



Marin Local Agency Formation Commission

Regional Service Planning | Subdivision of the State of California

NOTICE OF REGULAR MEETING AND AGENDA

Marin Local Agency Formation Commission

Thursday, December 10, 2020 ▪ 7:00 PM

***** BY VIRTUAL TELECONFERENCE ONLY *****

Pursuant to the provisions of California Governor's Executive Order N-29-20, issued on March 17, 2020, this meeting will be held by teleconference only. No physical location will be available for this meeting. However, members of the public will be able to access and participate in the meeting.

PUBLIC ACCESS AND PUBLIC COMMENT INSTRUCTIONS

PUBLIC ACCESS

Members of the public may access and watch a live stream of the meeting on Zoom at <https://zoom.us/j/4350473750>. Alternately, the public may listen in to the meeting by dialing **(669) 900-6833** and entering **Meeting ID 4350473750#** when prompted.

WRITTEN PUBLIC COMMENTS may be submitted by email to staff@marinlafco.org. Written comments will be distributed to the Commission as quickly as possible. Please note that documents may take up to 24 hours to be posted to the agenda on the LAFCO website.

SPOKEN PUBLIC COMMENTS will be accepted through the teleconference meeting. To address the Commission, click on the link <https://zoom.us/j/4350473750> to access the Zoom-based meeting.

1. You will be asked to enter an email address and name. We request that you identify yourself by name as this will be visible online and will be used to notify you that it is your turn to speak.
2. When the Commission calls for the item on which you wish to speak, click on "raise hand" icon. Staff will activate and unmute speakers in turn. Speakers will be notified shortly before they are called to speak.
3. When called, please limit your remarks to the time limit allotted (3 minutes).

CALL TO ORDER BY CHAIR

ROLL CALL BY EXECUTIVE OFFICER

AGENDA REVIEW

The Chair or designee will consider any requests to remove or rearrange items by members.

PUBLIC OPEN TIME

This portion of the meeting is reserved for persons desiring to address the Commission on any matter not on the current agenda. All statements that require a response will be referred to staff for reply in writing or will be placed on the Commission's agenda for consideration at a later meeting. Speakers are limited to three minutes.

CONSENT CALENDAR ITEMS (discussion and possible action)

All items calendared as consent are considered ministerial or non-substantive and subject to a single motion approval. The Chair or designee will also consider requests from the Commission to pull an item for discussion.

1. Approval of Minutes for October 8, 2020, Regular Meeting
2. Commission Ratification of Payments from October 1, 2020, to November 30, 2020
3. Approval of the Marin LAFCo Meeting Schedule for Calendar Year 2021

BUSINESS ITEMS (discussion and possible action)

Business Items involve administrative, budgetary, legislative or personnel matters and may or may not be subject to public hearings.

4. Approval of Extension of Application File 1346 – 4576 Paradise Drive Annexation to Town of Tiburon
5. Approval of Resolution to Initiate Proceedings Dissolving County Service Area 23 Pursuant to Government Code Section 56879
6. Approval of Resolution to Initiate Proceedings Dissolving County Service Area 25 Pursuant to Government Code Section 56879
7. Review and Approval of Amendments for the LAFCo Policy Handbook
8. Review and Approval of a New Personnel Handbook
9. Approval of a Revised Five-Year Study Schedule & Update on MSRs

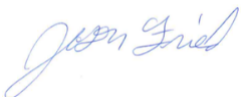
EXECUTIVE OFFICER REPORT (verbal report only)

- a) Budget Update FY 2020-2021
- b) Current and Pending Proposals
- c) Discussion of Annual Marin LAFCo Workshop [Verbal Report Only]

COMMISSIONER ANNOUNCEMENTS AND REQUESTS

ADJOURNMENT TO NEXT MEETING

(Tentative) February 11, 2021 | 7:00 P.M.



Attest: Jason Fried
Executive Officer

Any writings or documents pertaining to an open session item provided to a majority of the Commission less than 72 hours prior to a regular meeting shall be made available for public inspection at Marin LAFCo Administrative Office, 1401 Los Gamos Drive, Suite 220, San Rafael, CA 94903, during normal business hours.

Pursuant to GC Section 84308, if you wish to participate in the above proceedings, you or your agent are prohibited from making a campaign contribution of \$250 or more to any Commissioner. This prohibition begins on the date you begin to actively support or oppose an application before LAFCo and continues until 3 months after a final decision is rendered by LAFCo. If you or your agent have made a contribution of \$250 or more to any Commissioner during the 12 months preceding the decision, in the proceeding that Commissioner must disqualify himself or herself from the decision. However, disqualification is not required if the Commissioner returns that campaign contribution within 30 days of learning both about the contribution and the fact that you are a participant in the proceedings. Separately, any person with a disability under the Americans with Disabilities Act (ADA) may receive a copy of the agenda or a copy of all the documents constituting the agenda packet for a meeting upon request. Any person with a disability covered under the ADA may also request a disability-related modification or accommodation, including auxiliary aids or services, in order to participate in a public meeting. Please contact the LAFCo office at least three (3) working days prior to the meeting for any requested arraignments or accommodations.

Marin LAFCo

Administrative Office
1401 Los Gamos Drive, Suite 220
San Rafael California 94903

T: 415-448-5877
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W: marinlafco.org



Marin Local Agency Formation Commission

Regional Service Planning | Subdivision of the State of California

AGENDA REPORT

December 10, 2020

Item No. 1 (Consent Item)

TO: Local Agency Formation Commission

FROM: Olivia Gingold, Clerk/Junior Analyst

SUBJECT: **Approval of Minutes for October 8, 2020, Regular Meeting**

Background

The Ralph M. Brown Act was enacted by the State Legislature in 1953 and establishes standards and processes therein for the public to attend and participate in meetings of local government bodies as well as those local legislative bodies created by State law; the latter category applying to LAFCos.

Discussion

The action minutes for the October 8 regular meeting accurately reflect the Commission's actions as recorded by staff. A video recording of the meeting is also available online for viewing at <http://marinlafco.org/AgendaCenter>.

Staff Recommendation for Action

1. Staff recommendation – Approve the draft minutes prepared for the October 8, 2020 meeting with any desired corrections or clarifications.
2. Alternative option – Continue consideration of the item to the next regular meeting and provide direction to staff, as needed.

Procedures for Consideration

This item has been placed on the agenda as part of the consent calendar. Accordingly, a successful motion to approve the consent calendar will include taking affirmative action on the staff recommendation as provided unless otherwise specified by the Commission.

Attachment:

- 1) Draft Minutes for October 8, 2020

Administrative Office
Jason Fried, Executive Officer
1401 Los Gatos Drive, Suite 220
San Rafael, California 94903
T: 415-448-5877 E: staff@marinlafco.org
www.marinlafco.org

Damon Connolly, Regular
County of Marin

Judy Arnold, Regular
County of Marin

Dennis Rodoni, Alternate
County of Marin

Sashi McEntee, Chair
City of Mill Valley

Barbara Coler, Regular
Town of Fairfax

James Campbell, Alternate
City of Belvedere

Craig K. Murray, Vice Chair
Las Gallinas Valley Sanitary

Lew Kiou, Regular
Almonte Sanitary District

Tod Moody, Alternate
Sanitary District #5

Larry Loder, Regular
Public Member

Chris Skelton, Alternate
Public Member



Marin Local Agency Formation Commission

Regional Service Planning | Subdivision of the State of California

DRAFT

NOTICE OF REGULAR MEETING MINUTES

Marin Local Agency Formation Commission

Thursday, October 8, 2020

CALL TO ORDER

Chair McEntee called the meeting to order at 7:04 P.M.

ROLL CALL BY COMMISSION CLERK

Roll was taken and quorum was met. The following were in attendance:

Commissioners Present: Sashi McEntee, Chair
Craig K. Murray, Vice-Chair
Lew Kious
Barbara Coler
Damon Connolly
Larry Loder
Judy Arnold

Alternate Commissioners Present: Tod Moody
Chris Skelton
James Campbell

Marin LAFCo Staff Present: Jason Fried, Executive Officer
Jeren Seibel, Policy Analyst
Olivia Gingold, Clerk/Junior Analyst

Marin LAFCo Counsel Present: Mala Subramanian

Alternate Member Absent: Dennis Rodoni

AGENDA REVIEW

Executive Officer Fried suggested that item 4 be moved to the front of the public hearing items as there were public members in attendance to speak on that item.

Approved: M/S by Commissioners Kious and Murray to accept the amended agenda.

Ayes: Commissioners McEntee, Murray, Kious, Coler, Loder, and Connolly

Nays: None

Abstain: None

Absent: Arnold

Motion approved unanimously.

PUBLIC OPEN TIME

Chair McEntee opened the public comment period. Hearing no request for comment, Chair closed the public open time.

CONSENT CALENDAR ITEMS

1. Approval of Minutes for August 8, 2020, Regular Meeting
2. Commission Ratification of Payments from August 1, 2020, to September 30, 2020

Approved: M/S by Commissioners Murray and Loder to accept the consent calendar.

Ayes: Commissioners McEntee, Murray, Kious, Coler, Loder, and Connolly

Nays: None

Abstain: None

Motion approved unanimously.

PUBLIC HEARING ITEMS

3. Approval of the Upper Ross Valley MSR and Corresponding Sphere of Influence Affirms and Workplan Additions.

Policy Analyst Seibel presented the documents included in the Agenda Packet and read the 2 amendments to the LAFCo workplan.

