



AGENDA ITEM 6C

MEETING: May 16, 2018
TO: Humboldt LAFCo Commissioners
FROM: Colette Metz, Administrator
SUBJECT: **Boundary Change Policies and Procedures**
The Commission will review and consider adopting boundary change policies and procedures governing common applications and LAFCo studies considered by the Commission.

Government Code (GC) Section 56300(a) requires each LAFCo to establish written policies and procedures that encourage and provide for well-ordered and efficient urban development patterns as well as the preservation of open space and agricultural land. Regulatory duties include approving or disapproving proposals involving the formation, reorganization, expansion, and dissolution of cities and special districts. The Commission's regulatory actions must be consistent with its adopted written policies and procedures. The Commission must also inform its regulatory duties through a series of planning activities, which includes establishing and updating spheres of influence.

BACKGROUND

The proposed Boundary Change Policies and Procedures serve to consolidate and update previously adopted Commission policies for *Outside Agency Services* and for *Municipal Service Reviews*. If adopted, these policies supersede those previously adopted sections and adds new sections that govern boundary changes, LAFCo studies, and other CKH-mandated activities. The draft boundary change policies, included in Attachment A, are intended to guide Commission decision-making consistent with the CKH Act.

DISCUSSION

At the January 17, 2018 LAFCo meeting, draft Boundary Change Policies and Procedures were introduced for Commission review and feedback. Changes to the proposed document since the Commission initial review in January are highlighted in track changes.

The policies are organized as follows:

1. General Provisions
2. General Procedures
3. Standards of Evaluation
4. Out of Agency Services Agreements
5. Fire Protection Contracts or Agreements **NEW!**
6. Agricultural Lands
7. Disadvantaged Unincorporated Communities
8. MSR/SOI Guidelines

In particular, the current proposed policy document has a new section not previously reviewed in January. Now Section 5, "Fire Protection Contracts or Agreements", this section was added to reflect recent LAFCo review requirements enacted as a result of SB 239, which added California Government Code Section 56134 to the Cortese-Knox-Hertzberg Act, as summarized below.

SB 239 Requirements

The following provisions and requirements are explicit in SB 239 and necessitate Commission review and discussion.

- As of January 1, 2016, all cities and special districts must request and receive LAFCo approval before entering into contracts to provide new or extended fire services if either of the following conditions applies:
 - Contracts that transfer responsibility for providing fire protection services in more than 25 percent of the area within the jurisdictional boundaries of any public agency affected by the contract or agreement; or
 - Contracts that change the employment status of more than 25 percent of the employees of any public agency affected by the contract or agreement.
- Mandates local agencies first provide written notice to all recognized employee organizations that represent the affected firefighters before applying to LAFCo.
- Prescribes specific approval thresholds to LAFCos in reviewing applicable requests for outside fire protection service contracts. This includes all requests necessitating the preparation of an independent comprehensive fiscal analysis.

Policy Section 5 outlines the requirements of GC Section 56134 and further clarifies those agreements which LAFCo staff propose to be exempt from LAFCo review, including:

- a) Renewal of existing contracts, unless the renewal includes amendments or the inclusion of new territory that triggers the 25% change in service area or employment status.
- b) Ambulance service agreements.
- c) Pre-hospital emergency medical services.
- d) Mutual or automatic aid agreements.
- e) Subordinate or subsidiary fire protection activities including, but not limited to the following: pre-planning, subdivision review, use permit review, administrative permit review and inspections; fire alarm system plan review and inspections; defensible space inspections and enforcement; business/ occupancy inspections in existing structures; vehicle maintenance and repair; sharing of management or other personnel between or among multiple agencies; sharing or loaning of equipment or property between or among multiple agencies.

- f) Cooperative agreements with the California Department of Forestry and Fire Protection, pursuant to Sections 4143 and 4144 of the Public Resources Code.

In summary, GC Section 56134 applies to contracts and agreements between public agencies for fire protection services under the referenced conditions (i.e., 25% of service area or 25% of employment status). This primarily relates (but is not limited) to Amador contracts between CALFIRE and local agencies as well as Joint Powers Agreements for fire service. Beyond these contracts between public agencies, agreements for services outside agency boundaries to private property would continue to be covered by GC Section 56133 (see Chapter 4, Outside Agency Services Agreements).

ENVIRONMENTAL ANALYSIS AND REVIEW

The adoption of Policies and Procedures is considered to be continuing administrative or maintenance activity with no potential for a direct or indirect physical change to the environment. Therefore, the action is not a "project" for the purposes of the California Environmental Quality Act (CEQA), pursuant to Section 15378(b)(2).

RECOMMENDATION

Staff recommends that the Commission, following consideration of all relevant information presented, approve the proposed update and adopt Resolution 2018-09 (attached as Exhibit B), which:

1. Finds that the proposed *Boundary Change Policies and Procedures* update is consistent with State Law as well as the overall goals of Humboldt LAFCo;
2. Finds that the proposed *Boundary Change Policies and Procedures* update is not a project for the purposes of the California Environmental Quality Act (CEQA) pursuant to Section 15378(b)(2); and,
3. Adopts the proposed policy and procedures update, known as *Boundary Change Policies and Procedures* to be effective immediately.

Attachments

Attachment A: Proposed *Boundary Change Policies and Procedures*
Attachment B: Draft Resolution 2018-09

Humboldt LAFCo

Boundary Change Policies and Procedures

Proposed Hearing Draft May 16, 2018

Humboldt LAFCo

Boundary Change Policies and Procedures

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1.0 GENERAL PROVISIONS

1.1 Title

The Humboldt Local Agency Formation Commission (“LAFCo” or “Commission”) hereby adopts the following Boundary Change Policies governing common applications and LAFCo studies considered by the Commission. These policies supersede those previously adopted, shall apply to LAFCo and are adopted pursuant to the authority vested in the Commission by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Government Code Section 56000, et seq. (“CKH Act”). These policies shall guide the decision-making of the LAFCo Executive Officer and the Commission. Should any part of these policies be inconsistent with the CKH Act, as it is presently enacted or as may be amended in the future, the provisions of the CKH Act shall control.

1.2 Legislative Authority

Humboldt LAFCo is responsible for regulating local governmental boundaries and municipal service areas in Humboldt County for purposes of facilitating orderly growth and development. This authority principally involves overseeing city and special district boundaries by approving or disapproving proposed changes of organization as defined by Government Code §56021. Humboldt LAFCo is also authorized to exercise broad discretion in amending as well as establishing conditions in approving changes of organization and outside service extensions as long it does not directly regulate land use, subdivisions requirements, or property development.

1.3 Types of Boundary Change Proposals

The following types of change of organizations fall under Humboldt LAFCo’s authority. Two or more of these actions are referred to as a “reorganization.”

1. Annexations

An example of an annexation occurs when territory is legally added to a city or special district’s jurisdictional boundary and generally done to facilitate a development project and or establish public services to the affected land.

2. Detachments

An example of a detachment occurs when territory is legally removed from a city or special district’s jurisdictional boundary and usually done in conjunction with a concurrent annexation of the affected land to another city or special district.

3. Incorporations

An example of an incorporation occurs with the legal formation of a new city and generally done to establish more local control over land use decisions. The minimum requirement of new cities is 500 registered voters.

4. Disincorporations

An example of a disincorporation is when a city is legally dissolved with all remaining service responsibilities, assets, and liabilities transferred to one or more successor agencies as determined by LAFCo.

5. Formations

An example of a formation is when a special district is established and generally done to serve as a governmental vehicle capable of financing and delivering one or more desired municipal services to a specific area at the request of area landowners and/or registered voters.

6. Dissolutions

An example of dissolution is when a special district is legally dissolved with all remaining powers, responsibilities, assets, and liabilities transferred to one or more successor agencies as determined by LAFCo.

7. Consolidations

An example of a consolidation is when two or more cities legally join together into a single city, or when two or more special districts legally unite as a single district. Recent legislation now allows the consolidation of two or more special districts formed under different principal acts.

8. Mergers

An example of a merger is when a city legally takes over a special district within the incorporated limits and usually for purposes of cost-savings.

