such committee.
- F. Determine the successor district or city.
- G. Determine whether territory proposed for annexation or detachment, or municipal reorganization is inhabited or uninhabited. "Inhabited" means an area that contains twelve (12) or more registered voters.
- H. Determine the distribution of all assets and liabilities, including recommendations for retaining employees, for all consolidations, mergers, dissolutions, and creations of subsidiary districts, or any other proposal.
- I. Apply for or accept, or both, any financial assistance and grants-in-aid from public or private agencies or from the State and Federal government or from a local government.

SECTION 3: POLICY GUIDELINES

The Local Agency Formation Commission is a State-mandated entity, established for each county in the State and is independent of local county, city or district governmental jurisdiction. Recognizing that the needs of one county may be substantially different from another county, the State allows significant flexibility to each Commission, authorizing the LAFCO in many cases to apply the statutes “based on local conditions and circumstances”. These local ~~policies~~ **guidelines and the policies** that follow are therefore the catalyst for implementation of State laws designed to “discourage urban sprawl and encourage the logical and orderly development of local agencies.”

POLICY GUIDELINE # 1 - PURPOSE

The purposes of the Local Agency Formation Commission are provided by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, and include the following:

- Discourage urban sprawl.
- Encourage orderly formation and development of local governmental agencies, based on local conditions and circumstances.
- Initiate and make studies of governmental agencies.
- Develop spheres of influence for each local governmental agency.

POLICY GUIDELINE # 2 - ENCOURAGE ORDERLY URBAN DEVELOPMENT AND PRESERVATION OF OPEN SPACE

The Commission encourages well planned, orderly, and efficient urban development patterns for all developing areas. Also, the county, cities, and those districts providing urban services are encouraged to develop and implement plans and policies which will provide for well-planned, orderly and efficient urban development patterns with consideration of preserving permanent open space lands within those urban patterns.

Development of existing vacant non-open space and nonprime agricultural land within an agency's boundaries is encouraged prior to further annexation and development. However, where open land adjacent to the agencies are of low agricultural, scenic, or biological value, annexation of those lands may be considered over development of prime agricultural land already existing within an agency's jurisdiction.

Proposals to annex undeveloped or agricultural parcels to cities or districts providing urban services shall demonstrate that urban development is imminent for all or a substantial portion of the proposal area; that urban development will be contiguous with existing or proposed development; and that a planned, orderly, and efficient urban development pattern will result. Proposals resulting in a leapfrog, non-contiguous urban pattern will be discouraged. Consideration shall be given to permitting sufficient vacant land within each city and/or agency in order to encourage economic development, reduce the cost of housing, and allow timing options for physical and orderly development.

POLICY GUIDELINE # 3 - ENCOURAGE CONSERVATION OF PRIME AGRICULTURAL LANDS AND OPEN SPACE AREAS

Proposals which would conflict with the goals of maintaining the physical and economic integrity of open space lands, agricultural lands, or agricultural preserve areas in open space uses, as indicated on the city or county general plan, shall be discouraged.

Annexation and development of existing vacant non-open space lands and nonprime agricultural land within an agency's sphere of influence is encouraged to occur prior to development outside of an existing sphere of influence.

A sphere of influence revision or update for an agency providing urban services where the revision includes prior agricultural land shall be discouraged. Development shall be guided towards areas containing nonprime agricultural lands unless such action will promote disorderly, inefficient development of the community or area.

Loss of agricultural lands should not be a primary issue for annexation where city and county general plans both indicate that urban development is appropriate and where there is consistency with the agency's sphere of influence. However, the loss of any prime agricultural soils should be balanced against other LAFCO policies and a LAFCO goal of conserving such lands.

~~POLICY~~ GUIDELINE #4 - PRIORITIES FOR ANNEXATION AND FORMATION

The Commission will consider the following priorities or guidelines for annexation and formation with the provision that overriding circumstances must be stated in exceptions:

- Annexation to the City of Sonora or district instead of formation of a new agency.
- Annexation to a multi-purpose district in preference to annexation to a single purpose district.
- Formation of a new political entity as the last and least desirable alternative.
- Boundaries should follow existing political boundaries, and natural or man-made features such as rivers, lakes, railroad tracks and highways. Where boundaries do not meet this standard the proponent shall justify the reason for non-conformance.
- Boundaries should not be drawn so as to create an island, corridor, or strip either within the proposed territory or immediately adjacent to it. Where boundaries do not meet this standard, the proponent shall justify the reason for non-conformance.
- Whenever practicable, boundary lines of areas to be annexed to the City of Sonora and/or special districts shall be so located that all streets and rights-of-ways will be placed within the same jurisdiction as the properties which abut thereon and/or for the benefit of which such streets and rights-of-ways are intended.
- The creation of boundaries that divide assessment parcels should be avoided, whenever possible. Where boundaries do not meet this standard, the proponent shall justify the reason for non-conformance.

Boundaries should avoid dividing an existing identifiable community, commercial district, or any other area having social or economic homogeneity. Where boundaries do not meet this standard, the proponent shall justify the reason for non-conformance

~~POLICY~~ GUIDELINE #5 – CONCURRENT DISTRICT ANNEXATION

For any annexation within a community served by a variety of community-based local agencies, the Commission shall require concurrent annexation to all of the local agencies serving the community (concurrent district annexations) with the provision that overriding circumstances must be stated in any exception.

~~POLICY GUIDELINE~~ #6 – FACTORS FOR CONSIDERATION OF A PROPOSAL

State law provides a wide variety of factors that the Commission must consider in the review of a proposal. These are specified in Government Code Section 56668, and include but are not limited to the following:

- Land area and land use.
- Topography, natural boundaries, and drainage basins.
- Population, population density, proximity to other populated areas, and per capita assessed valuation.
- The likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next ten years.
- 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.
- The need for organized community services.
- The present cost and adequacy of governmental services and controls in the area, and probable future needs for such services and controls.
- The probable effects of the proposal and of alternatives on the cost and adequacy of services and controls in the area and adjacent areas. As used, "services" refers to governmental services, including necessary public facilities, whether or not the services would be provided by local agencies under LAFCO's jurisdiction, such as educational services.
- Conformity with appropriate city or county general and specific plans.
- The "sphere of influence" of any local agency which may be applicable to the proposal being reviewed.
- The effect of the proposal on maintaining the physical and economic integrity of agricultural lands.
- 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 boundary.
- The conformity of the proposal and its anticipated effects with adopted Commission policies on providing planned, orderly, efficient patterns of urban development.
- The ability of the newly formed or annexing agency to provide the services which are identified in the application and consideration of whether the revenues for those services will be sufficient.
- The timely availability of water supplies adequate for projected needs.
- The extent to which the proposal will assist the receiving entity in achieving its fair share of the regional housing needs as determined by the appropriate council of governments.
- Any information or comments from the landowner or owners, and residents of the study area.

~~POLICY GUIDELINE~~ # 7– PRE-ZONING FOR CITY OF SONORA ANNEXATIONS

No City of Sonora annexation application will be deemed complete unless the pre-zoning process has been completed.

Such pre-zoning shall also require that the City of Sonora become the lead agency for environmental review for the proposed change and shall prepare and submit to LAFCO the environmental analysis document in sufficient time for LAFCO's staff to comment before a determination of environmental effects is made.

~~POLICY GUIDELINE~~ # 8 - INCORPORATION POLICIES

The following are the policy statements to assist in the guidance of unincorporated communities in their review of governmental options.

- Incorporation proposals involving land within the existing City of Sonora sphere of influence will not be accepted for filing. If a city incorporation proposal would conflict with an established City of Sonora sphere of influence, the incorporation proponents must first initiate, and the Commission must approve, a sphere of influence amendment to exclude the study area from that sphere prior to circulation of formal incorporation petitions.
- The Commission defines "financial feasibility" to mean the ability of a new city to maintain pre-incorporation service levels, with sufficient resources to provide a municipal-level law enforcement service consistent with the recommendations of the County Sheriff.
- In determining feasibility, the Commission will consider only those revenues that are currently available to all general law cities. It will not consider revenues derived through special taxes or assessments, nor will it consider hypothetical revenues available through possible actions of a future city council, such as utility users taxes in the determination of financial feasibility.
- In determining feasibility, the Commission requires that proposed staff salary costs shall be based on an average of similar-sized cities or those cities which have the most comparable population within Tuolumne, Stanislaus, and Calaveras Counties.
- In determining compliance with Government Code Section 56720, the Commission finds that a "reasonable reserve" is a contingency fund equal to 10% of the projected general and special funds of the new city.
- The Commission requires that a new city shall assume jurisdiction over all community-based special districts serving the incorporation area. A clear and compelling rationale must be provided if the continued overlay of a community-based district is proposed.
- In order to qualify for incorporation such as the sales tax revenues attributable to the study area must at least cover the expected administrative and legislative costs of the new city.

POLICY GUIDELINE # 9 – CONFLICT WITH PRINCIPAL ACT

In the event that the proceedings for the formation of a district as authorized by the principal act of the district conflicts with the procedural requirements of Government Code Section 56000 et. seq., the procedural requirements of the Government Code 56000 et. seq. shall be followed by LAFCO.