Commissioner Coler asked about Ross Valley Paramedic Authority (RVPA) edits. Policy Analyst Seibel confirmed that he had added information to the CSA 27 section. Policy Analyst Seibel and Executive Officer Fried also offered some clarifications on the differences between RVPA and CSA 27 within the MSR. Commissioner Coler asked that some language in the MSR be altered slightly for clarity but otherwise felt good about the RVPA edits added to the MSR.

Chair McEntee opened the public hearing. Hearing no additional public comments, Chair closed the public hearing.

Approved: M/S by Commissioners Coler and Murray to approve Resolution 20-23, the Ross Valley MSR with amendments to language on page 16, as well as SOI resolutions 20-24 through 20-29.

Ayes: Commissioners McEntee, Murray, Kious, Coler, Loder, Connolly, and Arnold

Nays: None

Abstain: None

Motion approved unanimously.

4. Approval of Final Draft for the Municipal Service Review for Flood Zones 6 and 7

Executive Officer summarized for the Commission the public comments that had been received between the August and October meetings, noting that the draft was never dispersed to the Advisory Board, so public comment was reopened to give the public more time to comment. 3 written comments were received, and changes were made. He noted that some of the comments were outside of the scope of the MSR and therefore were not included.

Vice-Chair Murray commended giving the FZ 6 Advisory Board the opportunity to comment. Hearing no other questions from the Commission, Chair McEntee opened the public hearing.

Ken Dickinson spoke first, followed by Stuart Shepherd, Wayne Rayburn, and Marianne Nannestad. They all expressed concern with moving forward on transferring Flood Zone 6 to the City of San Rafael without involving the advisory board, as well as concern with the expiration of 3 of the advisory board member's terms and the lack of an annual advisory board meeting. They requested continuation of the report, so the advisory board could have time to meet and discuss the district transfer.

Discussion was had between Executive Officer Fried, the Commissioners - namely Chair McEntee and Commissioner Connolly, and the Public Commenters. It was clarified that approving the MSR does not approve the district transfer, but that there is language in the MSR that recommends transferring over the current advisory board to a Citizen's Advisory board within the City of San Rafael.

Vice-Chair Murray commented that he would like to ensure that the funds stay with the City of San Rafael/FZ 6 as part of the transfer. He also noted that the Meadows is only one section of the Flood Zone and would recommend potentially including other renters and citizens from the higher density areas in the Redwoods neighborhood.

Vice-Chair Murray asked the FZ 6 advisory board members present if, given the discussion that night, they would feel comfortable with LAFCo's approval of the MSR. After some discussion, it was confirmed that as long as the Advisory Board for Flood Zone 6 is involved in the transfer process and can weigh in before the transfer occurs, that approving the MSR would be fine.

Commissioner Coler recommended a sentence in the MSR memorializing the lapse of the Advisory Board Members' terms and highlighting their importance to the history of the district. Chair McEntee concurred.

Approved: M/S by Commissioners Coler and Murray to approve the MSR with the amendment giving the Executive Officer flexibility to add a sentence on the AB terms expiring.

Ayes: Commissioners McEntee, Murray, Kious, Coler, Loder, Arnold, and Connolly

Nays: None

Abstain: None

Motion approved unanimously.

BUSINESS ITEMS

5. Approval of Payroll System

Executive Officer Fried explained that ADP has been problematic and difficult to work with, so he reached out to other LAFCOs and Special Districts to create a shortlist of payroll service companies. Although he received 4 good proposals, Paychex was the best in part due to cost savings because of their relationship with Bank of Marin. Executive Officer Fried asked to enter into an agreement with Paychex, authorization to inform ADP that LAFCo will no longer use their services, and authorization to approve transfer of money to cover payroll from the County account to Bank of Marin.

Commissioner Coler confirmed pricing for Paychex and confirmed that ADP is more expensive, and more cumbersome because it involves Munis. She also clarified what ultimately moving out of the County meant.

Executive Officer Fried responded that the goal is to keep money in the County account because it accrues interest but move money quarterly into Bank of Marin to cover payroll.

Chair McEntee opened the public comment, and hearing none, closed public comment.

Approved: M/S by Commissioners Kious and Coler to approve the transfer of payroll to Paychex along with staff recommendations.

Ayes: Commissioners McEntee, Murray, Kious, Coler, Loder, Connolly, and Arnold

Nays: None

Abstain: None

Motion approved unanimously

EXECUTIVE OFFICER REPORT (discussion and possible action)

a) Budget Update FY 2020-2021

Staff stated the budget was on track. Agency contribution line was slightly below what was expected to be received but since the report was written we got the September update and the final money was received.

b) Current and Pending Proposals

There are no current or pending proposals although some may be on the way.

c) Update on MSR(s) [Verbal Report Only]

Research and analysis for Twin Cities MSR has begun.

d) Discussion of LAFCo Annual Workshop [Verbal Report Only]

Staff discussed moving on from past workshop topics and discussed potentially focusing on Shared Services or co-hosting with another California LAFCo that is similar in structure or close in proximity to Marin LAFCo.

COMMISSIONER ANNOUNCEMENTS AND REQUESTS

Commissioner Murray gave a quick honor to Forrest Morpew.

Hearing no additional requests or announcements, the Chair called for adjournment.

Chair McEntee adjourned the meeting at 8:51 P.M.

ADJOURNMENT TO NEXT MEETING

Thursday, December 12th, 2020

Zoom

Attest: Olivia Gingold
Clerk/Junior Analyst

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Marin Local Agency Formation Commission

Regional Service Planning | Subdivision of the State of California

AGENDA REPORT
December 10, 2020
Item No. 2 (Consent Item)

TO: Local Agency Formation Commission

FROM: Jason Fried, Executive Officer

SUBJECT: Commission Ratification of Payments from October 1, 2020, to November 30, 2020

Background

Marin LAFCo adopted a Policy Handbook delegating the Executive Officer to make purchases and related procurements necessary in overseeing the day-to-day business of the agency. The Policy Handbook also directs all payments made by the Executive Officer to be reconciled by LAFCo's contracted bookkeeper. Additionally, all payments are to be reported to the Commission at the next available Commission meeting for formal ratification.

This following item is presented for the Commission to consider the ratification of all payments made by the Executive Officer between October 1, 2020, and November 30, 2020, totaling \$78,238.06. The payments are detailed in the attachment.

Staff Recommendation for Action

1. Staff Recommendation - Ratify the payments made by the Executive Officer between October 1, 2020, and November 30, 2020, as shown in attachment.
2. Alternate Option - Continue consideration of the item to the next regular meeting and provide direction to staff as needed.

Procedures for Consideration

This item has been placed on the agenda as part of the consent calendar. Accordingly, a successful motion to approve the consent calendar will include taking affirmative action on the staff recommendation unless otherwise specified by the Commission.

Attachment:

- 1) Payments from October 1, 2020, to November 30, 2020

Administrative Office

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Almonte Sanitary District

Tod Moody, Alternate
Sanitary District #5

Larry Loder, Regular
Public Member

Chris Skelton, Alternate
Public Member

10:29 AM

12/01/20

Accrual Basis

Marin Local Agency Formation Commission

Expenses by Vendor Detail

October through November 2020

Type	Date	Num	Memo	Account	Clr	Split	Amount	Balance
A and P Moving, Inc.								
Check	10/19/2020	20469	Invoice # 4056324	65 · Rent - Stor...		1111300 · 403...	40.00	40.00
Check	11/12/2020	20484	Invoice # 4056562	65 · Rent - Stor...		1111300 · 403...	40.00	80.00
Total A and P Moving, Inc.							80.00	80.00
ARNOLD, JUDY								
Check	10/19/2020	20475	Oct 2020 Commission ...	05 · Commissio...		1111300 · 403...	125.00	125.00
Total ARNOLD, JUDY							125.00	125.00
BANK OF MARIN CC								
Credit C...	10/20/2020		marin ij	35 · Misc Servic...		2110340 · Ba...	9.95	9.95
Credit C...	10/20/2020		adobe	20 · IT & Comm...		2110340 · Ba...	65.96	75.91
Credit C...	10/20/2020		zoom	20 · IT & Comm...		2110340 · Ba...	14.99	90.90
Credit C...	10/20/2020		verizon	20 · IT & Comm...		2110340 · Ba...	87.63	178.53
Total BANK OF MARIN CC							178.53	178.53
BEST BEST & KRIEGER LLP								
Check	10/01/2020	20466	Invoice #886435	25 · Legal Servi...		1111300 · 403...	864.00	864.00
Check	10/19/2020	20473	Invoice #888045	25 · Legal Servi...		1111300 · 403...	948.20	1,812.20
Check	11/12/2020	20483	Invoice #891250	25 · Legal Servi...		1111300 · 403...	1,002.20	2,814.40
Total BEST BEST & KRIEGER LLP							2,814.40	2,814.40
CA SPECIAL DISTRICT ASSOCIATION								
Check	10/19/2020	20467	2021 Membership Ren...	30 · Membershi...		1111300 · 403...	1,482.00	1,482.00
Total CA SPECIAL DISTRICT ASSOCIATION							1,482.00	1,482.00
Coler, Barbara								
Check	10/28/2020	20479	Oct 2020 Commission ...	05 · Commissio...		1111300 · 403...	125.00	125.00
Total Coler, Barbara							125.00	125.00
COMCAST								
Check	10/28/2020	20482	Bill Date Oct 12, 2020	20 · IT & Comm...		1111300 · 403...	140.01	140.01
Check	11/24/2020	20488	Bill Date Nov 12, 2020	20 · IT & Comm...		1111300 · 403...	140.01	280.02
Total COMCAST							280.02	280.02
CONNOLLY, DAMON								
Check	10/28/2020	20480	Oct 2020 Commission	05 · Commissio...		1111300 · 403...	125.00	125.00
Total CONNOLLY, DAMON							125.00	125.00
FP MAILING SOLUTIONS								
Check	10/19/2020	20472	Invoice # RI 104632376	50 · Office Supp...		1111300 · 403...	135.16	135.16
Total FP MAILING SOLUTIONS							135.16	135.16
KIOUS, LEWIS								
Check	10/19/2020	20474	Oct 2020 Commission ...	05 · Commissio...		1111300 · 403...	125.00	125.00
Total KIOUS, LEWIS							125.00	125.00
LIEBERT CASSIDY WHITMORE								
Check	10/28/2020	10029	Invoice #1507386 & 1...	25 · Legal Servi...		1111200 · 401...	4,600.40	4,600.40
Check	11/24/2020	20489	Invoice #1509102	25 · Legal Servi...		1111300 · 403...	1,487.70	6,088.10
Total LIEBERT CASSIDY WHITMORE							6,088.10	6,088.10
LODER, LAWRENCE								
Check	10/19/2020	20477	Oct 2020 Commission ...	05 · Commissio...		1111300 · 403...	125.00	125.00
Total LODER, LAWRENCE							125.00	125.00
MARIN INDEPENDENT JOURNAL								
Check	10/19/2020	20470	Invoice # 0001267772	60 · Publication...		1111300 · 403...	113.96	113.96
Total MARIN INDEPENDENT JOURNAL							113.96	113.96