9. Subsidiary Districts

An example of a subsidiary district occurs with the establishment and operation of a special district governed by the council of an existing city that provides one or more services inside and outside the affected city. A subsidiary district may only be established if no less than 70% of the existing or proposed special district's territory is within the affected city's limits.

10. Latent Power Activations / Existing Power Divestitures

An example of a latent power activation is when a special district requests and receives approval from LAFCo to provide a municipal service within its jurisdictional boundary that is authorized under the principal act but to date not provided. A special district must also request LAFCo approval to divest itself from providing a service already provided.

1.4 Other Types of Proposals

1. Outside Service Extension

An example of an outside service extension is when a city or special district requests and receives approval from LAFCo to provide a municipal service by contract or agreement outside its jurisdictional boundary to an individual landowner(s) when annexation is not permissible or desired.

2.0 GENERAL PROCEDURES FOR THE EVALUATION OF PROPOSALS

The following is a step-by-step guide to the procedures followed by Humboldt LAFCo in evaluating changes of organization or reorganization proposals.

2.1 Pre-Application

Humboldt LAFCo encourages a pre-application discussion between the proponent and LAFCo staff, which can save the prospective applicant substantial time once the process has begun. The following steps are suggested:

1. Call the LAFCo office for an appointment.
2. The applicant should bring the following information:
 - a) Assessor's parcel numbers (APNs) for individual lots or project maps for more complex proposals.
 - b) General Plan and zoning designations.
 - c) Information on development plans, if applicable. LAFCo generally requires approved development plans, such as tentative maps or specific plans when vacant territory is proposed for annexation to a city or district. A key consideration of LAFCo's review of annexation requests is the timing of the action. LAFCo discourages the annexation of vacant land until it can be demonstrated that services are required. Approved development plans also provide the information necessary to evaluate a proposal. The plans show what land uses are planned, the level of services required, how services will be provided, and the conditions under which service will be extended. They also enable LAFCo to evaluate the impact of a jurisdictional change on adjacent areas.
3. Staff will review application processing procedures, applicable spheres of influence, information requirements and processing fees, as well as provide application forms, estimate processing costs, and discuss environmental review requirements.

2.2 Application Submittal

Proponent prepares application for proposal. A complete application includes the following baseline information:

1. An application in the form provided by LAFCo.

2. A resolution of application by a local agency OR a petition of landowners or registered voters making application.

Note: LAFCo prefers that the resolution procedure be used wherever feasible, to involve the affected public agency early and assure timely consideration of its needs. A resolution also establishes the affected public agency as Lead Agency under the California Environmental Quality Act (CEQA), for early review of potential environmental effects. Applications initiated by petition should also include a record of efforts to obtain affected agency sponsorship.

3. If submitted by petition, the applicant must file a notice of intention to circulate a petition with the Executive Officer prior to collection of signatures. It is necessary to submit a copy with original signatures plus additional photocopies as needed. Signature requirements vary depending on the type of proposal; please consult LAFCo staff for details.
4. Site map(s) showing the subject territory, existing agency boundaries, and other features as appropriate.
5. A map and geographic description of the subject territory that meets State Board of Equalization (BOE) requirements. Applicants are responsible for payment of applicable BOE fees, which are collected subsequent to Commission approval of boundary change proposals.
6. Copies of any environmental documents associated with the project.
7. Letters of consent from each property owner, if applicable.
8. Property Tax Revenue Exchange Agreement, if applicable.
9. Appropriate fees as prescribed by Humboldt LAFCo's adopted fee schedule.
10. The following additional information, depending upon the type of proposal, will also be required as part of a complete application:
 - a) If a proposal is submitted by resolution of a public agency, it must include a "plan for providing services" in accordance with Government Code §56653.
 - b) If the proposal includes annexation to a city, indication that the annexing city has rezoned the property, such as a copy of the city council resolution approving the rezoning.
 - c) If the proposal is for special district formation, the application should include a plan for providing services that give the following information:
 - The statutory section under which the formation is proposed to occur.
 - A description of the services currently provided or to be extended to the affected territory, accompanied by a justification.
 - The level and range of those services.
 - The schedule for extending services.

- A description of any new facilities or improvements to existing facilities.
- A description of any conditions which the new district would impose or require within its boundaries upon formation.
- An explanation of how district services and facilities would be financed and an operating budget for the proposed district including estimates of revenues and expenditures.
- The rationale for proposed boundaries and discussion of alternative boundaries if applicable.

11. If the proposal includes incorporation of a new city, a comprehensive fiscal analysis must be prepared and include the following (§56800):

- a) A description of the local agencies which presently serve the community, with a discussion of the range and level of services currently provided.
- b) A description of services to be provided by the proposed city after incorporation, including the range and level of those services.
- c) The costs to the proposed city of providing public services and facilities during the three fiscal years following incorporation and the estimated revenues during the same period.
- d) The effects of the proposed incorporation on the adjacent communities and affected agencies, including the county.
- e) A rationale for the proposed boundaries and a discussion of possible boundary alternatives.

The comprehensive fiscal analysis may be prepared by a qualified consultant for the proponents or under contract to Humboldt LAFCo. If prepared by or under contract to LAFCo, the costs of the comprehensive analysis may be charged to the proponents. (Government Code §56383 and 56654).

2.3 Initial Application Review

When a proposal is submitted, staff takes the following steps within 30 days:

1. Notice of Application - Proposals Submitted by Petition Only

In the case of district annexations and city detachments, the proposal is placed on LAFCo's agenda for information only. Sixty days must pass after the notice of application is on the Commission's agenda before the item can be presented to the Commission for a decision. Affected agencies are sent referral information. The 60-day period after the notice of application allows time for cities losing territory and special districts gaining territory to adopt a resolution terminating proceedings if desired. (Government Code §56751, 56857)

2. Completeness of the Application

After submittal, staff will review the proposal materials for completeness and issue a status letter to the applicant within 30 days of receipt. If deemed complete, a Certificate of Filing will accompany the status letter. If the proposal is determined not to be complete, the Executive Officer will transmit that determination to the applicant as part of the status letter specifying those parts of the application that are incomplete and the manner in which they can be made complete (Government Code §56658(g)).

3. Certificate of Sufficiency

Within 30 days after receiving a petition, staff will review the petition and request evaluation of the petition signatures by the County elections official. The petition must have original signatures and each signature must be dated. All signatures must have been collected within 60 days of filing. If the petition is determined sufficient with the requisite number of signers, the Executive Officer will prepare and distribute to the proponents a Certificate of Sufficiency. If the petition is determined to be insufficient, the Executive Officer will give notice by certified mail to the proponents. Within 15 days after the notice of insufficiency, a supplemental petition may be filed with the Executive Officer. Within 10 days after the date of filing a supplemental petition, the Executive Officer will examine the supplemental petition and certify in writing the results of that examination. (Government Code §56706).

4. Consent of Property Owners

If all of the owners of land within the affected territory have given their written consent to the change or organization or reorganization, the application may proceed without public notice.

5. Application Referral/Requests for Information

The proposal shall be distributed as a notice of filing to all affected County Departments, affected agencies, and other affected counties' LAFCOs to request information and comment (Government Code §56658(b)). The comment period should be no less than 20 days.

2.4 Proposal Filing

When a proposal is accepted for filing, the Executive Officer will issue a Certificate of Filing to the applicant. The Certificate of Filing will specify the date upon which the proposal will be heard by LAFCo. The hearing date must be set within 90 days of the date the Certificate of Filing is issued. (Government Code §56658(h)).

2.5 Noticing

1. Public Notice Without 100% Consent

Public notice will be given for proposals where there is not 100% written consent of the affected landowners. Mailed and published notices must be given at least 21 days prior to the hearing. Notices shall be published in a newspaper of general circulation, posted on the bulletin board at the County Board of Supervisors Office, and posted on the

Humboldt LAFCo website at www.humboldtlafo.org. Mailed notice shall be given to the County, all affected agencies, all proponents in the petition, persons requesting special notice, and all landowners and registered voters within and adjacent to the affected territory. (Government Code §56660, 56661).