POLICY GUIDELINE #10 - OUT-OF-AGENCY SERVICE CONTRACTS OR AGREEMENTS

The Commission has determined that the Executive Officer shall have the authority to approve, or conditionally approve, proposals to extend services outside jurisdictional boundaries in cases where the service extension is proposed to remedy a clear health and safety concern. In addition, the Executive Officer shall have the authority to approve or conditionally approve service extensions where the services in question will not facilitate development, such as an inter-agency contract for fire protection services. In cases where the Executive Officer recommends denial of a proposed service extension, that proposal shall be placed on the next Commission agenda for which notice can be provided. After the public hearing, the Commission may approve, conditionally approve, or deny the contract.

POLICY GUIDELINE #11 - COUNTY RULES AND REGULATIONS

In Tuolumne County, the Commission has determined that for purposes of economy and convenience it chooses to use the rules and regulations of the County as those relate to working rules of staff and to allocation of space and supporting equipment and facilities necessary to accomplish its purpose, except

as the Commission may determine otherwise.

SECTION 4: OPERATIONAL POLICIES

A. Membership

1. The Tuolumne County Local Agency Formation Commission consists of the following members:

- Two members of the County Board of Supervisors and one alternate, appointed by the Board from its own members.
- Two City Council members and one alternate, appointed by the City of Sonora.
- One Public Member and one alternate, appointed by the other four Commission members after review of applications.
- Two Special District members, and one Special District Alternate.
 - One of the Special District seats rotates between Tuolumne Utilities District, Groveland Utilities District, and Twain Harte Community Services District.
 - The second seat is an at large seat voted on by the Special District Selection Committee.

2 Notice of Vacancy for Public Member

Upon announcement that a vacancy for the public member or alternate public member will exist, the Executive Officer shall post a vacancy notice inviting all interested citizens of Tuolumne County to apply within thirty (30) days of posting. The Notice shall be posted at the following locations:

- On the bulletin board in the foyer on the 4th floor in the A.N. Francisco Building;
- On the bulletin board in the foyer on the 2nd floor (main entry) of the County Administration building;
- Any other location as directed by the Commission;
- Provide a Notice of Vacancy to the City of Sonora Clerk, the Clerk of the Board of Supervisors, and all LAFCO Special Districts; and,
- Issue a press release to local newspaper and radio stations for the purpose of further advertising the vacancy.
- Place an advertisement in the Union Democrat inviting applicants to apply for the vacant position.
- Provide a Notice of Vacancy to the clerk or secretary of each local agency within the County. (Amended 8/9/10)

The Executive Officer shall accept no application after the expiration of the thirty (30) days and shall forward all applications to the members of the Commission. Only applications received by the Executive Officer may be considered for appointment. A review period of not less than ten (10) days shall follow the thirty-day application period.

The Commission may select a personnel committee from among its membership for the purpose of reviewing applications and bringing its recommendations to the full Commission.

The Public and Alternate Public Member candidates receiving a majority of the votes cast by eligible Commission members will be appointed to the vacant position for either the unexpired or full term and/or until appointment and qualification of a successor. ~~At such time~~

~~as independent special districts are seated on the Commission, the~~ Public and Alternate Public Member candidates must receive an affirmative vote from at least one County Member, one City Member, and one Special District member for appointment to that position.

3. Special District Representation

Special District Members include the following:

- Seat A (focused) – A four (4) year term that rotates automatically between Tuolumne Utilities District, Twain Harte Community Services District, Groveland Community Service District. If the Focused Special District member cannot continue to serve on LAFCO, the entity currently holding the position will select a new representative from its Board.
- Seat B (at large) – A four (4) year term, elected by a LAFCO initiated ballot process sent to all LAFCO Districts in the County. The Special District Selection Committee recommends the candidates to be placed on this ballot. If this seat is vacated, the Special District Selection Committee will recommend candidates which will appear of the LAFCO initiated ballot process sent to all LAFCO districts in the County.
- Special District Alternate – Will attend all LAFCO meetings to stay informed and will serve as the LAFCO Special District Representative in the event of a vacancy of Seat A or Seat until a replacement is selected or in the event that a Special District member cannot attend a meeting.

Appendix C has additional information regarding special district members and the Special District Selection Committee.

B. Staffing

The Tuolumne County LAFCO is an independent body responsible for selecting its staff and establishing personnel rules and regulations. LAFCO staffing is provided by the County of Tuolumne staff who serve as:

- An Executive Officer, who is required by State law to administer the day-by- day activities of the Commission and the staff, prepare the annual budget, prepare and/or approve the staff reports which are circulated in advance for all items being considered by the Commission, and represent LAFCO in most matters in relationship with the public and other governmental bodies;
- An Assistant Executive Officer, who assists by processing applications, prepares draft reports for proposals submitted to the Commission for consideration, provides information to the public and attends LAFCO related meetings.
- A Legal Counsel, who interprets the law and gives legal advice to the Commission and staff on matters relating to LAFCO proceedings and decisions; and
- A LAFCO planner who completes municipal service review and other projects proposed by LAFCO or project proposed by an applicant that requires LAFCO review.
- A Department Support Technician who prepares LAFCO agendas, and minutes, publishes legal notices, maintains records of proposals submitted, maintains the record of the official proceedings of the Commission, sends information and notices to people and agencies and performs other clerical and secretarial duties.

In addition, the County Assessor, Registrar of Voters, Surveyor, Planning staff, other County staff members, and when appropriate, many independent special districts and the City of Sonora, contribute to make up the background information contained in LAFCO staff reports.

C. Budget Requirements and Procedures

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 establishes the funding relationships between the County, the cities, the independent special districts, and LAFCO. The funding for LAFCO is shared by the City of Sonora, the LAFCO Special Districts, and the County of Tuolumne, summarized as follows:

- Annually in the month of April, the Commission will adopt a “preliminary” budget and will forward that document to the County, City and to each independent special district.
- The County, City and each independent special district will have an opportunity to review and comment on the preliminary budget, and they may present their recommendations to the Commission at its public hearing scheduled in May or June. At the conclusion of this public hearing process, the Commission adopts a budget. Pursuant to Section 56381, “the proposed and final budget shall be equal to the budget adopted for the previous fiscal year, unless the Commission finds that reduced staffing or program costs will nevertheless allow the Commission to fulfill the purposes and programs of this chapter.”
- By law, the Commission is required to adopt its final budget annually by June 15th, and then the budget is forwarded to the County, City, each independent special district and County Auditor/Controller. The County Auditor/ Controller divides the cost between the City, Special Districts, and County. The County and City negotiated what share of the budget the City and County are responsible to fund. Pursuant to a Memorandum of Understanding (MOU) between the City and the County, the Local Transportation Fund (LTF) per capita percentage is used to determine the City’s and the County’s respective share of the LAFCO budget. **Special Districts pay one-third of the annual budget, and the County of Tuolumne pays the remaining balance.** Additionally, Tuolumne County pays for LAFCO expenses and then the County Auditor/Controller bills the City and **Special Districts** on a quarterly basis for its share of the costs. **Any time spent to collect fees from the City or Special District beyond one request/attempt will be charged to that agency on a time and materials basis.**

D. Purchasing Policies

It is the policy of Tuolumne County LAFCO to follow a practice of ethical, responsible and reasonable procedures related to purchasing, agreements and contracts, and related forms of financial commitment. The policies in this section describe the principles and procedures that all staff shall adhere to in the completion of their designated responsibilities. The policies and procedures are intended to provide for the cost-effective use of public resources, including funds and staff time.

All purchases should adhere to the following guidelines:

Purchase Limit	Minimum Number of Quotes	Form of Quote	Approval Authority
Goods			
Up to \$1,000	1	Verbal	Executive Officer

\$1,001 - \$5,000	2	Written	Executive Officer
\$5,001 - \$10,000	3	Written	Chair
Over \$10,000	3	Written	Commission
<i>Services</i>			
Under \$1,000	1	Verbal	Executive Officer
Between \$ 1,002 and \$10,000	1	Written	Executive Officer
Over \$10,000	3	Written	Commission

Any contract or agreement for services greater than \$10,000 within a fiscal year shall be presented to the Commission for approval and execution.

Any contract or agreement for which there are not sufficient funds contained in the appropriate line item of the LAFCO budget, regardless of the amount of the contract or agreement, shall be presented to the Commission for approval and execution.

Any amendment to an existing contract or agreement for services which would cause the total amount of the contract or agreement to exceed \$10,000 in a fiscal year shall be presented to the Commission for approval and execution.

E. Financial Reporting and Annual Auditing Policies

The Executive Officer shall present financial reports to the Commission at a midpoint in the fiscal year identifying actual year-to-date expenses and revenues relative to adopted budgeted amounts. Tuolumne LAFCO shall utilize the County Auditor to prepare annual audits/financial statements and pay for any related costs.

F. Stipend and Travel Allowance

The Commission has no meeting stipend or per diem. The Commission annually allocates funding for travel, training and seminars.