10:29 AM

12/01/20

Accrual Basis

Marin Local Agency Formation Commission Expenses by Vendor Detail October through November 2020

Type	Date	Num	Memo	Account	Clr	Split	Amount	Balance
MARIN MAC TECH								
Check	10/19/2020	20468	Invoice # 2718 & 2738	20 · IT & Comm...		1111300 · 403...	790.48	790.48
Check	11/12/2020	20487	Invoice # 2247 & 2830	20 · IT & Comm...		1111300 · 403...	310.45	1,100.93
Check	11/24/2020	20490	Invoice # 2838	20 · IT & Comm...		1111300 · 403...	632.50	1,733.43
Total MARIN MAC TECH							1,733.43	1,733.43
MURRAY, CRAIG K								
Check	10/19/2020	20476	Oct 2020 Commission ...	05 · Commissio...		1111300 · 403...	125.00	125.00
Total MURRAY, CRAIG K							125.00	125.00
PAYROLL								
Check	10/02/2020	eft		5110110 · Sal - ...		1110110 · Eq...	9,571.20	9,571.20
Check	10/02/2020	eft		5110210 · Salar...		1110110 · Eq...	0.00	9,571.20
Check	10/02/2020	eft		5110323 · Sick ...		1110110 · Eq...	0.00	9,571.20
Check	10/02/2020	eft		5110328 · Pers...		1110110 · Eq...	1,646.40	11,217.60
Check	10/02/2020	eft		5110324 · Vaca...		1110110 · Eq...	0.00	11,217.60
Check	10/02/2020	eft		5110313 · Holid...		1110110 · Eq...	0.00	11,217.60
Check	10/02/2020	eft		516150 · Auto A...		1110110 · Eq...	350.00	11,567.60
Check	10/16/2020	eft		5110110 · Sal - ...		1110110 · Eq...	11,217.60	22,785.20
Check	10/16/2020	eft		5110210 · Salar...		1110110 · Eq...	0.00	22,785.20
Check	10/16/2020	eft		5110323 · Sick ...		1110110 · Eq...	0.00	22,785.20
Check	10/16/2020	eft		5110328 · Pers...		1110110 · Eq...	0.00	22,785.20
Check	10/16/2020	eft		5110324 · Vaca...		1110110 · Eq...	0.00	22,785.20
Check	10/16/2020	eft		5110313 · Holid...		1110110 · Eq...	0.00	22,785.20
Check	10/16/2020	eft		516150 · Auto A...		1110110 · Eq...	0.00	22,785.20
Check	10/16/2020	eft		5130640 · Unus...		1110110 · Eq...	300.00	23,085.20
Check	10/30/2020	eft		5110110 · Sal - ...		1110110 · Eq...	11,217.60	34,302.80
Check	10/30/2020	eft		516150 · Auto A...		1110110 · Eq...	0.00	34,302.80
Check	10/30/2020	eft		5130640 · Unus...		1110110 · Eq...	100.00	34,402.80
Check	11/13/2020	eft		5110110 · Sal - ...		1110110 · Eq...	11,217.60	45,620.40
Check	11/13/2020	eft		516150 · Auto A...		1110110 · Eq...	350.00	45,970.40
Check	11/13/2020	eft		5130640 · Unus...		1110110 · Eq...	100.00	46,070.40
Check	11/27/2020	eft		5110110 · Sal - ...		1110110 · Eq...	11,217.90	57,288.30
Check	11/27/2020	eft		516150 · Auto A...		1110110 · Eq...	0.00	57,288.30
Check	11/27/2020	eft		5130640 · Unus...		1110110 · Eq...	100.00	57,388.30
Total PAYROLL							57,388.30	57,388.30
RICOH USA INC								
Check	11/12/2020	20486	Invoice # 5060777844	50 · Office Supp...		1111300 · 403...	44.96	44.96
Total RICOH USA INC							44.96	44.96
SCHIFFMANN, ALYSSA								
Check	10/19/2020	20471	Invoice # 111	55 · Profession...		1111300 · 403...	1,239.50	1,239.50
Total SCHIFFMANN, ALYSSA							1,239.50	1,239.50
SECURITY MORTGAGE GROUP 2								
Check	10/01/2020	20464	Oct 2020 Rent	45 · Office Leas...		1111300 · 403...	2,792.35	2,792.35
Check	10/28/2020	20481	Nov 2020 Rent	45 · Office Leas...		1111300 · 403...	2,792.35	5,584.70
Total SECURITY MORTGAGE GROUP 2							5,584.70	5,584.70
SKELTON, CHRIS								
Check	10/19/2020	20478	Oct 2020 Commission ...	05 · Commissio...		1111300 · 403...	125.00	125.00
Total SKELTON, CHRIS							125.00	125.00
Streamline								
Check	10/01/2020	20465	Invoice #107124	20 · IT & Comm...		1111300 · 403...	100.00	100.00
Check	11/12/2020	20485	Invoice #107572	20 · IT & Comm...		1111300 · 403...	100.00	200.00
Total Streamline							200.00	200.00
TOTAL							78,238.06	78,238.06



Marin Local Agency Formation Commission

Regional Service Planning | Subdivision of the State of California

AGENDA REPORT
December 10, 2020
Item No. 3 (Consent Item)

TO: Local Agency Formation Commission

FROM: Olivia Gingold, Clerk/Jr. Analyst

SUBJECT: Approval of the Marin LAFCo Meeting Schedule for Calendar Year 2021

Background

Annually, Marin LAFCo must approve the regular meeting schedule. LAFCo has held regular meetings, starting in February, on the second Thursday of the even months at 7:00 P.M. . Currently, LAFCo is meeting exclusively via Zoom due to the COVID-19 pandemic, and will meet on Zoom indefinitely until the COVID-19 pandemic has subsided enough to safely meet in person again. Once meeting in person is allowed again, a location will be chosen that meets all state and local requirements for in-person meetings. Listed below is the schedule for the 2021 Commission meetings.

Meeting Dates for 2021

The meeting dates for 2021 are as follows:

February 11th, 2021	April 8th, 2021	June 10th, 2021
August 12th, 2021	October 14th, 2021	December 9th, 2021

It is of note that the April 8th meeting falls on the same week as Marin County School District's scheduled spring break, therefore it may be in the Commission's interest to hold the meeting on either the first or third Thursday of the month.

Staff Recommendation for Action

1. Staff Recommendation - Approve the attached meeting calendar.
2. Alternate Option – Make changes to proposed schedule of meetings.

Procedures for Consideration

This item has been placed on the agenda as part of the consent calendar. Accordingly, a successful motion to approve the consent calendar will include taking affirmative action on the staff recommendation as provided unless otherwise specified by the Commission.

Administrative Office

Jason Fried, Executive Officer
1401 Los Gatos Drive, Suite 220
San Rafael, California 94903
T: 415-448-5877 E: staff@marinlafco.org
www.marinlafco.org

Damon Connolly, Regular
County of Marin

Judy Arnold, Regular
County of Marin

Dennis J. Rodoni, Alternate
County of Marin

Sashi McEntee, Chair
City of Mill Valley

Barbara Coler, Regular
Town of Fairfax

James Campbell, Alternate
City of Belvedere

Craig K. Murray, Vice Chair
Las Gallinas Valley Sanitary

Lew Kious, Regular
Almonte Sanitary District

Tod Moody, Alternate
Sanitary District #5

Larry Loder, Regular
Public Member

Chris Skelton, Alternate
Public Member



Marin Local Agency Formation Commission

Regional Service Planning | Subdivision of the State of California

AGENDA REPORT
December 10, 2020
Item No. 4 (Business Item)

TO: Local Agency Formation Commission

FROM: Jason Fried, Executive Officer

SUBJECT: **Approval of Extension of Application File 1346 – 4576 Paradise Drive Annexation to Town of Tiburon**

Background

At the October 10, 2019, regular LAFCo Commission meeting, the landowner (Sierra Pines Group LLC & Eric Crandall) requested annexation approval of approximately 9.575 acres to Sanitation District No. 2 and the Town of Tiburon. The affected territory as proposed included one entire legal lot in unincorporated Tiburon identified by the County of Marin Assessor's Office as APN 038-142-02 at 4576 Paradise Drive. Because of this parcel's location, it fit LAFCo's dual-annexation policy.