2. Public Notice With 100% Consent

Notice will not be published or posted for proposals wherein 100% of the affected property owners have consented in writing to the proposed change unless the Executive Officer deems it appropriate relative to local conditions. (Government Code §56664).

2.6 Staff Report and Recommendation

The Executive Officer shall review the application materials and prepare a written report and recommendation on the proposal. The report shall be distributed no less than five days before the hearing. Copies shall be furnished to the persons specified in the application and to each subject agency (§56665). The factors to be considered in making a recommendation as required by Government Code §56668 include:

1. Population and population density; land area and land use; per capita assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next 10 years.
2. The need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas. "Services," as used in this subdivision, refers to governmental services whether or not the services are services which would be provided by local agencies subject to this division, and includes the public facilities necessary to provide those services.
3. 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.
4. The conformity of both the proposal and its anticipated effects with both the adopted Commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities set forth in §56377.
5. The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by §56016.
6. The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.
7. A regional transportation plan adopted pursuant to Section 65080.

8. Consistency with city or county general and specific plans.
9. The sphere of influence of any local agency which may be applicable to the proposal being reviewed.
10. The comments of any affected local agency or other public agency.
11. The ability of the newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for such services following the proposed boundary change.
12. Timely availability of water supplies adequate for projected needs including, but not limited to, the projected needs as specified in §65352.5.
13. 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.
14. Any information or comments from the landowner or owners, voters, or residents of the affected territory.
15. Any information relating to existing land use designations.
16. The extent to which the proposal will promote environmental justice. As used in this subdivision, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services.

2.7 Application Withdrawal

1. Prior to Certificate of Filing
Applicants wishing to withdraw their applications from further processing or review by LAFCo may do so under the following conditions:
 - a) Proposals submitted by petition may be withdrawn with the written request of all persons signing the petition of application.
 - b) Proposals submitted by resolution of application may be withdrawn on receipt of a resolution requesting withdrawal from the applicant agency.
2. After Certificate of Filing
After issuance of a Certificate of Filing, proposals for change of organization or reorganization may only be withdrawn at the discretion of LAFCo.

2.8 Commission Hearing

A LAFCo hearing may be continued from time to time but shall not exceed 70 days from the date specified in the original notice. At the hearing, the Commission will hear and receive any oral or written protests, objects, or evidence which shall be made, presented or filed, and consider the Executive Officer's report and recommendations therein. (Government Code §56666).

2.9 Commission Action

The Commission may take one of the following actions at the hearing conclusion:

1. Approve the proposal as submitted;
2. Approve the proposal with modifications and/or conditions;
3. Deny the proposal; or
4. Continue the item to a future meeting.

Within 35 days after the conclusion of the hearing, the Commission shall adopt a resolution approving or disapproving the proposal (Government Code §56880). Upon execution of the resolution, copies shall be mailed to the chief petitioners, if any, and the affected agencies whose boundaries would be changed by the proposal (Government Code §56882).

A. If Approved

A protest hearing shall be scheduled by the Executive Officer unless it has been waived. The protest hearing may be waived if landowners have given written consent to the change of organization, a subject agency has not submitted written opposition to a waiver of protest proceedings, and no written opposition as a result of public notice was received prior to the hearing. (Government Code §56662, 56663).

B. If Approved with Conditions and/or Amendments

If the proposal is approved with conditions, the resolution of approval shall include a description of the required terms and conditions. The Commission may order that any further action be continued and held in abeyance for a period of time designated by the Commission, not to exceed six months from the date of that conditional approval (Government Codes §56885.5). A protest hearing may also be scheduled by Executive Officer if needed and as described in the preceding section.

C. If Denied

No further proceedings shall be taken on a denied proposal and no similar proposal involving the same territory may be initiated for one year unless LAFCo waives that stipulation as detrimental to the public interest (Government Code §56884).

2.10 Reconsideration of Commission Action

When the Commission has adopted a resolution making determinations, any person or affected agency may file a written request with the Executive Officer requesting reconsideration of the resolution (Government Code §56895). The purpose of the reconsideration process is to provide a mechanism for LAFCo to review additional information not included in the development of a resolution adopted by the Commission making determinations. Therefore, it is the policy of Humboldt LAFCo to provide for reconsideration of Commission decisions in a manner that is consistent with State law and that does not unduly delay the processing of applications for changes of local government organization. Humboldt LAFCo shall include a charge for reconsideration in

its schedule of processing fees. The Commission may waive the fee for reconsideration.

The following procedures apply to reconsideration requests.

1. A request for reconsideration may be filed by any interested person or agency within 30 days of the date of adoption of a resolution making determinations or prior to the adoption of a resolution by the conducting authority, whichever is earlier. Such requests must:
 - a) Be made in writing
 - b) State the specific modification to the resolution being requested
 - c) Identify new or different facts or applicable new law not previously considered by LAFCo
 - d) Include required processing fees
2. Upon receipt of a timely request, the Executive Officer shall immediately suspend conducting authority proceedings until LAFCo acts on the request.
3. The Executive Officer shall place the request on the agenda of the next LAFCo meeting for which any required notice can be given.
4. At that meeting, the Commission shall consider the request and receive any oral or written testimony. The Commission may continue the hearing for a maximum of 70 days.
5. At the conclusion of the public hearing, the Commission will act on the request by approving or disapproving or approving with conditions or modifications. If the Commission approves the request with or without modification, the Commission will adopt a new resolution making determinations superseding the resolution previously issued.

2.11 Protest Hearing

It is the policy of Humboldt LAFCo to delegate the responsibility for conducting protest hearings for an approved change of organizations or reorganizations to its Executive Officer as provided under Government Code §57000(c). The purposes of delegating responsibility for holding protest hearings to staff are to increase LAFCo's flexibility to expedite protest hearings and to evaluate protests without extending the length of regular Commission meetings to include non-discretionary matters.

The following procedures apply to reconsideration requests.

1. Within 35 days of the Commission's adoption of a resolution making determinations, the Executive Officer shall give notice of the time and place of the protest hearing by mail, publication and posting as required by Government Code §57025 and 57026. The date of the protest hearing shall be set for no less than 21 and no more than 60 days from the date that notice is given.

2. Landowners and/or registered voters as specified in the notice of hearing may submit written protest to the Executive Officer at any time between the date the notice was given and the conclusion of the hearing.
3. Written protests must conform to the requirements of Government Code §57051.
4. At the protest hearing, the Executive Officer will summarize the action taken by the Commission in its resolution making determinations. The Executive Officer shall provide reasonable time to hear and receive any oral or written protests, objections or other evidence.
5. The protest hearing may be continued for up to 60 days.
6. Written protests may be withdrawn at any time prior to the conclusion of the protest hearing.
7. Upon conclusion of the protest hearing, the Executive Officer shall determine the value of the written protests filed and not withdrawn as specified under §57052 and prepare a report to the Commission.
8. Within 30 days of the protest hearing, LAFCo shall adopt a resolution making findings of the value of protest and taking action to complete or terminate the proposal or to request that the County Board of Supervisors or a city council call an election if needed. The Commission's action shall be determined by the value of the protest and Government Code §57075 through 57087.3, as applicable.

2.12 Final Filing

A Certificate of Completion is issued by the Executive Officer after the protest proceedings have been conducted and verification is received that conditions required by the Commission's resolution have been fulfilled. The effective date of the change of organization or reorganization is the date the signed Certificate of Completion is filed at the County Recorder's Office unless otherwise specified by the Commission (Government Code §57202). If the Certificate of Completion has not been filed within one year after Humboldt LAFCo approves a proposal, the proceeding is deemed abandoned unless the Commission receives and approves an extension request prior to the expiration of that year (Government Code §57001).

The Certificate of Completion including the recording numbers affixed by the County Recorder will be distributed to property owners, affected agencies, County Surveyor, County Assessor, County Auditor, and the State Board of Equalization (BOE). The BOE will distribute relevant information to the Department of Finance, the Controller and to the Secretary of State, as appropriate (Government Code §57203,4).

3.0

STANDARDS OF EVALUATION

The following standards are adopted for the evaluation of proposals for a change of organization or reorganization of local agencies.