G. Resolutions of Appreciation

The Commission authorizes expenditure for mounting and framing of resolutions of appreciation for retiring LAFCO Commissioners and LAFCO staff personnel who have rendered outstanding service.

In respect to retiring Commissioners, the public purpose being served by such expenditure is that through publicly adopted resolutions of appreciation, appropriately framed, other members of the public will also be encouraged to render public service by becoming members of various public agencies and Commissions.

The public purpose of the framed resolutions of appreciation for the LAFCO staff is to give recognition for outstanding services rendered, with the purpose of maintaining high morale while at the same time providing further incentive for efficiency and productivity.

SECTION 4: COMMISSION RULES OF ORDER

The Rules of Order were adopted on March 30, 1981 for the conduct of business by the Local Agency Formation Commission of Tuolumne County and the holding of regular meetings by such Commission. Said Rules of Order are hereby repealed and superseded by the following:

RULE 1 - REGULAR MEETING DATE

Regular meetings of the Local Agency Formation Commission shall be held on the second Monday of each month when there are matters to consider. Whenever a legal holiday falls on a regular meeting date, an alternate meeting date will be selected if needed. All regular meetings of the Local Agency Formation Commission shall be called to order at four o'clock p.m., unless advertised differently. (Amended 8/9/10, 4/11/05)

~~RULE 2 - CALLING OF EMERGENCY OR SPECIAL MEETINGS~~

~~An emergency or special meeting may be called at any time by the Chairman of the Commission, or by a majority of the members of the Commission. Notice of such meeting must be delivered at least twenty-four (24) hours before the time of such meeting. The notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such special meeting.~~

RULE 2 - CALLING OF SPECIAL MEETINGS

An emergency or special meeting may be called at any time by the Chairman of the Commission, or by a majority of the members of the Commission. Notice of such meetings must follow the Brown Act requirements, which includes notice at least 24 hours prior to the meeting.

RULE 3 - PUBLIC MEETINGS

All meetings of the Local Agency Formation Commission shall be open to the public, and all persons shall be permitted to attend any meeting of the Commission, except as otherwise provided herein.

RULE 4 – AGENDAS

An agenda shall be prepared by the Commission staff for each meeting of the Commission and shall be distributed in accordance with the Government Code.

RULE 5 - ORDER OF BUSINESS

The regular order of business of the Local Agency Formation Commission shall be:

1. Call to Order by the Chairman
2. Salute to the Flag
3. Approve Minutes of Previous Meeting
4. Approve Resolutions of Previous Actions, As Necessary
5. Presentation of Consent Items
6. Public Hearing on Continued Items
7. Public Hearing on New Items
8. Reports, a. Staff, b. Commission (Amended Jan 2024)
9. Adjournment

RULE 6 – REPORTS, STAFF AND COMMISSION

Reports are a brief oral reports that are not intended to be in-depth presentations, as those matters should be placed on an agenda for discussion. During reports, the Executive Officer will provide information as necessary to the Commission, and then members may then provide a report to the Commission. All information provided during the “Report” item on the agenda shall not be discussed by the members at that meeting. If further discussion is warranted, a Commissioner may request that the Chair agendaize the topic for a future meeting. The Chair may then direct the Executive Officer to agendaize the item to allow for in-depth discussion. (Amended Jan 2024)

RULE 7 - ELECTION OF CHAIR AND VICE CHAIR

The Chair shall be elected each year, during the meeting in the month of May, or the next meeting held if there is no meeting in May. The Chair shall be elected by a majority of the Commission. The Vice Chair is also elected at this meeting. (Amended 8/9/10)

RULE 8 - CHAIR’S ROLE

The Chair, or in the Chair’s absence, the Vice Chair shall be the presiding officer of the Commission at all meetings and shall:

- a. Preserve order and decorum.
- b. Determine the order of business to be transacted at a meeting including establishing a time limit for speakers when deemed appropriate.
- c. State the questions coming before the Commission.
- d. Call the vote on all questions.
- e. Announce the Commission’s decisions.
- f. Decide all questions of order, subject however, to appeals to the Commission as a whole, in which event a majority vote shall govern.
- g. Sign all resolutions, directives and contracts approved by the Commission, which signature shall be attested by the Executive Officer or the Assistant Executive Officer. (Amended 8/9/10)

RULE 9 - CHAIR’S VOTING PRIVILEGES

The Chair of the Commission shall, in voting procedures, have all the rights and obligations of other members. (Amended 8/9/10)

RULE 10 - PARTICIPATION OF ALTERNATE MEMBERS IN OPEN AND CLOSED SESSIONS AND DISCUSSIONS OF PROPOSALS

Only regular members of the Commission may participate in the discussion and vote on a proposal before the Commission. Alternates may participate in the discussion and vote only when sitting in the place of a regular member who is absent or is disqualified for a particular action. (Amended 8/9/10)

RULE 11 - REFERRAL TO COMMITTEES

Any matter coming before the Commission may, if deemed necessary, be referred to staff or a committee of the Commission for additional information. The Commission shall appoint standing and special committees, as it may deem necessary.

RULE 12 - CONTINUATION OF PROPOSALS

Actions pending before the Commission may not be continued beyond seventy (70) days from the date specified in the original Notice of Hearing except under special circumstances as determined by the Commission.

RULE 13 - CONTINUANCE OF COMMISSION MEETINGS

The Commission may continue a meeting to a time and place specified if an insufficient number of Commissioners are present to constitute a quorum. A majority of the members of the Commission (four) constitutes a quorum.

If all members are absent from any regular or continued regular meeting, the Executive Officer or Assistant Executive Officer may declare the meeting continued to a stated time and place, without additional written notice of the continuance.

RULE 14 - CLOSED SESSIONS OF COMMISSION

The Commission may hold Closed Sessions during a regular or special meeting to consider pending or potential litigation or labor and employment matters listed under Gov. Code §54957. (Amended 8/9/10)

RULE 15 - QUORUM AND VOTING

A majority of all members of the Commission (four) shall constitute a quorum for the conduct of business. A quorum is the majority of the seats on the Commission regardless of whether they are filled or vacant. No action of the Commission shall be valid unless it receives the affirmative vote of not less than four members of the Commission. (Amended 8/9/10)

RULE 16 - ABSTENTION OF VOTING

The determination by a Commissioner to abstain from voting on any action before the Commission does not indicate, and shall not be counted as, either an "aye" or "no" vote on that count.

RULE 17 – ROLL CALL

The roll need not be called upon the vote on any motion, unless requested by a Commissioner or required due to the Brown Act. Any Commissioner not voting in an audible voice shall be recorded as voting "aye". Any roll call of the Commission shall be in alphabetical order by last name, except that the Chairman shall be called last.

RULE 18 - TIE VOTES OF COMMISSION

Four votes are necessary to approve a proposal or a motion. A proposal which receives a tie vote may be discussed further and then a second vote taken. If the tie is not broken, the proposal or motion shall automatically be continued to the next Commission hearing. A subsequent tie vote at the next hearing of the proposal indicates automatic denial without prejudice.

RULE 19 – DISQUALIFICATION OF MEMBERS FROM VOTING

No member of the Commission is disqualified from voting on any item being considered by the Commission, except in those instances in which the member has a financial conflict of interest. In any situation in which the member disqualifies himself or herself for whatever reason or is absent, the Alternate member will vote.

The representation by a member or alternate of the City of Sonora, a Special District, or the County of Tuolumne shall not disqualify, or be cause for disqualification of, the member or alternate from acting on a proposal affecting the City, Special District, or County of Tuolumne, as provided by Government Code Section 56336.

RULE 20 – PUBLIC COMMENT PORTION OF THE COMMISSION'S AGENDA

The Commission encourages the public to attend its hearings and address the Commission during the “public comment” item on the agenda. Comments must be limited to issues which are under the jurisdiction of the Commission. Oral and written comments may be presented; however, the length of oral comments may be limited by the Chair.

RULE 21 – AGENDA CONTENT

Agendas shall be set by the chair in consultation with the Executive Officer. Items cannot be put on the agenda if they are outside of the purview of LAFCO.

RULE 22 – RETENTION OF MATERIALS UTILIZED DURING COMMISSION HEARINGS

Any person utilizing or presenting any audio, visual, or written materials at the LAFCO public hearing must be prepared to provide a copy of every item to the staff of the Commission at the time the presentation is made.

RULE 23 - SUSPENSION OR CHANGE TO RULES OF ORDER

Subject first to posting notice and following the Commission’s discussion at a regular meeting, any of the ~~within Commission R~~rules of Order not required by law may be suspended or changed by a majority of the members of the Commission. (Amended 8/9/10)

RULE 24 - QUESTIONS OF LAW

Questions of law may be referred to Commission Counsel for opinion. Commission Counsel is provided by the County of Tuolumne, County Counsel, who may retain outside counsel as needed. Any decisions regarding retention of outside counsel will be made solely by County Counsel, who will ensure that such retention does not exceed LAFCO’s budget.