The Commission delayed approval of the application after getting a protest letter from Tiburon, and at the December 12, 2019 meeting, Marin LAFCo approved the option to split the file, allowing for immediate annexation into Sanitation District No. 2 (LAFCo File #1342) and approving the annexation into Tiburon (LAFCo File #1346) with the condition that the applicant file and complete the Tiburon pre-zoning process.

This item is for the Commission to consider a request by the applicant for a one-year time extension necessary to complete all approval terms established for the proposal given the approaching deadline to record a Certificate of Completion. Specifically, more time is requested to allow the applicant to complete his pre-zoning with the Town of Tiburon. It is staff's understanding that approvals should occur in early 2021. The applicant and Town staff have remained in regular contact with LAFCo staff throughout the process and in doing so show good faith in addressing the Commission's interests. Accordingly, a one-year time extension is recommended and would extend the deadline for completion to December 10, 2021.

Staff Recommendation for Action

1. Staff recommendation – Approve the requested time extension.
2. Alternate option - Deny the requested time extension. This will terminate the Commission's prior approval assuming the terms that remain outstanding will not be completed by December 12, 2020.

Attachment:

- 1) Letter from Applicant Requesting Extension.

Administrative Office

Jason Fried, Executive Officer
1401 Los Gatos Drive, Suite 220
San Rafael, California 94903
T: 415-448-5877 E: staff@marinlafco.org
www.marinlafco.org

Damon Connolly, Regular
County of Marin

Judy Arnold, Regular
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Sashi McEntee, Chair
City of Mill Valley

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Craig K. Murray, Vice Chair
Las Gallinas Valley Sanitary

Lew Kious, Regular
Almonte Sanitary District

Tod Moody, Alternate
Sanitary District #5

Larry Loder, Regular
Public Member

Chris Skelton, Alternate
Public Member

To: Jason Fried
Marin County Local Agency Formation Commission
1401 Los Gatos Road, Suite 220
San Rafael, CA 94903

From: Eric Crandall
Sierra Pines Group LLC
PO Box 37
Corte Madera, CA 94976

RE: Extension Request for LAFCo File 1346 for the property located at 4576 Paradise Drive for Annexation into the Town of Tiburon

Jason,

I am writing to request an extension to the condition of approval of the annexation for LAFCo File 1346 for the property located at 4576 Paradise Drive into the Town of Tiburon that was conditionally approved.

The LAFCo Commission conditioned their approval of the application on the Town of Tiburon rezoning the property within one year. While my rezoning application was submitted to the Town of Tiburon in November of 2019, the rezoning process has not yet been completed.

The Town of Tiburon has informed me that they will process my rezoning application and intend to begin that process at their January meeting of the Planning Commission. I believe you have been in contact with the Town's Community Development Director as well.

Let me know if you have any questions or need any additional information.

Thank you,

A handwritten signature in black ink, appearing to read 'Eric Crandall', with a long, sweeping underline that extends across the width of the signature.

Eric Crandall
Sierra Pines Group LLC



Marin Local Agency Formation Commission

Regional Service Planning | Subdivision of the State of California

AGENDA REPORT

December 10, 2020

Item No. 5 (Business Item)

TO: Local Agency Formation Commission

FROM: Jason Fried, Executive Officer

SUBJECT: Approval of Resolution to Initiate Proceedings Dissolving County Service Area 23 Pursuant to Government Code Section 56879

Background

In 2017 SB 448 was signed into law. SB 448 created a definition for “inactive districts” and created a special process for dissolution of these districts. This process is now part of Government Code Section 56879. This process starts with the State Controller’s Office (SCO) sending a letter to the County LAFCo where the inactive district is located, stating that they believe a district(s) qualifies as an inactive district. Marin LAFCo received such a letter (attached) which lists two CSAs (23 and 25) in Marin County that are perceived to be inactive. As part of this process the local LAFCo must determine if it agrees with the SCO determination. Section 56879 requires the local LAFCo to determine if in fact the agency in question is inactive within 90 days of getting the letter from the SCO. Should the local LAFCo determine that it is in fact an inactive district then within 90 days of that decision it will hold a public hearing and make final determination to dissolve the district. Today’s agenda item is to decide if the Commission agrees with SCO that CSA 23 is an inactive district. Should this get approved today then our first regular meeting in 2021 will be when we hold the official publicly noticed meeting to decide if CSA 23 should be dissolved.

CSA 23 was formed in 1975 to purchase land in the Terra Linda area. Once formed the CSA used bonds to help pay for the purchase of the land. In the 1990s the CSA finished paying off the bonds. The CSA has also transferred the land purchased to the Marin County Open Space District, who now owns the land. Since the land was transferred and the bond was paid off the CSA has not met. CSA 23 had been identified as fitting the definition of inactive by the Commission when it approved the San Rafael Regional MSR at the October 10, 2019 meeting.

Staff Recommendation for Action

1. Staff recommendation – Approve the attached resolution to start the dissolution process for CSA 23.
2. Alternate option – Disagree with the SCO and make a determination that the CSA is still active.
3. Alternate option – Continue consideration of the item to a future meeting and provide direction to staff, as needed.

Attachments:

- 1) Resolution 20-31
- 2) Letter from SCO office

Administrative Office
Jason Fried, Executive Officer
1401 Los Gatos Drive, Suite 220
San Rafael, California 94903
T: 415-448-5877 E: staff@marinlafco.org
www.marinlafco.org

Damon Connolly, Regular
County of Marin

Judy Arnold, Regular
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Las Gallinas Valley Sanitary

Lew Kiou, Regular
Almonte Sanitary District

Tod Moody, Alternate
Sanitary District #5

Larry Loder, Regular
Public Member

Chris Skelton, Alternate
Public Member

MARIN LOCAL AGENCY FORMATION COMMISSION

RESOLUTION NO. 20-31

RESOLUTION TO INITIATE PROCEEDINGS DISSOLVING THE INACTIVE DISTRICT OF COUNTY SERVICE AREA #23

WHEREAS, on November 5, 2020, the California State Controller notified the Commission pursuant to Government Code section 56879 that County Service Area #23 is an inactive district; and

WHEREAS, the Commission pursuant to Government Code section 56879 shall initiate the dissolution of County Service Area #23 within 90 days of receipt of notice from the State Controller's Office unless the Commission finds that County Service Area #23 is not inactive as defined in Government Code section 56042; and

WHEREAS, the Territory proposed to be dissolved is legally inhabited and includes the entirety of the boundaries of County Service Area 23, as depicted in Exhibit "A" attached hereto and by this reference incorporated herein; and

WHEREAS, the Marin Local Agency Formation Commission, as lead agency under the California Environmental Quality Act (CEQA), finds the dissolution to be statutorily exempt from CEQA pursuant to Public Resources Code Section 21080 (b)(1) and CEQA Guidelines Section 15268, as the initiation of the proposal was required by statute and, therefore, it is a ministerial action; and,

WHEREAS, terms and conditions will be determined by the Commission upon approval of the dissolution.

NOW, THEREFORE, the Marin Local Agency Formation Commission **DOES HEREBY RESOLVE, DETERMINE AND ORDER** that:

1. The Marin Local Agency Formation Commission serves as lead agency under the California Environmental Quality Act (CEQA) and finds the initiation of dissolution to be statutorily exempt from CEQA pursuant to Public Resources Code Section 21080 (b)(1) and CEQA Guidelines Section 15268, as the initiation of the proposal was required by statute and, therefore, it is a ministerial action; and,

2. County Service Area 23 is an inactive district as defined in Government Code section 56042 and the proposal of a dissolution of County Service Area 23, as depicted in Exhibit "A", attached hereto and made a part hereof, is initiated.