3.1 Service Efficiency

The Commission has determined that community needs are most effectively and efficiently met by proposed changes of organization and reorganization which:

1. Diminish or eliminate threats to public health and safety;
2. Consolidate the activities and services of public agencies in order to obtain economies from the provision of consolidated services; and
3. Restructure agency boundaries and service areas to provide more logical, effective, and efficient local government services.

3.2 Urban Centered Development

It is the intent of Humboldt LAFCo to strengthen the role of city governments in the provision of urban services. Where existing urban development is adjacent to a city, the Commission encourages annexation to, and provision of services by, the adjacent city where they are the logical service provider and are in a better position to serve and support these areas. This includes annexation of planned urban development areas around the cities of Eureka and Fortuna and any other applicable areas around cities.

3.3 Duplication of Authority

The Commission discourages the proliferation of local governmental agencies and the existence of overlapping public service responsibilities. This includes both overlapping spheres of influence and territory within the boundary of a city or district. The Commission also discourages the formation of new special districts where service can be efficiently provided by existing local government agencies.

3.4 Annexation Timing

The Commission discourages the premature extension of urban services (i.e., water and sewer service) in the absence of either existing development or plans for imminent development. Unless exceptional circumstances exist, no application for a change of organization or reorganization will be accepted until all discretionary approvals for land use entitlements, including land divisions pertaining to the subject territory, are granted.

3.5 Proposal Boundaries

It is the policy of the Commission to:

1. Ensure that every determination made by the Commission is consistent with the spheres of influence of the local agencies affected by that determination.
2. Require that proposals for a change of organization or reorganization are consistent with the formation of orderly and logical boundaries.
3. Require that boundary descriptions accompanying proposals for a change of organization or reorganization are definite and certain.
4. Amend, condition, or disapprove proposals which create boundaries that are not definite and certain or that do not conform to lines of assessment or ownership, unless special circumstances warrant otherwise.
5. Disapprove proposals whose boundaries conflict with existing local agency jurisdictional boundaries.
6. Require that all proposals for annexation to a city include streets within the proposal area and the entire width of any street bounding the proposal area; the streets shall become city streets upon annexation. The Commission may exclude from a proposal any street bordering the affected territory if the Commission concludes that such exclusion would result in more logical boundaries.
7. Discourage boundaries which divide an identifiable community, commercial district, or any other area having social or economic homogeneity.
8. Discourage boundaries which are drawn so as to include only commercial or industrial areas, excluding adjacent residential areas.
9. Disapprove proposals for a change of organization or reorganization in which the proposed boundary configurations produce areas that are difficult or impossible to serve.

The Commission will exercise its statutory authority to modify proposed boundaries to include or exclude territory to accomplish policy objectives of this section.

3.6 Unincorporated Islands

The Commission encourages annexation of unincorporated "islands" to cities entirely or substantially surrounded by the affected corporate limits. Whenever applicable, the Commission shall consider making amendments to all city annexation proposals involving affected lands to further reduce and/or eliminate islands and to provide more orderly local governmental boundaries and cost-efficiencies. Furthermore, the Commission will disapprove any city annexation proposal that would create a new entirely surrounded island unless this policy is waived by as provided under G.C. Section 56744.

3.7 Conformance with General and Specific Plans

Proposals shall be consistent with applicable city and county general and specific plans. The Commission shall discourage proposals that promote urban development in areas not planned for urban uses.

For the purposes of this policy, areas intended for urban development by the Humboldt County General Plan are those areas designated as "Urban Development Areas", "Urban Expansion Areas", and "Water Service Areas" within Community Planning Areas, as well as areas included within a city's "urban growth boundary", "urban services boundary", "urban limit line" or other boundary that defines the limits of urban development. These boundaries have major impacts on the Commission's determinations as to the appropriate provision of urban services.

3.8 Economic Feasibility of Proposed Formations

If the proposal is for the formation of a new agency, the proponents shall demonstrate the economic feasibility of the proposed formation, taking into account both the assessed valuation of the subject territory and any other sources of revenue, compared to the type and cost of the services proposed to be provided. Any economic feasibility study shall include and address the following considerations:

1. Infrastructure needs or deficiencies
2. Growth and population projections for the affected area
3. Financing constraints and opportunities
4. Cost avoidance opportunities
5. Opportunities for rate restructuring
6. Opportunities for shared facilities
7. Government structure options, including advantages and disadvantages of consolidation or reorganization of service providers
8. Evaluation of management efficiencies
9. Local accountability and governance

A proposal for the formation of a new agency shall also be accompanied by an analysis of the availability and economic feasibility of obtaining the proposed services from other private and public agencies.

3.9 Future Service

In evaluating a proposal, the Commission shall consider not only present service needs of the area under consideration but shall also consider future services which may be required for future growth or expansion. If a proposal is submitted to extend services into a previously unserved unincorporated area or to create a new service provider with

the power or authority to extend services to urban type development in a previously unserved unincorporated area, the Commission will review the proposal to ensure that it is consistent with the policies set forth in State law and LAFCo policies.

3.10 Agricultural Preservation

The Commission discourages the annexation of lands currently engaged in the substantial production of food, fiber, or livestock, or qualify as agricultural land to a city or a special district for the purpose of promoting urban development. See Section 5.0, Agricultural Lands.

3.11 Pre-Zoning

As required by State law, applicants whose proposals include annexation to a city shall obtain rezoning approval from the city or present evidence the existing development entitlements on the territory are vested or already at build-out relative to the city's general plan. The city shall generally serve as lead agency for environmental review in such cases, and proof of environmental documentation and certification shall accompany the application. (G.C. Section 56375(a)(7))

3.12 Comments from Affected Districts and Agencies

In the review and consideration of proposals, the Commission shall take into account the comments of affected district or affected local agencies. To the extent that such comments reflect the laws and policies of this Commission, the Commission shall give considerable weight to such comments. When conflicts exist between an applicant agency and an affected district or affected local agency, the Commission, in making its decision, shall attempt to resolve the conflict based on applicable laws and the merits of the proposal. Where possible, the Commission encourages the agencies to resolve such conflicts prior to the LAFCo hearing on the proposal.

3.13 Public Accessibility and Accountability

The Commission recognizes that the public's ability to participate in the local governance process is improved when the government structure is clear and accessible and when decision-makers are accountable to the public. The Commission shall consider this principle when it evaluates proposals for changes of organization or reorganization.

3.14 Environmental Review

It is the Commission's policy to adopt the State California Environmental Quality Act ("CEQA") Guidelines approved by the State Department of Resources and as amended from time to time, in the preparation of all environment documentation. Furthermore, whenever an agency other than the Commission is involved in the approval of a project, the Commission prefers that the other agency be designated as the "Lead Agency." For changes of organization or reorganizations involving annexation to a city, the city shall

act as the Lead Agency under CEQA for the proposal.

3.15 Use of Standards

In the evaluation of a proposal, the Commission shall consider these Standards for Evaluation, the Agricultural Conservation Policy, any applicable sphere of influence, and any other criteria and requirements as may be adopted by the Commission from time-to-time, the requirements and criteria set forth in the Local Government Reorganization Act of 2000 (as it may be amended from time-to-time), including but not limited to Government Code §56668, any relevant information concerning the proposal, the environmental review document, the Executive Officer's report, presentations of all interested parties at the public hearing, and any other relevant information as may be submitted to the Commission in connection with its consideration of the proposal.

4.0 **OUT OF AGENCY SERVICE CONTRACTS OR AGREEMENTS**

~~(Previously Adopted November 14, 2012,
Amended July 17, 2013)~~

The following section provides policy and procedural guidelines by which the Commission considers requests for the extension of services by cities and districts outside their jurisdictional boundaries pursuant to Government Code Section 56133 (hereinafter referred to as "out of agency service contracts or agreements"). The Commission recognizes the importance of considering local conditions and circumstances when implementing these policies.

Note: Certain contracts or agreements for the exercise of new or extended fire protection services outside a public agency's jurisdictional boundaries may instead be subject to Government Code Section 56134. Please also refer to Section 5. Fire Protection Contracts or Agreements in such instances.