RULE 25 – FORMS AND APPLICATIONS

The Executive Officer is delegated to create and add forms and applications to the Policy and Procedure Manual.

RULE 26 – RULES OF PROCEDURE

Robert's Rules of Order shall be used as the general guide for conducting meetings and to resolve points of order, unless otherwise specified herein.

SECTION 6. APPLICATION PROCESSING PROCEDURES

The procedures for proposals considered by the Local Agency Formation Commission (LAFCO) are guided by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Section 56000 et seq.), and any proposal submitted must conform to the requirements outlined in the Act. The procedures outlined below represent broad guidelines as to the steps required. Specific processing procedures shall be followed as outlined in Government Code Section 56000 et seq.:

A. General Procedures

1. **Prior to the submittal of any application by agencies, registered voters, or affected landowners, the applicant must meet with the Executive Officer to review the proposed project. A project will not be considered complete until this meeting is held.**
2. **Generally Typically**, proposals for changes in boundaries, formations, or changes of organization can be submitted for the consideration of LAFCO by petition of the registered voters or affected landowners; however, prior to the circulation of any petition, a "Notice of Intent to Circulate" **available on the Commissions website** must be presented to the LAFCO Executive Officer. A proposal may also be initiated by a resolution adopted by the governing body of any related public body (county, city, or special district). The proposal must be submitted on forms available from the LAFCO staff office, **or on the LAFCO website** along with the applicable number of maps and filing fees to cover the proposal submitted. (Amended 8/9/10)
3. LAFCO shall establish a schedule of application processing fees through adoption of a resolution.

Unless otherwise authorized by LAFCO, application processing fees shall be established to recover their full cost of processing. Fees shall be established on a full cost recovery basis or based upon the average cost to process a specific type of application on a time and materials basis.

There shall be an automatic increase or decrease in the application processing fees adopted by LAFCO, based upon the "San Francisco Consumer Price Index, All Items, All Urban Consumers," published by the U.S. Department of Labor, for the preceding 12-month period.

There shall be no waivers of application processing fees. (Amended March 14, 2011)

Fees unpaid by applicants will be automatically collected by the County Auditor and/or will be sent to the Office of Revenue Recovery for collection.

4. **If two or more proposals pending before the Commission shall conflict or be inconsistent with each other, the Commission may determine the relative priority for conducting further proceedings on these proposals. In the absence of any such determination, priority shall be given to that action which was first filed with the Executive Officer.**
5. Upon receipt of a completed application, the LAFCO staff processes the application as follows:
 - a. Notice of Filing
 - Prepares a "Notice of Filing" and mails this to all affected and interested public bodies, including school districts, and sends a copy to the County Assessor and County

Auditor/Controller.

- This notice alerts the affected agencies of the item proposed, and requests from the Assessor and Auditor/Controller the ad valorem tax information pertinent to the proposal.
- When the LAFCO office receives the tax information related to the proposal, staff mails this information to the County Administrative Office and each affected special district, and/or the City of Sonora if it is affected, to negotiate any tax transfer. (Amended 8/9/10)
- The proposal cannot be considered by the Commission until LAFCO receives from the County Board of Supervisors for itself and affected districts and the City of Sonora if affected, a resolution approving any change in ad valorem tax distribution which is caused by the proposed change.

In addition to the notice requirements of the Cortese-Knox-Hertzberg Act of 2000, the LAFCO Staff shall notify landowners of applications for Changes of Organization as follows:

Formation of a County Service Area	The provisions of the Cortese-Knox-Hertzberg Act of 2000 including amendments regarding notice for formations shall be adhered to	
Annexation to County Service Area	Total Area of Parcels Subject to the Annexation	Distance of Notification of Landowners
	Less than 2 gross acres	300 feet
	2 gross to less than 10 gross acres	500 feet
	10 gross acres or larger	1,000 feet
All other special district and City of Sonora proposals	Total Area of Parcels Subject to the Entitlement	Distance of Notification of Landowners
	Less than 2 gross acres	300 feet
	2 gross to less than 10 gross acres	500 feet
	10 gross acres or larger	1,000 feet

b. Environmental Review Under the California Environmental Quality Act (CEQA)

- The LAFCO review process cannot continue until: (1) a determination is made that the proposal qualifies for an exemption as defined within the California Environmental Quality Act (CEQA) and the Commission's environmental guidelines (Appendix A); or (2) a Negative Declaration is provided by the applicant which indicates that, if approved, the project will have no adverse effects; or (3) there is a completed Environmental Impact Report submitted by the applicant for the project. (Amended 8/9/10)
- Environmental documents are reviewed and considered by the Commission in conjunction with the Commission's action on the proposal. The Commission determines if the environmental documents are adequate prior to making a decision on the proposal.

c. Departmental Review Process

- Basic information related to each proposal is mailed to every agency affected by the

item and to the County Assessor, Auditor/Controller, County Clerk, Planning, Surveyor, and Public Works Departments.

- Each department or agency is requested to comment on the proposal and submit information relating to it. Then all information and concerns are reviewed.
4. The ~~Assistant Executive Officer~~ LAFCO staff prepares the Commission meeting legal notice for posting, mailing, publishing in the newspaper and posting on the website at least 21 days prior to the meeting. ~~The Assistant Executive Officer staff also prepares a draft report making a recommendation to the Commission relating to the proposal. (Amended 8/9/10)~~
 5. The LAFCO ~~Executive Officer reviews, edits,~~ staff prepare and distributes the report making a recommendation to the Commission.
 6. The item is considered by the Commission, and it either approves or denies the proposal.
 - a. If the Commission denies the proposal, then it is legally terminated.
 - b. If the Commission approves the proposal, LAFCO staff will provide a published Notice of Protest Proceeding announcing the date for consideration of protest and the procedure and requirements for a valid written protest to the proposal. The hearing date shall be set for a date following the 30 day request for reconsideration period.
 7. After the protest hearing, if protests have been filed, the LAFCO Executive Officer will make a determination of the level of protest submitted. A recommendation for action to approve, deny, or submit the proposal to an election based on the amount of written protest received shall be submitted to the Commission at its next available hearing date.
 8. If the proposal is ultimately approved, the Department Support Technician prepares a "Certificate of Completion" for the Executive Officer to sign and date. Unless otherwise specified by the Commission, the effective date for all proposals shall be the date of issuance of the Certificate of Completion for any proposal. Once the "Certificate of Completion" is signed, the Department Support Technician files this Certificate with appropriate bodies.

B. Conditions Which may be Imposed on Projects

In the approval of boundary change proposals, LAFCOs have strong powers to attach conditions. Government Code Section 56885.5 through Section 56890 provides a broad range of conditions that the Commission may impose in approving an application. Those conditions range from the authority to impose special assessments to the transfer of employees among districts in a consolidation. The reader is referred to the specific Code Sections for the complete conditions authorized by statute.

The following are examples of LAFCO's authority to impose conditions:

- Require as a condition of approval, that the territory being annexed shall be responsible for payment of existing fees, charges, or assessments currently in place by the annexing agency.
- Require as a condition of its approval that another change of organization for a related or overlapping agency be initiated, conducted, and completed. For example, if a proposal is for annexation of territory to a city, LAFCO can require that the territory also be annexed to

or detached from special districts.

- Require establishment of special assessment or improvement districts to finance capital facilities or improvements needed in affected territory.
- Impose conditions related to the distribution of assets, financial contracts or obligations among affected agencies.
- Impose conditions related to a local agency's employee salaries, benefits, and other personnel rights.
- Impose a condition designating the method for selection of the Board of Directors and the number of Directors for a consolidated district.
- Impose a condition that establishes the effective date for a change of organization.
- Impose a condition that designates the agency to succeed to the rights, duties and obligations of an agency that is dissolved.

C. Legal Defense Fee Responsibility

It is the policy of this Commission that the costs for legal defense of an issue which has been approved by the Commission, is the primary responsibility of the agency or person seeking that approval. Therefore, as a condition of approval for any action taken by the Local Agency Formation Commission, the Commission shall impose a condition within its resolution of approval that requires the applicant to defend, indemnify, hold harmless, and provide for reimbursement or assumption of all legal costs in connection with that approval (See Appendix D).

The adopted procedure for the Legal Defense Policy is as follows:

- The Commission shall impose a condition of approval which requires the applicant to defend, indemnify, and hold harmless the Commission, its agents, and its employees from any claim, action or proceedings against them to attack, set aside, void, or annul such approval.
- The Executive Officer shall promptly notify the applicant and LAFCO Counsel of any legal action brought challenging the Commission's action, and the Commission, its agents, and employees shall cooperate fully in the defense of that action.
- Commission Counsel shall have the absolute right to approve any and all counsel employed to defend the Commission. To the extent the Commission uses any of its resources to respond to such claim, action or proceeding, or to assist the defense, the above described person or entity will reimburse the Commission upon demand. Such resources include, but are not limited to, staff time, court costs, Commission Counsel's time at its regular rate for non- County agencies, or any other direct or indirect cost associated with responding to, or assisting in defense of, the claim, action, or proceedings. The Executive Officer may require a deposit of funds sufficient to cover the anticipated expenses of the litigation.