PASSED AND ADOPTED by the Marin Local Agency Formation Commission, on December 10, 2020, by the following vote:

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

Sashi McEntee, Chair
Marin LAFCo

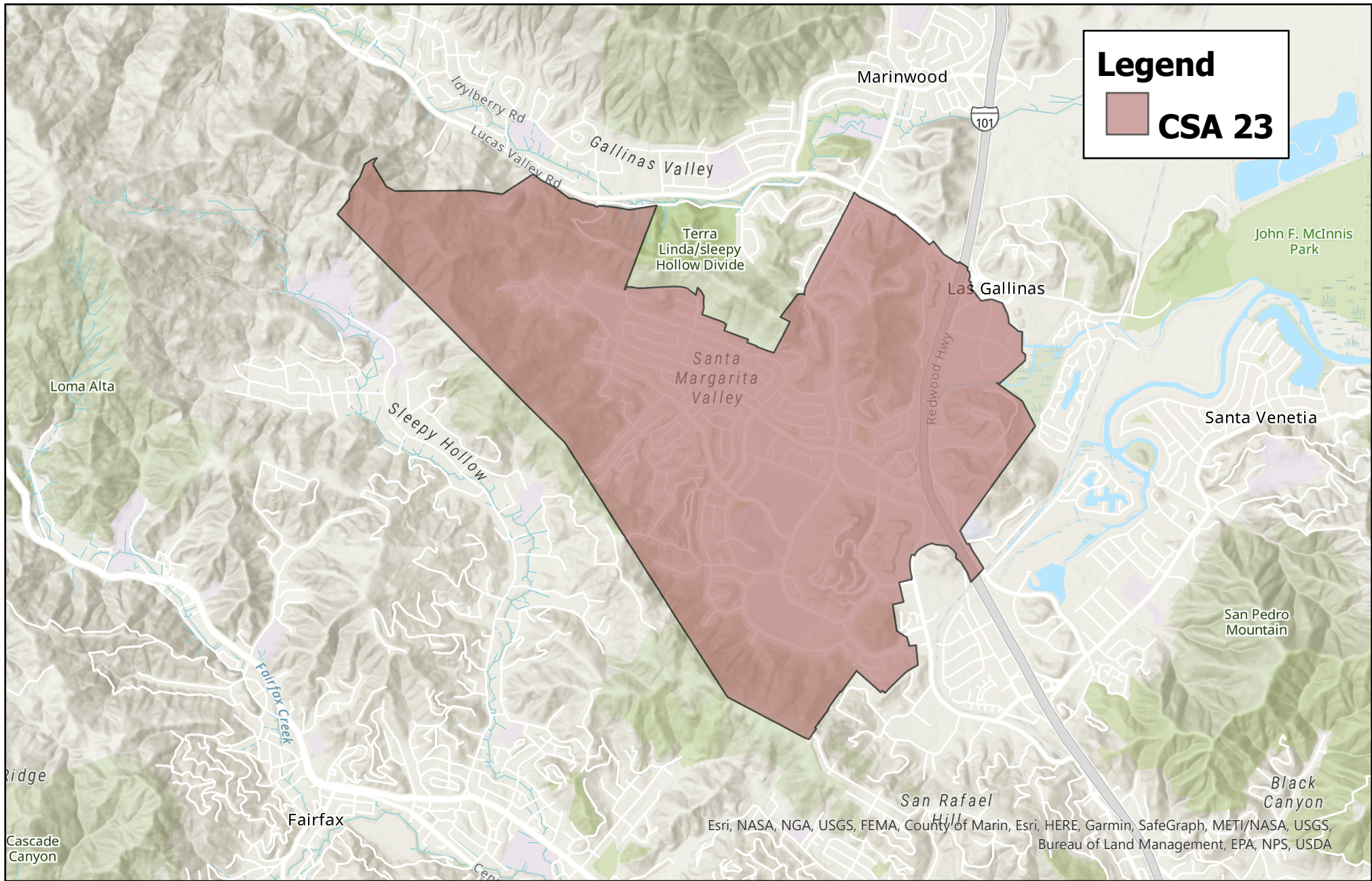
ATTEST:

APPROVED AS TO FORM:

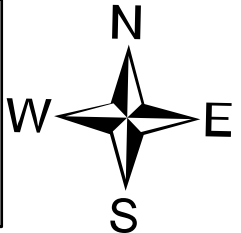
Jason Fried, LAFCo Executive Officer

Malathy Subramanian, LAFCo Counsel

Attachments to Resolution No. 20-31
a) Map of CSA 23



County Service Area 23 - Terra Linda





BETTY T. YEE
California State Controller

November 5, 2020

Jason Fried
Marin LAFCO
1401 Los Gamos Dr. Suite 220.
San Rafeal, CA, 94903

SUBJECT: Notification of Inactive Special Districts in County

Dear Jason Fried:

Chapter 334, Statutes of 2017, also known as Senate Bill (SB) 448, added various provisions to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 regarding special districts that are inactive. It requires the State Controller's Office (SCO) to create a list of inactive special districts based on information in the special district's Financial Transactions Report (FTR), to publish the list of inactive special districts on its website annually, and to notify the local agency formation commission in the county or counties in which the inactive special district is located.

Pursuant to Government Code (GC) section 56042, an "inactive special district" must:

- Meet the definition set forth in GC section 56036;
- Have no financial transactions in the previous fiscal year; and
- Have no assets, liabilities, outstanding debts, judgments, litigation, contracts, liens, or claims.

Pursuant to GC 56879, within 90 days of receiving this notice, the Commission is required to initiate dissolution of inactive special districts by resolution, unless the Commission determines that a district does not meet the criteria set forth in GC 56042. Additionally, the Commission is required to notify SCO if it determines that district does not meet the dissolution criteria in GC 56042. Once the dissolution process is complete, please inform SCO using the contact information on page 2.

The enclosure lists the special districts within your jurisdiction that are inactive, based on financial data in each special district's fiscal year 2018-19 FTR. The complete list of inactive California special districts may be found at:
https://www.sco.ca.gov/ard_local_rep_freq_requested.html.

Jason Fried
November 5, 2020
Page 2

If you have any questions or need to notify us of a special district's status, please contact Derek Miller by telephone at (916) 322-5579, or by email at dmiller@sco.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Phillip Pangilinan". The signature is fluid and cursive, with a large, dark, circular flourish at the end.

PHILLIP PANGILINAN
Manager
Local Government Reporting Section

Enclosure

California State Controller's Office

List of Inactive Districts per Chapter 334, Statutes of 2017 (SB 448)

Source: Special Districts Financial Transactions Reports, Fiscal Year 2018-19

#	District Name	District Type	City	County
1	County Service Area No. 5 (Calaveras)	Dependent	San Andreas	Calaveras
2	County Service Area No. 6 (Calaveras)	Dependent	San Andreas	Calaveras
3	County Service Area No. 7 (Calaveras)	Dependent	San Andreas	Calaveras
4	County Service Area No. 10 (Calaveras)	Dependent	San Andreas	Calaveras
5	County Service Area No. 11 (Calaveras)	Dependent	San Andreas	Calaveras
6	County Service Area No. 3 (Colusa)	Dependent	Colusa	Colusa
7	Century Ranch Water District	Dependent	Colusa	Colusa
8	Hazel Court County Service Area (Colusa)	Dependent	Colusa	Colusa
9	Kern Valley Resource Conservation District	Independent	Bakersfield	Kern
10	County Service Area No. 23 (Marin)	Dependent	San Rafael	Marin
11	County Service Area No. 25 (Marin)	Dependent	San Rafael	Marin
12	Canby Community Services District	Dependent	Canby	Modoc
13	County Service Area No. 2 (San Benito)	Dependent	Hollister	San Benito
14	County Service Area No. 26 (San Benito)	Dependent	Hollister	San Benito
15	County Service Area No. 27 (San Benito)	Dependent	Hollister	San Benito
16	County Service Area No. 40 (San Benito)	Dependent	Hollister	San Benito
17	County Service Area No. 3 (San Benito)	Dependent	Hollister	San Benito
18	County Service Area No. 1 (San Benito)	Dependent	Hollister	San Benito
19	County Service Area No. 10 (San Benito)	Dependent	Hollister	San Benito
20	County Service Area No. 12 (San Benito)	Dependent	Hollister	San Benito
21	County Service Area No. 13 (San Benito)	Dependent	Hollister	San Benito
22	County Service Area No. 15 (San Benito)	Dependent	Hollister	San Benito
23	County Service Area No. 17 (San Benito)	Dependent	Hollister	San Benito
24	County Service Area No. 10 (San Joaquin)	Dependent	Stockton	San Joaquin
25	County Service Area No. 19 (San Joaquin)	Dependent	Stockton	San Joaquin
26	County Service Area No. 40 (San Joaquin)	Dependent	Stockton	San Joaquin
27	County Service Area No. 7 (San Joaquin)	Dependent	Stockton	San Joaquin
28	Dos Reis Storm Water District (San Joaquin)	Dependent	Lathrop	San Joaquin
29	County Service Area No. 39 (San Joaquin)	Dependent	Stockton	San Joaquin

California State Controller's Office

List of Inactive Districts per Chapter 334, Statutes of 2017 (SB 448)

Source: Special Districts Financial Transactions Reports, Fiscal Year 2018-19

#	District Name	District Type	City	County
30	County Service Area No. 34 (San Joaquin)	Dependent	Stockton	San Joaquin
31	Nyjo Water District	Dependent	Stockton	San Joaquin
32	County Service Area No. 32 (Santa Barbara)	Dependent	Santa Barbara	Santa Barbara
33	Reclamation District No. 1663	Dependent	San Jose	Santa Clara
34	County Service Area No. 60 (Santa Cruz)	Dependent	Santa Cruz	Santa Cruz
35	Fall River Valley Irrigation District	Dependent	Redding	Shasta
36	Meridian Cemetery District	Dependent	Yuba City	Sutter
37	County Service Area No. 60 (Tuolumne)	Dependent	Sonora	Tuolumne
38	County Service Area No. 56 (Yuba)	Dependent	Marysville	Yuba
39	County Service Area No. 57 (Yuba)	Dependent	Marysville	Yuba
40	County Service Area No. 58 (Yuba)	Dependent	Marysville	Yuba
41	River Highlands Community Service District	Dependent	Marysville	Yuba
42	Royal Pines County Service Area (Yuba)	Dependent	Marysville	Yuba

Proof of Service by Mail

I declare: I am a citizen of the United States, over the age of 18 years, and not a party to this action. My business address is State Controller's Office, 3301 C Street, Suite 740, Sacramento, California 95816.