4.1 Authority

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 authorizes a city or district to provide new or extended services by contract or agreement outside its jurisdictional boundaries if the city or district requests and receives approval from the Commission. The Commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries but within its sphere of influence in anticipation of a later change of organization, or outside its sphere of influence to respond to an existing or impending threat to the public health or safety of the residents of the affected territory, under specified circumstances.

4.2 Definitions

The following definitions are provided to assist in the implementation of Government Code Section 56133 since its terminology, in some areas, may not be reflective of current statutory definitions or has no statutory definition within the Cortese-Knox-Hertzberg Act:

- A. "New or extended services" shall mean the actual delivery of services or the intensification of services to a specific property. New or extended services established before January 1, 2001, are specifically exempt and are not within the purview of the Commission.
- B. "Contract or agreement" shall mean a contract, agreement, or other legal instrument, which requires or agrees to the delivery of service to the property.
- C. "Anticipation of a later change of organization." The inclusion of an area to be served within the sphere of influence of the serving agency shall be sufficient to

comply with this provision.

- D. "Public Agency" means the statutory definition of Public Agency is "the state or any state agency, board or commission, any city, county, city and county, special district or other political subdivision, or any agency, board or commission of the city, county, city and county, special district, or other political subdivision" (Government Code Section 56070).

The definition of public agency does not include a private or mutual water company. Any contract by a city or district to extend service to these types of service companies would require approval from the Commission prior to contract execution.

- E. "Public health and safety threat" shall mean the extension of service to alleviate an immediate health and/or safety problem. Such connections would be limited to the provision of water and/or sewer service to an existing structure, the connection to a failing mutual or private water system requiring auxiliary service, the provision of fire protection and rescue services as primary, supplemental or alternative source of service, and other similar threats related to health and safety.
- F. "Sufficient Service Capacity" shall mean the affected agency has the ability to provide the new or extended services to be provided under the agreement without adversely affecting current service levels within its jurisdictional boundaries.

4.3 Policies

1. Commission Approval Required for New or Extended Services

Except for the specific situations exempted by Government Code Section 56133, a city or district shall not provide new or extended services to any party or property outside its jurisdictional boundaries unless it has obtained written approval from LAFCo consistent with all the policies and procedures described herein.

2. Exemptions

The Executive Officer shall consult with cities and districts to determine whether out of agency service agreements are subject to Commission review. The following agreements shall be exempt from Commission approval:

- a. Any agreement solely involving two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider.
- b. Any agreement for the transfer of nonpotable or nontreated water.

- c. Any agreement solely involving the provision of surplus water to agricultural lands and facilities, including, but not limited to, incidental residential structures, for projects that serve conservation purposes or that directly support agricultural industries. However, any agreement for the extension of surplus water service to a project that will support or induce development shall not be exempt from Commission approval.
 - d. Any agreement for an extended service that a city or district was providing on or before January 1, 2001.
 - e. Any agreement involving a local publicly owned electric utility, as defined by Section 9604 of the Public Utilities Code, providing electric services that do not involve the acquisition, construction, or installation of electric distribution facilities by the local publicly owned electric utility, outside of its jurisdictional boundaries.
 - f. A fire protection contract as defined in Government Code Section 56134 (see Section 5. *Fire Protection Contracts or Agreements*).
3. Executive Officer Authority to Approve Certain Requests
The Executive Officer shall have the authority to approve or conditionally approve out of agency service requests in cases where new or extended services are proposed to remedy a clear health and safety concern. In addition, the Executive Officer shall have the authority to approve or conditionally approve new or extended services where the services in question will not facilitate development.
4. Filing Requirements
The filing requirements for review of out of agency service agreements shall consist of:
- a. Official Request from Applying Agency. A written request signed by a designated representative of the agency requesting approval for an out of agency service agreement, or an adopted resolution from the city/district proposing to serve outside its boundaries must be submitted.
 - b. Payment of Appropriate Filing Fees. The applying agency must submit as part of the application the appropriate filing fees as outlined in the LAFCo Fee Schedule.
 - c. A completed application form including the submission of a copy of the proposed contract or agreement that has been signed by the property owner(s) and, if necessary, the agency extending service(s), and maps showing the location of the property to be served, existing agency boundaries, the location of the existing infrastructure, and the proposed location of the infrastructure to be extended.
 - d. Any other information deemed appropriate by the Executive Officer in order to review the service extension request based upon its special circumstances.

5. Environmental Review

All matters that involve discretionary action pursuant to these regulations are subject to the applicable provisions of the California Environmental Quality Act (CEQA). If there has been no environmental determination made by the applying agency, LAFCo will serve as the Lead Agency and shall prepare the required environmental analysis. Such a determination shall be required prior to authorization of a service extension.

6. Annexations

Annexations to cities and districts involving territory located within the affected agency's sphere of influence are generally preferred to out of agency service agreements. The Commission recognizes, however, there may be instances when out of agency service agreements are appropriate given local circumstances.

7. Criteria for Authorizations of Out of Agency Service Requests

The Commission and the Executive Officer shall limit out of agency service agreements to public health and safety emergencies and circumstances where:

- a. Sufficient service capacity exists;
- b. Annexation would not be practicable (in determining whether an annexation is practicable, the Commission shall consider the sphere of influence determinations for the affected territory in accordance with Government Code 56425(e); and
- c. The out of agency service request is determined by the Commission to be consistent with the policies adopted in and pursuant to the Cortese-Knox-Hertzberg Act.

8. Public Health and Safety Criteria for Water and Sewer Services

The Commission recognizes the importance of proactively addressing impending threats to public health and safety in considering requests for outside water and sewer services. Accordingly, the affected agency or landowners shall provide the Commission with documentation of the public health and safety threat, consistent with the criteria below.

- a. An existing on-site sewage disposal system may be deemed a threat to the health and safety of the public or the affected residents if it meets one or more of the following criteria, as determined by a Humboldt County Division of Environmental Health Specialist or other qualified professional:
 - i. There is ponding or accumulation of wastewater or septic tank effluent at or above the surface of the ground.
 - ii. There is a lack of an unsaturated vertical soil separation between the bottom of a disposal field and seasonal high groundwater.

- iii. There is a failure of the disposal field or septic tank to accept, treat, and dispose of wastewater in quantities discharged by the structure served.
 - iv. The on-site septic system is within 50 feet of a well or other water source.
 - v. Any other condition associated with the operation or use of an on-site sewage system that could permit the exposure, either directly or indirectly, of individuals or domestic animals to inadequately treated wastewater.
- b. An existing water source used for domestic purposes may be deemed a threat to the health and safety of the public or the affected residents if it meets one or more of the following criteria, as determined by a Humboldt County Division of Environmental Health Specialist or other qualified professional:
- i. The water supply is impacted by biological, chemical, or radiological constituents that cannot be adequately or reasonably treated or removed to levels deemed safe for human consumption or contact.
 - ii. The quantity of the water supply is constantly or periodically inadequate (less than one gallon per minute) to meet the domestic needs for which its use is intended, and additional quantities cannot adequately or reasonably be developed.
 - iii. Any other condition in which the continued use of an existing water supply could result in negative impacts to human health.

4.4 Procedures

For all development-related applications for service, the item shall be considered by the Commission at a noticed public meeting. The authority for action for non-development related agreements/contracts has been delegated to the LAFCo Executive Officer by the Commission.

1. Development Related Applications

Development related agreements/contracts associated with the development of tracts, subdivisions, a single-family dwelling unit, a commercial/industrial development on a parcel, or other types of development-related projects shall require the following review and approval by the Commission:

- a. The city or district proposing to provide service(s) outside its boundaries shall submit to LAFCo an application for review and consideration. Within 30 days after receipt of an application, the Executive Officer shall determine whether the application is complete and acceptable for filing. If the request is deemed incomplete, the Executive Officer shall immediately notify the applying agency of that determination, specifying those parts of the

application that are incomplete and an explanation of the manner in which the deficiencies may be made complete.