D. Requests for Reconsideration

When the Commission has adopted a resolution making determinations, any person or affected agency may file a written request with the Executive Officer requesting amendments to or reconsideration of the resolution. (Government Code Section 56895).

Requests for reconsideration will be granted only when the petitioner can present some compelling new evidence or show that significant factors relative to the situation were overlooked or have changed. The request shall be submitted in writing to the Executive Officer within thirty (30) days of the Commission's decision.

No request shall be deemed filed unless appropriate filing fees if in effect, are submitted. In the event multiple requests for reconsideration are filed, the Executive Officer will divide a single reconsideration fee among the various petitioners for reconsideration.

The procedure for reconsideration requests is as follows:

Upon receipt of a legally filed request for reconsideration, the Executive Officer shall place the request on the agenda of the next Commission meeting for which notice can be provided. At the hearing, the Executive Officer will present the staff report and recommendations to the Commission and respond to questions. The Commission will then allow submission of any oral or written testimony on the issue; however, at the Chair's discretion, time limits may be placed on those wishing to provide an oral presentation. At the close of the hearing, the Commission may take one of the following actions:

- The Commission may approve the request, and adopt a resolution superseding the resolution previously issued;
- The Commission may deny the request; or
- The Commission may continue the hearing for a maximum of seventy (70) days.

E. Conducting Protest Proceedings

1. Overview

- a. Government Code Section 57000 requires the Commission or the Executive Officer, through delegation of responsibility to conduct "protest proceedings" to determine:
 - Whether the proposal can be ultimately approved without an election.
 - Whether an election should be held.
 - Whether the proposal must be terminated due to majority protest.
- b. The Commission has authorized the Executive Officer to conduct Protest Hearings.

Upon completion of the request for reconsideration process, the Executive Officer will set the hearing date, provide notice and solicit protests. At the hearing, the Executive Officer will summarize the resolution making determinations to persons in attendance and respond to questions. The Executive Officer will then allow submission of any oral or written protests on the issue; however, at the Executive Officer's discretion, time limits may be placed on those wishing to provide an oral presentation. After the hearing is closed, the Executive Officer shall determine the value of the protests. The Executive Officer shall submit a recommendation for action to approve, deny or submit the proposal for election to the Commission at its next available hearing to adopt the final resolution that completes the action based upon the level of protest.

- c. Protest Proceedings are a ministerial process where the Commission counts the submitted written protest to an action, determines the percentage that the landowner or voter protest bears to the total number of landowners and/or voters, and takes action based on that level of protest.
 - d. The purpose of the protest proceedings is to provide a forum wherein the popularity of the issue is tested. Depending on the results of that test, the proposal is either approved or denied, as shown in the following outline:
2. Initiation of Proceedings

Within thirty-five (35) days of the adoption of a resolution of approval by LAFCO, the formal protest proceedings must be initiated by providing legal notices of the protest hearing. The final protest hearing must be set for a date not less than fifteen (15) or more than sixty (60) days after the notice is given. The Commission may waive protest proceedings if the proposal contains 100% landowner consent, is uninhabited, and the affected agencies who would gain or lose territory as a result of the proposed jurisdictional change have provided written consent to the waiver of these proceedings, as authorized by Government Code Section 56663. That section also authorizes the Commission to waive protest proceedings for inhabited areas if none of the registered voters and none of the landowners have indicated submitted written opposition to the proposed annexation by the stated deadline.

3. Notice

The LAFCO Executive Officer must publish the notice of hearing to be held on the proposal in a newspaper of general circulation. It must send individual notices to everyone who has formally requested such notice, and to other local agencies as outlined by statute.

4. Final Hearing

The following is an example of the voter threshold to approve or require an election: (Amended 8/9/10)

The LAFCO Executive Officer shall conduct the final hearing and make findings related to the level of written protest received. A recommendation shall be made to the Commission to take one of the following actions:

- a. Approval. If less than 25% of the voters in an "inhabited" proposal (legally defined as an area containing 12 or more voters), or if less than 50% of the landowners in an "uninhabited" proposal submitted written protest to the action, then the proposal must be approved, without an election.
- b. Call for Election. If written protests are filed by at least 25% and less than 50% of the voters, or 25% - 100% of the landowners in an inhabited area, then an election must be called and held, so the voters may decide the issue.
- c. Denial. If written protests are filed by 50% or more of the voters in an inhabited area, or if landowners representing 50% or more of the assessed value of an uninhabited annexation area have filed written protest, then the proposal must be

denied.

If the proposal is for city detachment or district annexation, the proposal shall be terminated if the detaching city or annexing district files an objection to that action, regardless of the level of consent or protest from affected landowners and voters.

5. Completion

If the proposal is approved, LAFCO issues a Certificate of Completion and notifies the State and other agencies of the successful jurisdictional change. If LAFCO has waived the protest proceedings, the resolution adopted by LAFCO is considered the final resolution and becomes part of the completion package.

6. Value of Written Protest

Briefly outlined below are examples of the levels of protest which require the Commission or the Executive Officer, through delegation of responsibility, to call an election or terminate proceedings. (Amended 8/9/10)

At the conclusion of the protest period, the written protest received will be counted, and one of the following actions will be taken:

- a. For uninhabited annexations (defined in Government Code Section 56079.546 as those annexations which contain less than 12 registered voters):
 - Terminate the annexation if protest is received from landowners who represent 50% or more of the assessed value of land (improvement values are not counted) within the annexation area; or
 - Approve the annexation if written protest is submitted by landowners who own less than 50% of the assessed value of the annexation area. NOTE: In uninhabited annexations, the issue is decided solely on the basis of landowner protest.
- b. For inhabited annexations (those annexations which contain 12 or more registered voters):
 - Terminate the annexation if protest is received from 50% or more of the registered voters in the annexation area;
 - Call an election on the annexation issue if protest is received from at least 25% but less than 50% of the total number of voters in the annexation area, or if 25% to 100% of the number of landowners-- representing at least 25% of the total land value--submit written protest; or,
 - Approve the annexation without an election if written protest is received from less than 25% of the voters and less than 25% of the landowners (who represent less than 25% of the land value).

Although both landowners and registered voters may submit a protest against

annexation, the ultimate outcome of an inhabited annexation is decided on the basis of registered voter protest or votes in a special annexation election. Thus, the most that can be accomplished through landowner protest in an inhabited annexation is the scheduling of an election wherein the voters, whether they own land or not, will decide the issue.

7. Sufficiency of Signatures on Petitions and Number of Registered Voters

The Commission recognizes that through the review and approval process for many proposals, the boundaries may be changed, and the number of registered voters affected:

For proposals which require petitions to be circulated after LAFCO approval, the number of registered voters residing in an area on the date of LAFCO approval is the number of registered voters on which the sufficiency of any petition is based.

For proposals in which petitions are circulated prior to LAFCO approval and for the determination of inhabited or uninhabited actions, the date of the Notice of Filing issued by LAFCO shall be the determining date for the number of registered voters residing within the affected area.

F. Inactive Applications

1. If an application has not, in the opinion of the Executive Officer, seen substantial activity for a period of 18 months, a letter shall be sent to the applicant notifying them that unless documents or other requested information needed to process the application are received within 30 days, the application shall be deemed terminated and placed on inactive status, and the Commission shall be so notified at the next regularly scheduled meeting of LAFCO. If the applicant responds within the initial 30-day notice period and represents that the requested documents or other information will be available shortly, the applicant, at the discretion of the Executive Officer, shall be granted an additional six (6) months from the date of submission (for a total of 24 months) to submit said documents. If said documents or information are not received within the 24-month period, the application shall be deemed terminated and the Executive Director shall so notify the applicant and the Commission. Any application remaining inactive for a period of three (3) years shall automatically be deemed terminated. Information on applications that have been terminated and placed on inactive status shall be retained in conformance with LAFCO's document retention policy. A new application with the required fee and/or deposit shall be required to re-activate the process for said terminated/inactive project.

APPENDICIES

Appendix A – LAFCO Environmental Procedures – NOT NEW JUST MOVED HERE

Appendix B – Sphere of Influence Policies – NOT NEW JUST MOVED HERE

Appendix C - Special District Selection Committee - NEW

Appendix D - Indemnification Agreement Policy-NEW

Appendix E - Conflict of Interest Code - NEW

Appendix A
ENVIRONMENTAL REVIEW POLICES

In accordance with Title 14, Article 5, Sections 15050 (c) and 15050 (e) of the California Administrative Code, Tuolumne County has adopted the State CEQA Guidelines as amended May 10, 1980, in addition to the following specific provisions:

Section 1. Tuolumne County will be responsible for implementing CEQA and the State Guidelines for projects which the County has jurisdiction by law and/or for which the County is Lead Agency.