On the date set forth below, I served the following entitled document:

Notification of Inactive Special Districts in County

by placing a true copy thereof in a sealed envelope addressed to the person(s) named below at the address(es) shown and by placing said envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

Name: Jason Fried
Marin Local Agency Formation Commission

Address: Marin LAFCO
1401 Los Gamos Dr. Suite 220.
San Rafeal, CA 94903

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on November 05, 2020, at Sacramento, California.

Signature: Derek Miller

Printed Name: Derek Miller



Marin Local Agency Formation Commission

Regional Service Planning | Subdivision of the State of California

AGENDA REPORT

December 10, 2020

Item No. 6 (Business Item)

TO: Local Agency Formation Commission

FROM: Jason Fried, Executive Officer

SUBJECT: Approval of Resolution to Initiate Proceedings Dissolving County Service Area 25 Pursuant to Government Code Section 56879

Background

In 2017 SB 448 was signed into law. SB 448 created a definition for “inactive districts” and created a special process for dissolution of these districts. This process is now part of Government Code Section 56879. This process starts with the State Controller’s Office (SCO) sending a letter to the County LAFCo where the perceived inactive district is located stating that they believe a district(s) qualifies as an inactive district. Marin LAFCo received such a letter (attached) which lists two CSAs (23 and 25) in Marin County. As part of this process the local LAFCo must determine if it agrees with the SCO determination. Section 56879 requires the local LAFCo to determine if in fact the agency in question is inactive within 90 days of getting the letter from the SCO. Should the local LAFCo determine that it is in fact an inactive district then within 90 days of that decision it will hold a public hearing and make final determination to dissolve the district. Today’s agenda item is to decide if the Commission agrees with SCO that CSA 25 is an inactive district. Should this get approved today then our first regular meeting in 2021 will be when we hold the official publicly noticed meeting to decide if CSA 25 should be dissolved.

CSA 25 was formed in 1975 to purchase land around Mount Burdell. Once formed the CSA used bonds to help pay for the purchase of the land. In the 1990’s, the CSA finished paying off the bonds. The CSA has also transferred the land purchased to the Marin County Open Space District who now owns the land. Since the land was transferred and the bond was paid off the CSA has not met. CSA 25 had been identified as fitting the definition of inactive by the Commission when it approved the Novato Regional MSR at the February 13, 2020 meeting.

Staff Recommendation for Action

1. Staff recommendation – Approve the attached resolution to start dissolution process for CSA 25.
2. Alternate option – Disagree with the SCO and make the determination that the CSA is still active.
3. Alternate option – Continue consideration of the item to a future meeting and provide direction to staff, as needed.

Attachment:

- 1) Resolution 20-32
- 2) Letter from SCO office

Administrative Office
Jason Fried, Executive Officer
1401 Los Gamos Drive, Suite 220
San Rafael, California 94903
T: 415-448-5877 E: staff@marinlafco.org
www.marinlafco.org

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Judy Arnold, Regular
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Lew Kiou, Regular
Almonte Sanitary District

Tod Moody, Alternate
Sanitary District #5

Larry Loder, Regular
Public Member

Chris Skelton, Alternate
Public Member

MARIN LOCAL AGENCY FORMATION COMMISSION

RESOLUTION NO. 20-32

RESOLUTION TO INITIATE PROCEEDINGS DISSOLVING THE INACTIVE DISTRICT OF COUNTY SERVICE AREA #25

WHEREAS, on November 5, 2020, the California State Controller notified the Commission pursuant to Government Code section 56879 that County Service Area #25 is an inactive district; and

WHEREAS, the Commission pursuant to Government Code section 56879 shall initiate the dissolution of County Service Area #25 within 90 days of receipt of notice from the State Controller's Office unless the Commission finds that County Service Area #25 is not inactive as defined in Government Code section 56042; and

WHEREAS, the Territory proposed to be dissolved is legally inhabited and includes the entirety of the boundaries of County Service Area #25, as depicted in Exhibit "A" attached hereto and by this reference incorporated herein; and

WHEREAS, the Marin Local Agency Formation Commission, as lead agency under the California Environmental Quality Act (CEQA), finds the dissolution to be statutorily exempt from CEQA pursuant to Public Resources Code Section 21080 (b)(1) and CEQA Guidelines Section 15268, as the initiation of the proposal was required by statute and, therefore, it is a ministerial action; and,

WHEREAS, terms and conditions will be determined by the Commission upon approval of the dissolution.

NOW, THEREFORE, the Marin Local Agency Formation Commission **DOES HEREBY RESOLVE, DETERMINE AND ORDER** that:

1. The Marin Local Agency Formation Commission serves as lead agency under the California Environmental Quality Act (CEQA) and finds the initiation of dissolution to be statutorily exempt from CEQA pursuant to Public Resources Code Section 21080 (b)(1) and CEQA Guidelines Section 15268, as the initiation of the proposal was required by statute and, therefore, it is a ministerial action; and,

2. County Service Area 25 is an inactive district as defined in Government Code section 56042 and the proposal of a dissolution of County Service Area 25, as depicted in Exhibit "A", attached hereto and made a part hereof, is initiated.

PASSED AND ADOPTED by the Marin Local Agency Formation Commission, on December 10, 2020, by the following vote:

AYES: _____

NOES: _____

ABSTAIN: _____

ABSENT: _____

Sashi McEntee, Chair
Marin LAFCo

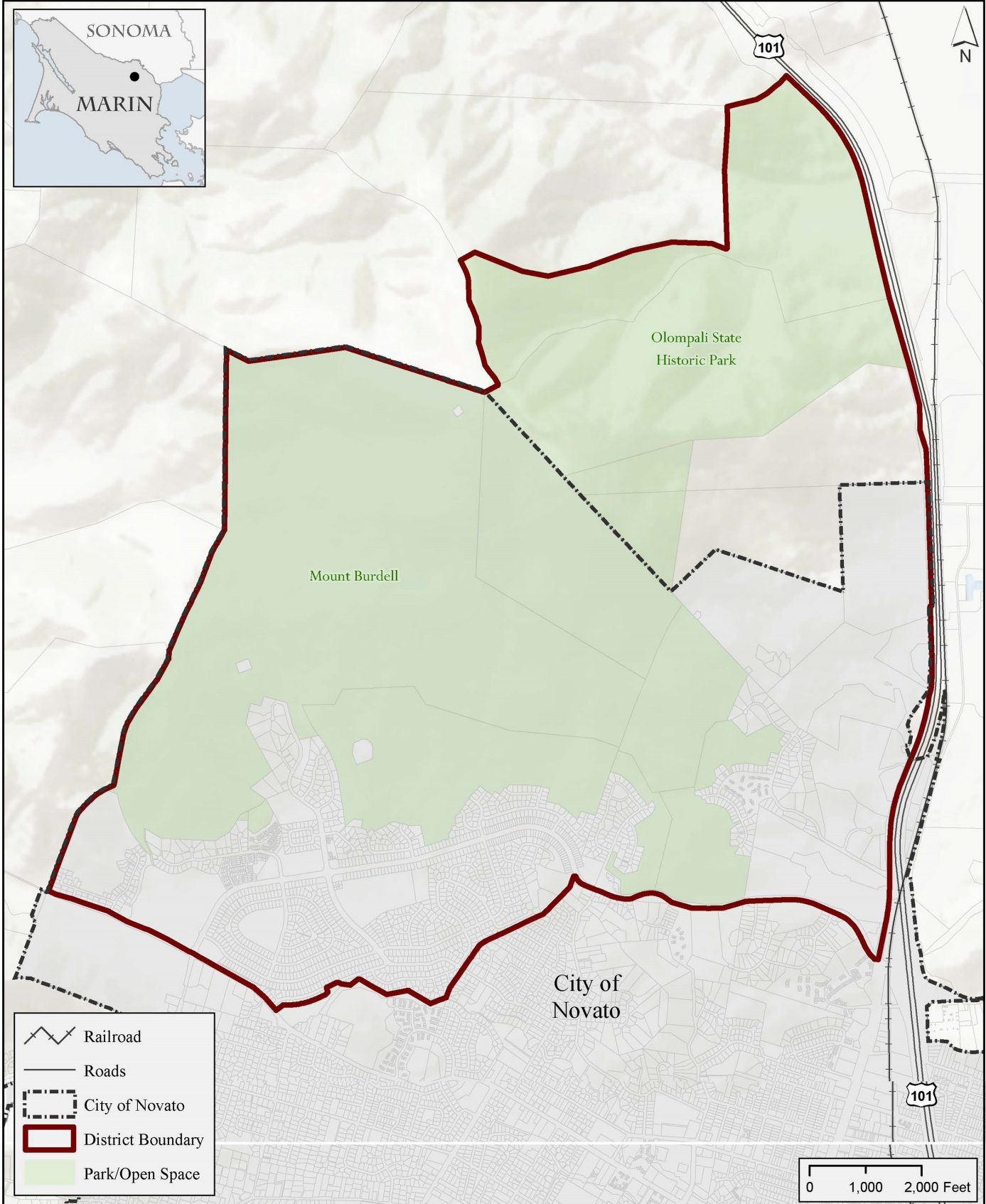
ATTEST:






APPROVED AS TO FORM:

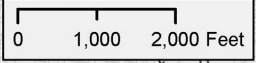
Jason Fried, LAFCo Executive Officer

Malathy Subramanian, LAFCo Counsel

Attachments to Resolution No. 20-32
a) Map of CSA 25



-  Railroad
-  Roads
-  City of Novato
-  District Boundary
-  Park/Open Space



CSA No. 25 - San Marin

Figure
11-1



BETTY T. YEE
California State Controller

November 5, 2020

Jason Fried
Marin LAFCO
1401 Los Gamos Dr. Suite 220.
San Rafeal, CA, 94903

SUBJECT: Notification of Inactive Special Districts in County

Dear Jason Fried:

Chapter 334, Statutes of 2017, also known as Senate Bill (SB) 448, added various provisions to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 regarding special districts that are inactive. It requires the State Controller's Office (SCO) to create a list of inactive special districts based on information in the special district's Financial Transactions Report (FTR), to publish the list of inactive special districts on its website annually, and to notify the local agency formation commission in the county or counties in which the inactive special district is located.