- b. The Executive Officer shall provide a referral regarding the request to the Humboldt County Public Works, Planning and Building, and Environmental Health Departments and affected and nearby public agencies and utilities providing the service type that is proposed to be extended.
- c. If necessary, a meeting with the applying agency and/or the various departments may be held dependent upon the circumstances and/or issues related to the service agreement/contract. The determination of whether or not to hold the meeting shall be made by the LAFCo Executive Officer.
- d. Once these required elements have been completed, the item shall be placed on a Commission Agenda within 90 days. At a noticed public meeting, the Commission will consider the staff's presentation and presentations, if any, by interested and affected parties, and make a determination.
- e. The Commission has the authority to approve, approve with conditions, or deny the out of agency service request. The Commission's determination and any required findings will be set out in a resolution which specifies the area to be served, the services to be provided, and the authority of the agency to provide its services outside its boundaries.
- f. Within 30 days after the Commission disapproves or approves with conditions an out of agency service contract or agreement, the applicants may request reconsideration of the decision by filing a written request with the Executive Officer. In all other cases, the decision of the Commission on an out of agency service agreement shall be final and conclusive. The request for reconsideration shall include the required reconsideration fee and shall state the reasons for the reconsideration. The determinations of the Commission on reconsideration shall be final and conclusive.

2. Non-Development Related Applications

Non-development related contracts or agreements that are related to providing service to existing residential, commercial or industrial development shall include the following review and approval by the LAFCo Executive Officer:

- a. Prior to the execution of a contract or agreement for service outside their boundaries, the city/district proposing to provide the service shall submit to LAFCo a completed application, with all its component parts as previously defined, for review and consideration.
- b. The Executive Officer's administrative review shall include the following determinations:
 - i. The proposed service is either non-development related and/or involves health and safety concerns as defined by Commission policy.

- ii. Sufficient service capacity exists.
 - iii. The request is consistent with the Cortese-Knox-Hertzberg Act.
- c. The Executive Officer can approve, approve with conditions, or deny the request for out of agency service. Should the Executive Officer decide, for any reason, to not exercise his/her delegated authority, the Executive Officer shall refer the request to the Commission for approval.

In cases where the Executive Officer denies a proposed service outside agency boundaries, the proposal shall be placed on the next Commission meeting agenda for which notice can be provided. After consideration at a public meeting, the Commission may approve, conditionally approve, or deny the request for out of agency services.

In cases where the Executive Officer approves a proposed service outside agency boundaries, said approval is subject to a potential review initiated by the Commission. The applying agency and/or the affected property owner may, in their discretion, initiate the extension of service prior to the expiration of the time the Commission may initiate a review of the decision. However, any such action is taken at the risk of the applying agency and/or the property owner that the Commission may ultimately reverse the approval of the Executive Officer, or place additional conditions on such approval. The approval of the Executive Officer creates no legally enforceable, vested right of the applying agency and/or the property owner.

In cases where the Executive Officer approves a proposed service outside agency boundaries with conditions to which the applying agency and/or property owner objects, the applying agency and/or property owner may proceed with the action under the conditional terms and said conditional terms shall be placed on the next Commission meeting agenda for which notice can be provided. After consideration at the public meeting, the Commission may lift or modify the conditions.

- d. The Executive Officer shall notify the Commission of his/her decision on an outside service area agreement within two business days. Within ten days after the Executive Officer's decision, any member of the Commission may request the Commission to review the decision by filing a written request with the Executive Officer. The Executive Officer shall set the request for review as an agenda item for the next meeting of the Commission for which notice can be given. After consideration of the issue, the Commission may affirm, reverse, or modify the decision of the Executive Officer.

5.0

FIRE PROTECTION CONTRACTS OR AGREEMENTS

The following section provides policy and procedural guidelines by which the Commission considers requests for new or extended fire protection services outside a public agency's jurisdictional boundaries (hereinafter referred to as "fire protection contract or agreement") pursuant to Government Code Section 56134. The Commission recognizes the importance of considering local conditions and circumstances when implementing these policies.

5.1 Authority

Effective January 1, 2016, Government Code Section 56134 requires the Commission to approve fire protection contracts or agreements for the exercise of new or extended fire protection services outside a public agency's jurisdictional boundaries if the contract meets any of the following thresholds:

1. Transfers responsibility for providing services in more than 25 percent of the area within the jurisdictional boundaries of any public agency affected by the contract or agreement; or
2. Changes the employment status of more than 25 percent of the employees of any public agency affected by the contract or agreement.
3. A contract or agreement for fire protection services outside a public agency's jurisdictional boundaries that, in combination with other contracts or agreements, would produce the results described in either threshold (1) or (2) above.

Note: This section applies primarily to fire protection contracts and agreements between public agencies as they relate to Amador Agreements and Joint Powers Agreements. The provision of new or extended services by contract or agreement outside jurisdictional boundaries to support existing or planned uses involving public or private properties are subject to Government Code Section 56133 (see Chapter 4. Out of Agency Service Contracts or Agreements).

5.2 Policies

1. Commission Approval Required for Fire Protection Contracts or Agreements
Except for the specific situations exempted by Government Code Section 56134 and by Humboldt LAFCo policy, a public agency may provide new or extended services pursuant to a fire protection contract that meets the above-defined thresholds only if it first requests and receives written approval from the Commission.
2. Exemptions
Public agencies shall consult with the Executive Officer to determine whether fire

protection contracts or agreements are subject to Commission review. Pursuant to Government Code Section 56134 and Humboldt LAFCo policy, the following contracts and agreements are exempt from LAFCo review:

- a) Renewal of existing contracts, unless the renewal included amendments or the inclusion of new territory that triggered the 25% change in service area or employment status.
- b) Ambulance service agreements.
- c) Pre-hospital emergency medical services.
- d) Mutual or automatic aid agreements.
- e) Subordinate or subsidiary fire protection activities including, but not limited to the following: pre-planning, subdivision review, use permit review, administrative permit review and inspections; fire alarm system plan review and inspections; defensible space inspections and enforcement; business/occupancy inspections in existing structures; vehicle maintenance and repair; sharing of management or other personnel between or among multiple agencies; sharing or loaning of equipment or property between or among multiple agencies.
- f) Cooperative agreements with the California Department of Forestry and Fire Protection, pursuant to Sections 4143 and 4144 of the Public Resources Code.

5.3 Procedures

Fire Protection Contracts and Agreements, except those determined to be exempt from LAFCo review, shall be considered using the following procedures:

- a. A request by a public agency for Commission approval of new or extended services provided pursuant to a fire protection contract shall be made by resolution of application and include all information regarding proposed services and financial information as required by Government Code Section 56134.
- b. The Commission will review proposals for consistency with the required findings of 56134(h)(2)(i) and (j), as well as the overall purposes of LAFCo that encourage the efficient provision of government services. Notably, the Commission shall not approve an application for approval of a fire protection contract unless the Commission determines that the public agency will have sufficient revenues to carry out the exercise of the new or extended fire protection services outside its jurisdictional boundaries.

6.0

AGRICULTURAL AND OPEN SPACE LANDS

Given the direction outlined by the California Legislature in Government Code § 56377, LAFCo adopts the following policies with respect to the conversion of agricultural and open space lands to urban uses. This policy is meant to apply both to city and special district changes of organization when urban development is the ultimate goal.

6.1 Legislative Mandate

In reviewing and approving or disapproving proposals which could reasonably be expected to induce, facilitate, or lead to the conversion of existing open space lands to uses other than open space uses, the Commission shall consider all of the following policies and priorities: (Government Code § 56377)

1. Development or use of land for other than open space uses shall be guided away from existing prime agricultural lands in open space use toward areas containing non-prime agricultural lands unless that action would not promote the planned, orderly, efficient development of an area.
2. Development of existing vacant or non-prime agricultural lands for urban uses within the existing jurisdiction of a local agency or within the sphere of influence of a local agency should be encouraged before any proposal is approved which would allow for or lead to the development of existing open space lands for non-open space uses which are outside of the existing jurisdiction of the local agency or outside of the existing sphere of influence of the local agency.