Section 2. ENVIRONMENTAL COORDINATOR

- a. The Planning Director (Director of the Community Development Department) shall serve as Environmental Coordinator and may assign specific functions to staff. (Amended 8/9/10)
- b. The Environmental Coordinator is responsible for administering CEQA, the State Guidelines, and these Guidelines for projects the County of Tuolumne is either Lead Agency for or for which the County otherwise has jurisdiction by law.
- c. The Environmental Coordinator shall maintain a list of persons, firms, and organizations qualified to prepare all or portions of environmental documents.
- d. The Environmental Coordinator is responsible for the following tasks on projects for which the County is Lead Agency.
 1. Consultation with reasonable agencies.
 2. Determination of whether a project is exempt from CEQA.
 3. Initial determination of the need for a Negative Declaration or Draft Environmental Impact Report.
 4. Preparation of environmental documents, either directly or by contract.
 5. Conducting of meetings and public hearings regarding environmental documents.
 6. Preparation of responses to public comments.

7. Filing of Notices
 8. Certification that the decision-making body had reviewed and considered an Environmental Impact report or Negative Declaration.
- e. The Environmental Coordinator shall perform the following tasks on projects for which the County is a Responsible Agency or for which the County otherwise has jurisdiction by law:
1. Consultation with Lead Agencies.
 2. Reviewing and commenting on Draft Environmental Impact Reports and Negative Declarations.
 3. Making recommendations in the decision making body on alternatives or mitigation measures delineated in the environmental document.
 4. Filing of notices.
 5. Certification that the decision making body has reviewed and considered an Environmental Impact Report of Negative Declaration.

Section 3. ENVIRONMENTAL IMPACT REPORTS (EIR)

- a. Determination. If a reviewing body determines that the project may have a significant effect on the environment, the Environmental Coordinator shall cause an EIR to be prepared.
1. Upon reaching such a determination, the Environmental Coordinator shall notify the applicant in writing of the reasons for such determination.
 2. The applicant or property owner involved with the project may appeal such determination to the Board of Supervisors unless said Board made the determination. The appeal must be submitted in writing, with the reasons for the appeal specified, to the County Clerk within 10 days of the determination of significant effect by the reviewing body. If the appeal is successful, the Environmental Coordinator shall prepare, and the Reviewing Body shall approve a Negative Declaration, with the specific reasons why the appeal was granted by the Board of Supervisors listed in detail.

Section 4. EIR PREPARATION

- a. Following the determination that an EIR is required, the Environmental Coordinator shall determine whether said Coordinator's staff will conduct the analyses and inventory work necessary to prepare the EIR or whether the EIR will be contracted to an Environmental Consultant.
- b. The Environmental Coordinator will prepare the EIR, if the following findings are made:

1. The proposed project would be of primary benefit to the general public.
 2. The Environmental Coordinator has on staff the necessary expertise to adequately prepare the EIR.
 3. The preparation of the EIR will not conflict with the progress of other projects which are of primary benefit to the general public.
- c. If any of the above findings cannot be made, or if the project prefers, the applicant shall select an individual or firm to prepare the EIR, who is on the County's approved list of Environmental Consultants and whose particular expertise is relevant to the information required for the EIR, provided, that said individual or firm is not otherwise engaged in the design, construction, sale, or use of the proposed project.
 - d. The applicant's Consultant shall contract directly with the County to prepare the EIR.
 - e. The applicant shall pay the total cost of the EIR preparation, including consultant fees, reproduction and distribution of Draft, and Final EIR's, and County processing fees, by depositing a Certified Check equal to such costs with the Environmental Coordinator, made payable to the County of Tuolumne, prior to the County's entering into any contract with the Consultant for EIR preparation.

Section 5. APPEAL

- a. Within 10 days of the filing of the Notice of Determination any person who is not satisfied that the EIR complies with the requirements of CEQA may appeal to the Board of Supervisors unless said Board was the Decision making Body on the project. The appeal shall be submitted in writing to the County Clerk and will state the reason(s) why the EIR is not felt to be in compliance with CEQA.

Appendix B

SPHERE OF INFLUENCE POLICIES

Government Code Section 56076 defines a sphere of influence as “a plan for the probable physical boundaries and service area of a local agency, as determined by the Commission.” It is an area within which a city or district may expand, over an undefined period of time, through the annexation process. In simple terms, a sphere of influence is a planning boundary within which a city or district is expected to grow into over time.

The purpose of a sphere of influence is to encourage the “logical and orderly development and coordination of local government agencies so as to advantageously provide for the present and future needs of the county and its communities.” The following enumerated items comprise the Statement of Purpose adopted by Tuolumne County LAFCO for spheres of influence:

1. To promote orderly growth of communities, whether or not services are provided by a city or district (board governed or independently governed);
2. To promote coordination of cooperative planning efforts among the county, City of Sonora, special districts, and identifiable communities by encouraging compatibility in their respective general plans;
3. To guide timely changes in jurisdiction by approving annexations, reorganizations, etc., within a sphere of influence only when reasonable and feasible provision of adequate services is assured;
4. To encourage economical use and extension of facilities by assisting governmental agencies in planning the logical and economical extension of governmental facilities and services, thereby avoiding duplication of services;
5. To provide assistance to property owners in relating to the proper agency to comprehensively plan for the use of their property;
6. To review, update, and/or change existing spheres of influence periodically to reflect planned, coordinated changes in factors which impact on spheres of influence; and
7. To encourage the establishment of urban-type services only within an adopted sphere of influence.

The Commission emphasizes that a sphere of influence is a planning tool and the establishment of a sphere of influence, or the inclusion of territory within a sphere of influence of an existing governmental entity, does not automatically mean that the area is being proposed for annexation or development.

Establishment of a Sphere

As outlined under State law, the Commission is designated as the public body responsible for determining spheres of influence for each city and district within its jurisdiction.

As a function of incorporation and as outlined in Government Code Section 56426.5, the Commission must establish a sphere of influence for a newly-incorporated city within one year of its incorporation effective date. Usually within six months of a city's effective date, the LAFCO staff notifies the city of the requirement pursuant to State law. The sphere proposal may be initiated by the Commission, the city council, or the County Board of Supervisors, through adoption of a resolution of the governing body. State law also stipulates that a sphere of influence will not be established or changed without specific review and study independent of any action before the Commission at the time. Public hearings are held to review sphere of influence proposals such as establishment, amendment, or in connection with any proposed annexation, which may or may not involve another agency's sphere of influence.

Factors of Consideration

As part of a sphere of influence review and as outlined in Government Code Section 56425, LAFCO is required to review ~~four~~ **five** "factors of consideration" in connection with any sphere of influence proposal. The factors of consideration are as follows:

1. The present and probable land uses within the area, including agricultural and open space lands;
2. The present and probable need for public facilities and services in the study area;
3. The present capacity of public facilities and the adequacy of public services that the agency provides or is authorized to provide; and
4. The existence of any social or economic communities of interest in the study area.
5. **For a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection that occurs pursuant to subdivision (g) on or after July 1, 2012, the present and probable need for those public facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.**

In these categories of review, the City of Sonora or district must show that its planning activities can be beneficial to the area, and that the initiation of those activities is appropriate. None of the above factors by themselves shall be deemed to be a determining factor in the establishment or revision of a sphere of influence for the City of Sonora, district, or community area, but shall be reviewed as part of the total project.

The factors of consideration noted above are addressed individually within the staff's report for each sphere of influence proposal.

Government Code Section 56425 also requires the following for any sphere of influence or a sphere of influence that includes a special district:

1. Require existing districts to file written statements with the Commission specifying the functions or classes of services provided by those districts.
2. Establish the nature, location, and extent of any functions or classes of services provided by existing districts.

The approaches and/or methods listed below are policies adopted by Tuolumne County LAFCO. The

policies guide the Commission's review in its determination of spheres of influence, periodic reviews and/or updates, and any amendments of those sphere boundaries.

Concurrent Sphere Reviews

The Commission may include additional agencies as part of its review of a sphere of influence proposal. In considering the sphere of influence of a community, the Commission will concurrently evaluate all agencies serving that community, and as a policy guideline, it will need to establish a single, coterminous sphere for all such agencies unless the Commission determines it is to the best interest of the area to have differing sphere boundaries.

Community-by-Community Approach

The community approach includes the practice of looking at a total area, which could be considered a community, and defining its boundaries. This approach also considers the existence of inter-related economic, environmental, geographic, and social interests, and attempts to harmonize the conflicting plans and services of the various service entities. Under this approach, an attempt is made to keep the spheres of influence of the various service districts as nearly the same as possible.

Coterminous Boundaries:

The Commission may establish a sphere of influence which is coterminous with existing City of Sonora/district boundaries when it is not feasible for the public agency to expand beyond its present boundaries. However, as outlined in State law, a sphere of influence must be established for each city and district, regardless of whether the sphere boundary is the same as the city or district boundary.

Environmental Review for a Sphere

A sphere of influence proposal requires review of the environmental aspects of the proposed sphere. The environmental review process is a requirement outlined in the California Environmental Quality Act (CEQA) that applies to the review of sphere of influence proposals. In compliance with CEQA and the State CEQA Guidelines, Tuolumne County LAFCO adopted its own Guidelines and Policies Implementing CEQA.