Pursuant to Government Code (GC) section 56042, an "inactive special district" must:

- Meet the definition set forth in GC section 56036;
- Have no financial transactions in the previous fiscal year; and
- Have no assets, liabilities, outstanding debts, judgments, litigation, contracts, liens, or claims.

Pursuant to GC 56879, within 90 days of receiving this notice, the Commission is required to initiate dissolution of inactive special districts by resolution, unless the Commission determines that a district does not meet the criteria set forth in GC 56042. Additionally, the Commission is required to notify SCO if it determines that district does not meet the dissolution criteria in GC 56042. Once the dissolution process is complete, please inform SCO using the contact information on page 2.

The enclosure lists the special districts within your jurisdiction that are inactive, based on financial data in each special district's fiscal year 2018-19 FTR. The complete list of inactive California special districts may be found at:
https://www.sco.ca.gov/ard_local_rep_freq_requested.html.

Jason Fried
November 5, 2020
Page 2

If you have any questions or need to notify us of a special district's status, please contact Derek Miller by telephone at (916) 322-5579, or by email at dmiller@sco.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Phillip Pangilinan". The signature is fluid and cursive, with a large, dark, circular flourish at the end.

PHILLIP PANGILINAN
Manager
Local Government Reporting Section

Enclosure

California State Controller's Office

List of Inactive Districts per Chapter 334, Statutes of 2017 (SB 448)

Source: Special Districts Financial Transactions Reports, Fiscal Year 2018-19

#	District Name	District Type	City	County
1	County Service Area No. 5 (Calaveras)	Dependent	San Andreas	Calaveras
2	County Service Area No. 6 (Calaveras)	Dependent	San Andreas	Calaveras
3	County Service Area No. 7 (Calaveras)	Dependent	San Andreas	Calaveras
4	County Service Area No. 10 (Calaveras)	Dependent	San Andreas	Calaveras
5	County Service Area No. 11 (Calaveras)	Dependent	San Andreas	Calaveras
6	County Service Area No. 3 (Colusa)	Dependent	Colusa	Colusa
7	Century Ranch Water District	Dependent	Colusa	Colusa
8	Hazel Court County Service Area (Colusa)	Dependent	Colusa	Colusa
9	Kern Valley Resource Conservation District	Independent	Bakersfield	Kern
10	County Service Area No. 23 (Marin)	Dependent	San Rafael	Marin
11	County Service Area No. 25 (Marin)	Dependent	San Rafael	Marin
12	Canby Community Services District	Dependent	Canby	Modoc
13	County Service Area No. 2 (San Benito)	Dependent	Hollister	San Benito
14	County Service Area No. 26 (San Benito)	Dependent	Hollister	San Benito
15	County Service Area No. 27 (San Benito)	Dependent	Hollister	San Benito
16	County Service Area No. 40 (San Benito)	Dependent	Hollister	San Benito
17	County Service Area No. 3 (San Benito)	Dependent	Hollister	San Benito
18	County Service Area No. 1 (San Benito)	Dependent	Hollister	San Benito
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21	County Service Area No. 13 (San Benito)	Dependent	Hollister	San Benito
22	County Service Area No. 15 (San Benito)	Dependent	Hollister	San Benito
23	County Service Area No. 17 (San Benito)	Dependent	Hollister	San Benito
24	County Service Area No. 10 (San Joaquin)	Dependent	Stockton	San Joaquin
25	County Service Area No. 19 (San Joaquin)	Dependent	Stockton	San Joaquin
26	County Service Area No. 40 (San Joaquin)	Dependent	Stockton	San Joaquin
27	County Service Area No. 7 (San Joaquin)	Dependent	Stockton	San Joaquin
28	Dos Reis Storm Water District (San Joaquin)	Dependent	Lathrop	San Joaquin
29	County Service Area No. 39 (San Joaquin)	Dependent	Stockton	San Joaquin

California State Controller's Office

List of Inactive Districts per Chapter 334, Statutes of 2017 (SB 448)

Source: Special Districts Financial Transactions Reports, Fiscal Year 2018-19

#	District Name	District Type	City	County
30	County Service Area No. 34 (San Joaquin)	Dependent	Stockton	San Joaquin
31	Nyjo Water District	Dependent	Stockton	San Joaquin
32	County Service Area No. 32 (Santa Barbara)	Dependent	Santa Barbara	Santa Barbara
33	Reclamation District No. 1663	Dependent	San Jose	Santa Clara
34	County Service Area No. 60 (Santa Cruz)	Dependent	Santa Cruz	Santa Cruz
35	Fall River Valley Irrigation District	Dependent	Redding	Shasta
36	Meridian Cemetery District	Dependent	Yuba City	Sutter
37	County Service Area No. 60 (Tuolumne)	Dependent	Sonora	Tuolumne
38	County Service Area No. 56 (Yuba)	Dependent	Marysville	Yuba
39	County Service Area No. 57 (Yuba)	Dependent	Marysville	Yuba
40	County Service Area No. 58 (Yuba)	Dependent	Marysville	Yuba
41	River Highlands Community Service District	Dependent	Marysville	Yuba
42	Royal Pines County Service Area (Yuba)	Dependent	Marysville	Yuba

Proof of Service by Mail

I declare: I am a citizen of the United States, over the age of 18 years, and not a party to this action. My business address is State Controller's Office, 3301 C Street, Suite 740, Sacramento, California 95816.

On the date set forth below, I served the following entitled document:

Notification of Inactive Special Districts in County

by placing a true copy thereof in a sealed envelope addressed to the person(s) named below at the address(es) shown and by placing said envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

Name: Jason Fried
Marin Local Agency Formation Commission

Address: Marin LAFCO
1401 Los Gamos Dr. Suite 220.
San Rafeal, CA 94903

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on November 05, 2020, at Sacramento, California.

Signature: Derek Miller

Printed Name: Derek Miller



Marin Local Agency Formation Commission

Regional Service Planning | Subdivision of the State of California

AGENDA REPORT

December 10, 2020

Item No. 7 (Business Item)

TO: Local Agency Formation Commission

FROM: Jason Fried, Executive Officer
(On behalf of Policy Committee Chair Moody, Member Connolly, and Member McEntee)

SUBJECT: **Review and Approval of Amendments for the LAFCo Policy Handbook**

Background

The Commission did a full overhaul of its Policy Handbook on April 11, 2019 and last revised it on Aug. 13, 2020. The Policy and Personnel Committee is suggesting five edits (see attachment) to the handbook. The sections and their changes are listed below:

Section 3.1 (A)(ii) is the procedures for the selection of a public member. It requires notices to be “mailed” and gives no other option. Most people and organizations use email now, so the committee is suggesting we allow the public notice to either be mailed or emailed to satisfy this need.

Section 3.1 (B) is a complete rewrite of the section. On October 6th, 2020 the Special District Selection Committee (SDSC) held a vote where it approved a new process for holding elections for the Special District LAFCo seats. The changes reflect what was voted on. While staff feels that the newly formed Marin County Special Districts Association (MCSDA) will be well suited to handle the election, if for some reason LAFCo needs to do the election the committee added a part where LAFCo would use the latest set of rules approved by the SDSC to handle the election.

Section 3.9 (A) is a list of standing committees. One of these committees is the Public/Technical Information Committee (section 3.9 (A)(iv)). The main purpose of this committee is to “review and provide direction to staff on website design and improvements and other social media communications platforms.” With the transition over to the Streamline website, Staff does not think there is a need for this committee. The committee also reviews capital purchases involving computers and related programs. Marin Mac Tech has been able to provide these basic needs for the Commission with the Commission approving any costs as needed. Since the completion of the transition to the new website, this committee has not met. It would be the Policy and Personnel committee’s recommendation to dissolve this committee. If the Commission wants to deal with these issues in the future, the Commission could always do so using section 3.9 (B) and create an ad hoc committee to achieve a specific task.