6.2 Agency Oversight

LAFCo encourages local agencies to identify the loss of agricultural and open space lands as early in their processes as possible and to work with applicants to initiate and execute plans to mitigate for that loss, in a manner that is consistent with this policy. Local agencies may also adopt their own agricultural conservation policies in order to better meet their own circumstances and processes.

6.3 Proposal Review Criteria

Proposals involving agricultural land shall be reviewed based on the following considerations:

1. Vacant land within developed areas should be developed before agricultural land is annexed for non-agricultural purposes.
2. Land substantially surrounded by existing agency boundaries should be annexed before other lands.
3. Urban development should be restricted in agricultural areas. For example,

agricultural land should not be annexed for non-agricultural purposes when feasible alternatives exist.

4. The continued productivity and viability of agricultural land surrounding existing communities should be promoted, by preventing the premature conversion of agricultural land to other uses and, to the extent feasible, minimizing conflicts between agricultural and other land uses.
5. Development near agricultural land should not adversely affect the economic viability or constrain the lawful, responsible practices of the agricultural operations.
6. Where feasible, non-prime land should be annexed before prime land.
7. A land's current zoning, pre-zoning, or land use designation is one of the factors the Commission will consider in determining whether mitigation should be required for the loss of agricultural land. A land's zoning, pre-zoning, or land use designation in the city's or County's general plan does not automatically exempt it from mitigation.

In considering the completeness and appropriateness of any proposal, the Executive Officer and Commission may require proponents and other interested parties to provide such information and analysis as, in their judgment, will assist in an informed and reasoned evaluation of the proposal in accordance with these policies

6.4 Annexations Involving Agricultural Land

LAFCo may approve a change of organization which will result in the conversion of agricultural land or open space use to other uses only if the Commission finds that the proposal will lead to planned, orderly, and efficient development. The following factors shall be considered:

1. Contiguity of the subject land to developed urban areas.
2. Receipt of all other discretionary approvals for planned development, including environmental review.
3. Consistency with existing planning documents of the affected local agencies, including a service plan of the annexing agency or affected agencies.
4. Likelihood that all or a substantial portion of the subject land will develop within a reasonable period of time for the project's size and complexity.
5. There is insufficient marketable, viable, less prime land available in the subject jurisdiction for the proposed land use. Less prime agricultural land generally should be annexed and developed before prime land is considered for boundary changes.
6. The adoption and implementation of effective measures to mitigate the loss of agricultural lands, and to preserve adjoining lands for agricultural use to prevent their premature conversion to other uses. Such measures may include, but need not be limited to:
 - a. The acquisition and dedication of farmland, development rights, open space,

- and conservation easements to permanently protect adjacent and other agricultural lands within the county;
- b. Participation in other development programs (such as transfer or purchase of development rights);
 - c. Payment of in-lieu fees to responsible recognized government and non-profit organizations for such purposes; and
 - d. The establishment of open space and similar buffers to shield agricultural operations from the effects of development.

6.5 Annexations Involving Agricultural Preserve Contracts

Annexation of land uses in conflict with an existing agricultural preserve contract shall be prohibited, unless the Commission finds that it meets all the following criteria:

1. The area is within the annexing agency's sphere of influence;
2. The Commission makes findings required by Government Code § 56856.5.
3. There is a pending, or approved, rescission of the property that has been reviewed by the local jurisdictions and the Department of Conservation; and
4. Any Williamson Act Contract on the property has been non-renewed if still awaiting rescission approval.

6.6 Agricultural-Related Definitions

1. "Agricultural Land" means forestlands, rangelands, agricultural lands, and areas of economic importance for the production of food or fiber, including areas within which the primary zoning or general plan designation is AE, AG, TPZ, or any other agricultural-related zone.
2. "Prime Agricultural Land" (Government Code § 56064) means an area of land, whether a single parcel or contiguous parcels, that has not been developed for a use other than an agricultural use and which meets any of the following qualifications:
 - a. Land that qualifies, if irrigated, for rating as Class I or Class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not land is currently irrigated, provided that irrigation is feasible.
 - b. Land with soils having a Storie Index of 80 - 100 rating.
 - c. Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Range and Pasture Handbook, Revision 1, December 2003.
 - d. Land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of fewer than five years and that will return during the

commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre.

- e. Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four hundred (\$400) per acre for three of the previous five calendar years.
3. "Urban Development" means a change of organization that contemplates or is likely to lead to the conversion of land from agricultural use to a primarily nonagricultural related use, generally resulting in the need for services such as sewer, water, fire protection, schools, drainage systems, and police protection.

7.0

DISADVANTAGED UNINCORPORATED COMMUNITIES

7.1 Authority

In 2011, the Cortese-Knox-Hertzberg Act was amended, under Senate Bill 244 (Wolk), to require a number of actions by LAFCo:

- With few exceptions, the Commission cannot approve a proposal for annexation of territory greater than 10 acres if a disadvantaged unincorporated community is contiguous to the area proposed for annexation unless an application for annexation of the disadvantaged unincorporated community has been filed with the executive officer.
- In updating an agency's sphere of influence after July 1, 2012, the Commission must consider and prepare, as part of a written statement of determinations for a city or special district that provides public facilities or services that relate to sewers, municipal and industrial water, or structural fire protection, the present and probable need for those facilities and services of any disadvantaged unincorporated communities within the agency's existing sphere of influence.
- In conducting a Municipal Service Review, the Commission must prepare a statement of determinations, which includes the location and characteristics of any disadvantaged unincorporated community within or contiguous to an agency's sphere of influence and the present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged, unincorporated communities within or contiguous to an agency's sphere of influence.

7.2 DUC-Related Definitions

1. "Disadvantaged Unincorporated Community" or "DUC" means inhabited territory with an annual median household income that is less than 80 percent of the statewide annual median household income pursuant to Section 79505.5 of the Water Code.
2. "Inhabited Territory" for the purposes of implementing SB 244 (Wolk) shall be defined as a community of 12 or more registered voters identified using Community Plans, General Plans, census designated places and block groups (as defined by the U.S. Census), populated places (as defined by the U.S. Geological Survey), or other standard as determined by LAFCo. The following list of unincorporated legacy communities has been defined for areas not located within the sphere of influence of a city (Humboldt County 2014 Housing Element). Additional review is needed to determine "disadvantaged unincorporated communities" within and adjacent to city spheres of influence.

Humboldt County Unincorporated Legacy Communities		
Alderpoint	Manila	Samoa
Blocksburg	McKinleyville	Scotia
Briceland	Miranda	Shelter Cove
Carlotta	Myers Flat	Shively
Fairhaven	Orick	Stafford
Fieldbrook	Orleans	Weott
Fruitland	Petrolia	Westhaven
Garberville	Phillipsville	Whitethorn
Glendale	Port Kenyon/ Arlynda/ Meridian	Willow Creek
Holmes Flat	Redcrest	
Indianola	Redway	

7.3 Considerations

The Commission believes that designation of “disadvantaged unincorporated communities” and the factors that define them should be reflective of local conditions. Furthermore, the Commission believes that additional criteria for consideration in identifying a “disadvantaged unincorporated community” should be incorporated into the law. These are: (1) the area is contiguous to an urbanized area, (2) the area completely lacks or has substandard infrastructure, and (3) the area is a social or economic community of interest. The criteria of a community with an annual median household income that is less than 80 percent of the statewide annual median household income should be one of several criteria, however, not required for qualification.

8.0 MSR/SOI GUIDELINES

This section sets forth methodology and criteria to be used to assist LAFCo, its staff and interested parties in the process and determination of spheres of influence and municipal service reviews by LAFCo.

8.1 Authority

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 Section 56430 requires the Commission to prepare municipal service reviews prior to or in conjunction with its mandate to review and update each local agency's sphere of influence every five years as necessary. The municipal service review process is intended to inform the Commission as to the availability, capacity, and efficiency of local governmental services prior to making sphere of influence determinations.

8.2 Criteria – Municipal Services Review (MSR)

In order to prepare and to update sphere of influence in accordance with Section 56425, LAFCo shall conduct a service review of the municipal services provided in the county or other appropriate area designated by LAFCo (Section 56430(a)).