Exclusion of Territory

Under certain circumstances, a sphere of influence may exclude portions of the existing boundaries of a district. The Commission encourages reorganization and special studies in this situation to make final determination of which district should serve.

A sphere of influence study may be initiated to determine which public agency could better serve the area of review. The sphere of influence study would include a review of the possibility of excluding territory from one jurisdiction and the placement of the same territory in another jurisdiction's sphere of influence. The purpose of excluding territory would be an attempt to straighten irregular boundaries and eliminate confusion arising from multiple jurisdictions.

Modification of a Sphere Review Area

During the review of a sphere of influence proposal, the Commission may modify the area of review by expanding or reducing the area of review. The expansion or reduction of a sphere can be for several reasons, such as to include areas that may be better served by a public agency or exclude areas that may be better served by another public agency.

Periodic Review/Update of a Sphere:

As a function of its duties and responsibilities, LAFCO is required to periodically review and/or update spheres of influence. Government Code Section 56425 requires the Commission to review and update, if necessary, all spheres of influence for cities and special districts at least once every five years. The periodic sphere review does not preclude a public agency (city or district), or an individual from initiating a sphere proposal. The purpose of the periodic sphere review plan is to keep abreast of changes occurring within the public agencies under the jurisdiction of LAFCO.

Update If Necessary/Municipal Service Review: (Amended 8/9/10)

The spheres of influence of all of the special districts in Tuolumne County have been previously studied with no change to any district's sphere. It will be necessary to update a special districts sphere of influence upon LAFCO's receiving an application to do so, or at the direction of the Commission. Updating municipal service review information will be conducted once every five years. (Amended 8/9/10)

Requirement for a Sphere Review in Relationship to Annexation:

State law precludes the Commission from approving annexation proposals lying outside of current sphere of influence boundaries for the affected city or district. If an annexation proposal lies outside the sphere of influence of a city or district, the annexation proposal must also include a sphere review. The joint sphere and annexation review is to maintain consistency in city or district boundaries and their sphere boundaries, for the extension and provision of services as it relates to proposed annexation sites.

Responsibility/Obligation for a Sphere Area:

When a sphere of influence is assigned, a city or district is required to commence long rangeland use and service planning activities, thereby enabling it to respond to any annexation requests it might receive from landowners or residents within the sphere. By accepting a sphere of influence, a city, or district agrees to plan for the provision of services.

Urban Development within a City Sphere:

LAFCO takes the position that any new urban development which occurs within a city sphere of influence should take place as close to the city's urban area as possible. This position is emphasized for two reasons; first, so that contiguous areas may easily be annexed to the city; and secondly, so that the new urban area can be served by reasonable extension of the city's already developed municipal services.

Appendix C
COMMISSION POLICY GUIDELINES
SPECIAL DISTRICT SELECTION COMMITTEE

1. OVERVIEW

The purpose of the Independent Special District Selection Committee shall be to appoint the regular and alternate special district members of the Local Agency Formation Commission (LAFCO) and to fill unexpired terms when vacancies occur. It is important to note that nothing in these Rules of Procedure shall supersede Government Code Section 56332, which governs the establishment of the Independent Special District Selection Committee.

2. MEMBERSHIP

Membership of the Independent Special District Selection Committee shall be composed of the presiding officer or designated board member of the legislative body of each independent special district either located wholly within Tuolumne County or containing territory within the county that represents 50% or more of the assessed value of taxable property of the district.

3. MEETINGS

3.1 Notification and Solicitation of Nominations

The Executive Officer of the Commission shall give written notice to all eligible independent special districts of any meeting of the Independent Special District Selection Committee, specifying the date, time, and place.

Any person qualified to serve as an Independent Special District representative to LAFCO shall be qualified to submit a nomination which shall be accompanied by a brief resume on the form provided by LAFCO. Each district shall be encouraged to submit nominations.

3.2 Registration

Each member of the Selection Committee shall be entitled to one vote for each independent special district of which he or she is the presiding officer.

In the event that the presiding officer is unable to attend a meeting of the Committee, the legislative body may appoint one of its members to attend in the presiding officer's place. Such a designated member shall submit written authorization at the time of registration.

Each voting member shall register and complete a declaration of qualification. The voting member will then be given the required number of ballots and other voting materials.

3.3 Quorum

Members representing a majority of the eligible districts shall constitute a quorum for the conduct of Committee business. No meeting shall be called to order earlier than the time specified in the notice and until a quorum has been declared to be present.

Before calling the meeting to order, the Executive Officer shall announce that a quorum is present and request that any voting member who has not yet registered do so at that time. Only those eligible members registered and present shall be allowed to vote.

3.4 Sequential Balloting

If there is more than one position to fill, sequential balloting will be held in the following order using a ballot with names of all eligible nominees: (1) Seat A Rotated Seat, regular member; (2)

At Large Special District Seat, regular member; and (3) Alternate member.

If a candidate is elected to a position, his or her name will be crossed out on the subsequent ballots.

3.5 Majority to Win

In order for a candidate to be elected, that candidate must receive a majority of the votes being cast.

If no candidate receives a majority, a subsequent round of voting shall be conducted with the eligible candidates limited to the two candidates who received the most votes in the previous round and any candidates who received the same number of votes as the second candidate.

1. MAILED-BALLOT ELECTIONS

1.1 Authority

A mailed-ballot election may be conducted if the Executive Officer has determined that a meeting of the Special District Selection Committee is not feasible.

1.2 Notification and Solicitation of Nominations

The Executive Officer of the Commission shall give written notice to all eligible independent special districts of the intention to conduct a mailed-ballot election. Each district shall acknowledge receipt of the Executive Officer's notice.

Each district shall be encouraged to submit nominations, accompanied by a brief resume on the form provided by LAFCO. All nominations must be received by a

specified date that shall be at least six weeks from the date of notification. Emailed copies of nominations may be submitted, if necessary, to meet the established deadline; however, replacement originals must be submitted as soon thereafter as possible.

1.3 Distribution and Return of Ballots

All eligible districts shall be sent, by certified mail, return receipt requested, the following materials: (1) copies of all nominations received by the deadline, (2) ballot(s) as required to vote for Commission members, and (3) voting instructions.

The following outlines the necessary information and steps to submit a complete ballot:

1. The ballots shall include the names of all nominees.
2. Each ballot shall be accompanied by a certification sheet to be completed by the presiding officer or designated alternate who cast that district's vote.
3. A specified period of time, not less than six weeks, shall be allowed for the districts to cast their votes and return their ballots.
4. Ballots shall be sent by certified mail, return receipt requested.
5. Emailed copies of ballots may be submitted, if necessary, to meet the established deadline; however, replacement originals must be submitted as soon thereafter as possible.

6. All ballots received by the deadline shall be counted and the results announced within seven days.
7. Certified ballots representing a simple majority of the eligible districts must be returned for a valid election.

1.4 Appointment by Majority Vote

A candidate for a regular or alternate member of the Commission must receive at least a majority of the votes cast in order to be selected. Results of the election will be reviewed and adopted by the Commission during an open session of a regularly scheduled LAFCO Meeting.

In the event that no candidate receives the required number of votes, a run-off election shall be conducted, either by a second mailed ballot or a meeting of the Independent Special District Selection Committee, at the discretion of the Executive Officer.

Appendix D
COMMISSION POLICY GUIDELINES
INDEMNIFICATION AGREEMENT POLICY

1. OVERVIEW

The purpose of this policy is to establish guidelines that require all applicants to indemnify the Commission, its agents, officers, attorneys, and employees from any action brought to challenge the discretionary approvals of proposals by the Commission.

2. BACKGROUND

Applicants to the Commission for discretionary approvals of proposals for changes of organization are typically the real parties in interest and therefore have financial interest in the Commission's decisions on their applications. Applicants who are not the real parties in interest also have interest in the outcome of their applications. Therefore, LAFCO believes that it is fair and equitable for all applicants to indemnify LAFCO from suits brought to challenge the discretionary approvals of their applications by the Commission. LAFCO also believes that indemnifying LAFCO furthers good government practices and public policy by providing applicants with an incentive to assist the Commission in complying with all laws, including those intended to ensure public rights.

3. PROCESS

In order to fulfill this practice, and to protect the integrity of the Commission's ability to make good government decisions, it is the policy of this Commission that:

- a) As part of any application submitted to the Commission, the applicant(s) shall be required to submit a signed agreement to indemnify the Commission, its agents, officers, attorneys, and employees from any action brought to challenge the Commission's discretionary approvals related to the application in the required form.
- b) In the event that an action is brought to challenge the discretionary approval of a proposal by the Commission, the Commission shall promptly notify the applicant(s) and real party(ies) in interest of the existence of the legal challenge; and
- c) The Executive Officer shall not issue a Certificate of Filing for an application if an indemnification agreement in the form has not been executed and submitted to the Executive Officer by the applicant(s).

Appendix E
Tuolumne Local Agency Formation Commission
CONFLICT OF INTEREST CODE

Section 1. Definitions

The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission (2 Cal.Adm. Code Sections 18100, et seq.) and any amendments to the Act or regulations, are incorporated by reference into this Conflict of Interest Code.