In conducting a service review, LAFCo shall comprehensively review all of the agencies that provide the identified service or services within the designated geographic area. (Section 56430(b)). The Commission shall generally prepare three types of municipal service reviews as summarized below:

1. Service-Specific - A service-specific municipal service review will examine particular governmental services across multiple local agencies on a countywide basis.
2. Region-Specific - A region-specific municipal service review will examine the range of governmental services provided by local agencies within a designated area.
3. Agency-Specific - An agency-specific municipal service review will examine the breadth of governmental services provided by a particular local agency.

Only local agencies whose boundary changes are subject to LAFCo review, or are required to have a sphere of influence, will require preparation of service reviews. Services provided by other public and private service providers may be included in service reviews to provide a broader understanding of service provision.

The Commission shall generally schedule municipal service reviews in conjunction with sphere of influence updates. The Commission, however, may schedule municipal service reviews independent of sphere of influence updates. Minor amendments to spheres of influence, as determined by the Commission, will not require a municipal

service review.

For each MSR, LAFCo shall prepare a written statement of the required determinations under Government Code §56430. Service reviews may also contain recommendations for sphere of influence or government structure changes needed to implement positive service changes. Where more detailed analysis of service options is necessary, service reviews may contain recommendations for special studies where there is the potential to reduce service gaps and improve service levels.

8.3 Criteria - Spheres of Influence (SOI)

On or before January 1, 2008, and every five years thereafter, the Commission shall, as necessary, review and update each sphere of influence (§56425(g)). In determining the sphere of influence of each local agency, LAFCo will consider and prepare a written statement of its determinations required under Government Code §56425.

Spheres of influence shall be a declaration of policy which shall be a primary guide to LAFCo in the decision on any proposal under its jurisdiction. Every determination made by LAFCo shall be consistent with the spheres of influence of the agencies affected by those determinations. Any proposal which is inconsistent with an agency's adopted sphere of influence shall not be approved until LAFCo, at a noticed public hearing, has considered an amendment or revision to that agency's sphere. Inclusion within an agency's sphere does not assure annexation to that agency. LAFCo shall evaluate boundary change proposals as they relate to all of the relevant factors listed in the CKH Act.

Recommendations involving policy changes, legal boundary adjustments, changes in governmental form, and proposals for implementation of the recommendations, will be developed in cooperation with the cities, county, special districts and other affected agencies. The spheres will be provided, in draft form, to the affected agencies and other interested parties before presentation to the Commission.

8.4 Types of Spheres of Influence

The following types of spheres of influence may be adopted for cities and special districts:

1. Coterminous Sphere – The Commission may allocate a sphere of influence boundary which is “coterminous” to an agency’s jurisdictional boundary in the case where LAFCo determines, after due consideration of all factors, that insufficient evidence has been presented to support the agency’s ability to expand and provide services beyond its jurisdictional boundary within the next 10 years or more.
2. Expanded Sphere – The Commission may adopt expanded spheres, as needed, to accommodate planned and orderly urban development.
3. Reduced Sphere – The Commission may consider removal of land from an

agency's sphere of influence if the territory consists of agricultural lands, open space lands or agricultural preserves whose preservation would be jeopardized by inclusion within the agency's sphere, and/or if the land is not expected to be developed for urban uses or require urban-type services within the next 10 years or more. If the land is inside the affected agency's jurisdictional boundary, exclusion of these areas from an agency's sphere indicates that detachment is appropriate.

4. Zero Sphere – The Commission may adopt a zero sphere of influence encompassing no territory for an agency. This occurs if LAFCo determines that the public service functions of the agency are either nonexistent, no longer needed, or should be reallocated to some other agency. The local agency which has been assigned a zero sphere should ultimately be dissolved.
5. Consolidated Sphere – Two or more local agencies providing the same service(s) may be allocated a consolidated Sphere of Influence to include the areas served by both agencies. This would be the case where LAFCo determines that the particular service(s) should be provided to the entire area by a single local agency.
6. Service-Specific Sphere – If territory within the proposed sphere boundary of a local agency does not need all of the services of the agency, a “service-specific” sphere of influence may be designated.
7. Study Areas – LAFCo may establish future study areas outside of adopted spheres of influence. These areas indicate territory which may ultimately be appropriate for inclusion within an agency's sphere upon a future study or modified conditions.

8.5 SOI Analysis for Cities and Municipal-Related Special Districts

LAFCo will consider the following information when studying and determining the spheres of influence for the cities and municipal-related special districts:

1. Retention and strengthening of community identities, as well as increasing efficiency and conserving resources, by providing essential services within a framework of controlled growth;
2. Identification of the county's prime agricultural land and protection of this land through all available devices, such as including controlling the provision of services, requiring infill development first, and preferring non-prime land for growth. Other open-space resources such as stream banks, floodplains, and present and future recreation areas should also be protected for public benefit;
3. Creation of realistic and controlled, yet flexible, planning areas into which anticipated services can be expanded as growth requires and as the communities' resources provide;
4. Provision of infrastructure systems such as streets, sewers, water, open space for

parks and recreation as a product of growth, rather than growth inducing;

5. Encouragement of city annexation or incorporation as a means of supplying the full range of urban services as required; and
6. Evaluation of the availability and need for basic services in each community and forecast these to meet anticipated population growth, and recommend creation, expansion, consolidation and/or reorganization of districts when the need for such change is indicated.
7. Consideration of Commission policies, service reviews, and special studies that may be relevant to determining agency spheres of influence.

8.6 Memorandum of Agreements (for City Sphere Amendments and Updates)

Prior to submitting an application to LAFCo for a new city sphere of influence or a city sphere of influence update, the city shall meet with the County to discuss the proposed new boundaries of the sphere and explore methods to reach agreement on development standards and planning and zoning requirements as contained in G.C. §56425. If an agreement is reached between the city and County the agreement shall be forwarded to LAFCo. The Commission shall consider and adopt a sphere of influence for the city consistent with the policies adopted by LAFCo and the County, and LAFCo shall give great weight to the agreement to the extent that it is consistent with LAFCo policies in its final determination of the city sphere.

8.7 LAFCo Action on Spheres of Influence

Whether or not an agreement is reached regarding the boundaries, development standards, and planning and zoning requirements within a proposed sphere, LAFCo retains the discretion to adopt a sphere of influence as it determines to be appropriate under the circumstances.

8.8 Review Timeframe

Government Code § 56425(g) requires that each sphere of influence be reviewed every five years. This review period does not preclude LAFCo, agencies or other interested parties from requesting an earlier update for any sphere of influence if needed prior to the five-year timeframe. Occasionally, some reviews may be scheduled longer than every five years, depending on countywide agency priorities. The Commission adopts a work plan every year which includes a schedule for MSR/SOI completion.



RESOLUTION NO. 18-09

APPROVING BOUNDARY CHANGE
POLICIES AND PROCEDURES

WHEREAS, California Government Code Section 56300(a) and 56375 authorizes LAFCo to adopt policies and procedures governing Cortese-Knox-Hertzberg Local Government Reorganization Act implementation; and

WHEREAS, at the January 17, 2018 and May 16, 2018 LAFCo meetings, the Commission considered revisions and additions to its policies and procedures governing boundary changes; and

WHEREAS, the Commission heard, discussed and considered all oral and written testimony related to the proposed policies and procedures including, but not limited to, the staff report and recommendation.

NOW, THEREFORE, BE IT RESOLVED by the Commission as follows:

1. The Commission hereby adopts Boundary Change Policies and Procedures, as provided in Exhibit A.
2. The Commission finds the approved written policies and procedures is exempt from further review under the California Environmental Quality Act (CEQA) pursuant to California Environmental Quality Act (CEQA), pursuant to Section 15378(b)(2).

PASSED AND ADOPTED at a meeting of the Humboldt Local Agency Formation Commission on the 16th of May, 2018, by the following roll call vote:

AYES: Commissioners:
NOES: Commissioners:
ABSENT: Commissioners:
ABSTAIN: Commissioners:

Attest:

Estelle Fennell, Chair
Humboldt LAFCo

George Williamson, Executive Officer
Humboldt LAFCo