Section 2. Designated Employees.

The persons holding positions listed in Attachment "1" are designated employees. It has been determined that these officers and employees make or participate in the making of decisions which may foreseeably have a material effect on financial interests.

Section 3. Disclosure Categories.

Those designated employees, if any, specified in Government Code Section 87200 shall file statements of economic interests pursuant to Article 2 of Chapter 7 of the Political Reform Act, Government Code Sections 87200 et seq.¹ With respect to all other designated employees, they shall disclose all those types of economic interests set forth in the latest adopted standard form for statements of economic interests as adopted by the Fair Political Practices Commission. It has been determined that the financial interests set forth in a designated employee's disclosure categories are the kinds of

¹ Designated employees who are required to file statements of economic interests under any other Conflict of Interest Code and those Article 2 filers who are designated in this code in a capacity which is in addition to their Article 2 capabilities may file identical expanded statements of economic interests with both entities in lieu of filing separate and distinct statements. Each expanded statement shall be originally signed by the designated employee, and shall include interests made reportable by virtue of both positions.

financial interests which he or she foreseeably can affect materially through the conduct of his or her office.

Section 4. Statements of Economic Interests - Place of Filing.

The Clerk of the Local Agency Formation Commission shall be the official filing officer. However, all designated employees shall file statements of economic interests with the County Clerk's Office.

Section 5. Statements of Economic Interests - Time of Filing.

(a) Initial Statements. All designated employees employed by the agency on the effective date of this Code shall file statements within thirty (30) days after the effective date of this Code, unless the employee has previously filed a statement pursuant to subdivision (b) or (c).

(b) Assuming Office Statements.

(1) All persons assuming designated positions after the effective date of this Code which are civil service or merit system positions, shall file statements within thirty (30) days after assuming the designated positions.

(2) All other persons appointed, promoted or transferred to designated positions after the effective date of the Code, shall file statements within ten (10) days after assuming office, or if subject to confirmation, ten (10) days after being nominated or appointed.

(c) Annual Statements. All designated employees shall file statements no later than April 1st.

(d) Leaving Office Statements. All persons who leave designated positions shall file statements within thirty (30) days after leaving office.

(e) Candidate Statement. All candidates for election to designated offices other than those specified in Government Code Section 87200 shall file statements within five (5) days after the final date for filing nomination petitions. This subsection shall not apply to candidates who have filed a statement of economic interests with the agency within the previous twelve (12) months.

Section 6. Contents of Statements of Economic Interests.

All statements shall disclose those reportable interests required by the applicable disclosure categories as set forth in Section 3.

Section 7. Manner of Reporting.

Statements of economic interests shall be made on forms prescribed by the Fair Political Practices Commission and supplied by the agency, and shall contain the following information.

(a) Investment and Real Property Disclosure. When an investment or interest in real property² is required to be reported³ the statement shall contain the following:

(1) A statement of the nature of the investment or interest;

² For the purposes of disclosure only (not disqualification), an interest in real property does not include the principal residence of the filer.

³ Investments and interests in real property which have a fair market value of less than \$1,000.00 are not investments and interests in real property within the meaning of the Political Reform Act. However, investments or interests in real property of an individual include those held by the individual's spouse and dependent children as well as a pro rata share of any investment of interest in real property of any business entity or trust in which the individual, spouse and dependent children own, in the aggregate, a direct, indirect or beneficial interest of 10 percent or greater.

(2) The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;

(3) The address or other precise location of the real property;

(4) A statement whether the fair market value of the investment or interest in real property exceeds Two Thousand Dollars (\$2,000.00), exceeds Ten Thousand Dollars (\$10,000.00), or exceeds One Hundred Thousand Dollars (\$100,000.00), or exceeds One Million Dollars (\$1,000,000.00).

(b) Personal Income Disclosure. When personal income is required to be reported⁴, the statement shall contain:

(1) The name and address of each source of income aggregating Five Hundred Dollars (\$500.00) or more in value, or Fifty Dollars (\$50.00) or more in value if the income was a gift and a general description of the business activity, if any, of each source.

(2) A statement whether the aggregate value of income from each source was One Thousand Dollars (\$1,000.00) or less, greater than One Thousand Dollars (\$1,000.00), or greater than Ten Thousand Dollars (\$10,000.00), or greater than One Hundred Thousand Dollars (\$100,000.00);

(3) A description of the consideration, if any, for which the income was received;

⁴ A designated employee's income includes his or her community property interest in the income of his or her spouse but does not include salary or reimbursement for expenses received from a state, local or federal government agency.

(4) In the case of a gift, the name, address and business activity of the donor and any intermediary through which the gift was made; a description of the gift; the amount or value of the gift; and the date on which the gift was received.

(c) Business Entity Income Disclosure. When income of a business entity, including income of a sole proprietorship, is required to be reported⁵, the statement shall contain:

(1) The name, address and a general description of the business activity of the business entity;

(2) The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than Ten Thousand Dollars (\$10,000.00).

(d) Management Position Disclosure. When management positions are required to be reported, a designated employee shall list the name and address of each business entity in which he or she is a director, officer, partner, trustee, employee, or in which he or she holds any position of management, a description of the business activity in which the business entity is engaged, and the designated employee's position with the business entity.

(e) Acquisition or Disposal During Reporting Period. In the case of an annual leaving office statement, if an investment or interest in real property was partially or

⁵ Income of a business entity is reportable if the direct, indirect or beneficial interest of the filer and the filer's spouse in the business entity aggregates a 10 percent or greater interest. In addition, the disclosure of persons who are clients or customers of a business entity is required only if the clients or customers are within one of the disclosure categories of the filer.

wholly acquired or disposed of during the period covered by the statement, the statement shall contain the date of acquisition or disposal.

Section 8. Disqualification.

Designated employees must disqualify themselves from making, participating in the making or using their official positions to influence the making of any governmental decision which will foreseeably have a material financial effect, distinguishable from its effect on the public generally, on:

(a) Any business entity in which the designated employee has a direct or indirect investment worth more than Two Thousand Dollars (\$2,000.00);

(b) Any real property in which the designated employee has a direct or indirect interest worth more than Two Thousand Dollars (\$2,000.00);

(c) Any source of income, other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating Five Hundred Dollars (\$500.00) or more in value received by or promised to the designated employee within twelve (12) months prior to the time when the decision is made; or

(d) Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management.

The effects on a designated employee's financial interests of a decision by a landowner voting district to set ad valorem property tax assessments is not distinguishable from the effects such a decision will have on the public generally within such a district. The effects on a designated employee's financial interests of a decision by

a utility district to set rates is not distinguishable from the effects such a decision will have on the public generally unless the designated employee's financial interests constitute more than two percent (2%) of the users to whom the rate will be applicable.

No designated employee shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the decision to be made. The fact that the vote of a designated employee who is on a voting body is needed to break a tie does not make his or her participating legally required for purposes of this section.

Section 9. Manner of Disqualification.

When a designated employee determines that he or she should not make a government decision because he or she has a financial interest in it, the determination not to act must be accompanied by disclosure of the financial interest. In the case of a voting body, this determination and disclosure shall be made part of the agency's official record; in the case of a designated employee who is the head of an agency, this determination and disclosure shall be made in writing to his or her appointing authority; and in the case of other designated employees, this determination and disclosure shall be made in writing to the designated employee's supervisor.

Section 10. Opinions of the Commission and Counsel.

(a) Any designated employee who is unsure of his or her duties under this Code may request a formal opinion or written advice from the Fair Political Practices Commission pursuant to Government Code Section 83114, or an opinion from the attorney for the agency, provided however that nothing in this section requires the attorney for the agency to issue such an opinion.

(b) If the designated employee truthfully discloses all material facts, an opinion or written advice provided by the Commission protects the designated employee from administrative, civil and criminal penalties to the extent provided for in Government Code Section 83114. If the designated employee has truthfully disclosed all material facts to the attorney for his or her agency, and an opinion is rendered by the attorney stating in full the facts and law upon which the opinion's based, compliance by the designated employee with such opinion may be evidence of good faith in any civil or criminal proceeding brought pursuant to the Political Reform Act, Government Code Sections 81000, et seq. In addition, the designated employee's good faith compliance with the opinion of the attorney for the agency shall act as a complete defense in any disciplinary action the agency may bring under Government Code Section 91003.5.

(c) Copies of any opinion rendered by the attorney for an agency pursuant to this section shall be delivered to the designated employee requesting the opinion and shall be maintained in the files of the agency. Such opinions may subsequently be modified by the attorney for the agency or by the Commission, but such modifications or revisions shall be prospective in effect and shall take effect only after notification has been given the designated employee who requested the opinion.

Section 11. Violations.

This Code has the force and effect of law. Designated employees violating any provision of this Code are subject to the administrative, penal and civil sanctions provided in the Political Reform Act, Government Code Sections 81000 - 91014.

Attachment "1"

LAFCO Commissioners (7)