Administrative Office
Jason Fried, Executive Officer
1401 Los Gatos Drive, Suite 220
San Rafael, California 94903
T: 415-448-5877 E: staff@marinlafco.org
www.marinlafco.org

Damon Connolly, Regular
County of Marin

Judy Arnold, Regular
County of Marin

Dennis Rodoni, Alternate
County of Marin

Sashi McEntee, Chair
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Las Gallinas Valley Sanitary

Lew Kiious, Regular
Almonte Sanitary District

Tod Moody, Alternate
Sanitary District #5

Larry Loder, Regular
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Section 3.13 (B) refers to the section on the various accounts where LAFCo keeps its money. As was mentioned during our approvals of the switch from ADP to Paychex at the October Commission Meeting, staff LAFCo is looking to change several aspects of this section. The main issue is that we plan to use our Bank of Marin accounts instead of the County account to pay these bills. Changes to these policies are being requested to be both more cost and administratively efficient. Under the current system staff has asked for approval to transfer from the County account to the Bank of Marin account the needed money to pay non-payroll and benefit bills, which is less than 30% of the budget, as part of the annual budget approval process. Given the cost to do wire transfers out of the County account and the time it takes to do that process the entire amount staff did one transfer a year. Now that payroll, and hopefully in the near future benefits, will be paid for out of our Bank of Marin account we will need a lot more money in our Bank of Marin account. The issue is we get interest on money we keep in our County account and do not get interest on our money with the Bank of Marin. Our bookkeeper, Alyssa Schiffmann, who is also the Director of Finance for the Southern Marin FD, has made some suggestions on changes to how we could do these transactions. SMFD for some time has been doing the same thing that we are recommending to do where the County collects money on behalf of the SMFD and holds it until SMFD pulls the money out to pay bills out of an outside account similar to LAFCo. Ms. Schiffmann recommended using a check system, rather than the wire transfer, to move money from one account to the other on a quarterly basis to best take advantage of the County interest accrual while still maintaining enough money in the outside bank account to make needed payments. This system to staff seems to achieve the best balance of time spent while ensuring LAFCo gets the best deal possible. The policy changes in 3.13 (B)(i) put that practice into the policy. Staff is also asking for these quarterly transfers to have automatic approval so we don't have to deal with approvals when quarterly transfers occur and when our meetings occur since LAFCo only meets every other month. The pre-approved transfer is only allowed to be for already approved budget items. An additional third account number will be added to Bank of Marin to allow for autopayments to be made for payroll and future benefit payments. This new account is reflected in the addition of 3.13 (B)(iv) which allows for us to have a spot where we transfer in funds into a space where only money needed to pay current payroll and benefits is kept. This helps protect our other accounts where autopay systems will not have access.

Section 3.13 (G) refers to how payroll and benefits are done. The staff recommended changes to better reflect the current relationship between LAFCo and the County.

Staff Recommendation for Action

1. Staff recommendation – Approve amendments to Policy handbook, with any desired amendments.
2. Alternate option - Continue consideration of the item to a future meeting and provide direction to staff, as needed.
3. Alternate option – Leave policies as currently written with no amendments

Attachment:

- 1) Sections of Policy handbook with suggested amendments

Section 3.1 (A) (ii)

The news release shall be mailed [or emailed](#) to the Marin Independent Journal and local newspapers within Marin County. Additionally, the news release shall be mailed [or emailed](#) to all current regular and alternate members of Marin LAFCo, the clerk or secretary of the Board of all local governments within Marin County and to community organizations including homeowners' associations and civic groups on file with the Marin LAFCo and shall be posted as provided by Government Code §56158.

3.1 (B) Procedures for Selection of Special District Members

Government Code §56332(c)(1) provides for selection of regular and alternate special district members by a mail ballot process when the Executive Officer determines that a meeting of the Special District Selection Committee [\(SDSC\)](#) is not feasible. [On October 6, 2020 the SDSC held a vote where it approved a new format for it to hold elections which works with the Marin County Special Districts Association \(MCSDA\) to help hold those elections. Based on these rules LAFCo will inform the MCSDA of any current or upcoming vacancies occurring due to resignation or term expiration of a Special District member. Should MCSDA not be able to assist SDSC in holding a LAFCo Special District Seat election for any reason then LAFCo shall use the most recent election rules approved by the SDSC that it has on file. Meetings of the Marin County Special District Selection Committee have previously failed to reach a quorum, indicating the infeasibility of Selection Committee meetings. Accordingly, it is the policy of Marin LAFCo to conduct selection proceedings of regular and alternate special district members by a mail ballot process consistent with the procedures outlined below. Should the Special District Selection Committee hold a meeting and approve a different process then stated below that process shall automatically replace the current process.](#)

~~3.1 (B)(i) The Executive Officer shall initiate the mail ballot selection process for special district members 180 days prior to the pending expiration of the term of a special district member or immediately upon notification the eligibility of a special district member on Marin LAFCo will end prior to the expiration of his or her term.~~

~~3.1 (B)(ii) The Executive Officer shall initiate the mail ballot process by distributing to each independent special district a call for nominations, including a schedule of the selection process and a copy of this policy. Nominations must be submitted in writing by special district governing boards within 60 days of the date of the call for nominations. The submittal of a nomination must include a statement of the candidate's qualifications. With the prior concurrence of any special district, the Executive Officer may transmit these materials to and receive nominations from that special district by electronic mail.~~

~~3.1 (B)(iii) Within five working days of the close of the nomination period, the Executive Officer shall distribute by certified mail one ballot to each independent special district. The distribution of ballots shall include a statement of qualifications for each candidate on the ballot.~~

~~3.1 (B)(iv) Ballots may be submitted by mail or facsimile or electronic mail within 60 days of distribution of the ballots. A majority of independent special districts must cast ballots to select a special district member.~~

~~3.1 (B)(v) Ballots cast by each special district must bear the signature of the district's presiding officer. If the presiding officer is unavailable, the district board may authorize another member of the board to cast the district's vote. Ballots may be returned to the Marin LAFCo office by mail or by facsimile or electronic mail.~~

~~3.1 (B)(vi) All ballots and other records of each selection process shall be retained in the Marin LAFCo office for at least four years and shall be available for public inspection.~~

~~3.1 (B)(vii) When more than two candidates are nominated, the ballot form shall provide for selection by plurality of votes cast.~~

~~3.1 (B)(viii) Should a vacancy occur during a special district member's term of office, a new appointment shall be made for the unexpired term of the special district member or alternate member according to the process above.~~

~~**3.9 (A)(iv) Public/Technical Information:** This Committee shall review and provide direction to staff on website design and improvements and other social media communications platforms. The Committee shall also review and provide recommendations to the Commission on recommended capital purchases involving computers and related programs. The Committee shall include three members (regulars or alternates). Termed tasks, including the selection of vendors for specific projects, may be overseen by the Committee on an ad hoc basis.~~

3.13 (B) Authorizations and Balance Limits

3.13 (B)(i) County Account: All deposits to this account shall be reviewed and approved by the Executive Officer or the Chair (in the absence of the Executive Officer). There shall be no balance limit on this account. [Staff is authorized to transfer out of the County Account and into the Primary Operating Account on a quarterly basis the anticipated needed amount to cover costs that are part of the Commission approved budget for the upcoming quarter.](#) Any [other](#) transfers or related transactions of monies out of this account shall require majority approval by the Commission at a public meeting.

3.13 (B)(ii) Primary Operating Account: This account shall serve as the Commission's main operating fund to make payments and related disbursements on budgeted operating costs that are more than \$3,000.00 per single occurrence. The balance limit on this account shall not exceed the adopted annual operating budget at any one time as set by the Commission. Any transfers or related transactions of monies out of this account shall require two signatures: the Chair and the Executive Officer unless it is for purposes stated in Policy Handbook Section 3.13 (B)(iii) [and 3.13 \(B\)\(iv\) stated](#) below.

3.13 (B)(iii) Secondary Operating Account: This account shall serve to expedite payments for budgeted operating costs that are less than \$3,000.00 per occurrence. When bookkeeping indicates the fund balance for this account will go below zero the staff can transfer \$6,000.00 at any one time. Any transfers or related transactions of monies out of this account shall require only the signature of the Executive Officer or the Chair.

[3.13 \(B\)\(iv\) Payroll and Benefits Payment Account: This account will be used for the purposes of making payments for payroll and any staff benefits not paid through County of Marin account. Staff will ensure there is proper money in this account to make all payments.](#)

3.13 (G) Payroll and Benefits Administration

Marin LAFCo determines pay and benefits for all employees with consideration given to pay and benefits for comparable positions with the County of Marin. At the present time, and at its sole discretion, Marin LAFCo utilizes the County of Marin and its contractors (including the Marin County Employee Retirement Association) to administer ~~payroll and~~ benefits. [Outside providers are used for some services such as payroll services.](#)



Marin Local Agency Formation Commission

Regional Service Planning | Subdivision of the State of California

AGENDA REPORT

December 10, 2020

Item No. 8 (Business Item)

TO: Local Agency Formation Commission

FROM: Jason Fried, Executive Officer
(On behalf of Policy Committee Chair Moody, Member Connolly, and Member McEntee)

SUBJECT: **Review and Approval of a New Personnel Handbook**

Background

The Policy and Personnel Committee has held several meetings in the process of creating a new personnel handbook (attached). The Committee started out with a modified version of the Liebert Cassidy Whitmore (LCW) generic handbook then made modifications to that handbook to fit LAFCo's needs. While the Committee tried to mirror what Marin County does for its employees, since we are no longer part of Marin County's payroll system, we cannot follow everything they do because we do not have an MOU with labor unions, so we have to more closely follow state law in some cases. At the last committee meeting, the Committee approved moving this item to the full Commission for approval. They did so with three items still needing some input from LCW or more research. Those three items have some changes to the handbook which can be found after the full handbook in the attachments:

1. A definition of what "regular employee" means. The Committee realized that we used the term but there was no formal definition in the document. LCW created 1.3h and gave two main options that could be used. Staff would suggest using the first option and including the EO position in the definition. Including the EO position in the regular employee status is in line with the discussions that occurred with the contract extension of the EO earlier this year.
2. Based on recent events the Committee was interested in seeing an expanded version for sick leave that would allow somebody who is in a long-term committed relationship but not in a legally defined one to use sick time to care for them. LCW has crafted a policy that would allow those in this situation to be able to use sick time in order to take care of a partner who is ill or hospitalized. Should the Committee wish to add this it would be section 8.2(a)1.b. where LCW gave a few options for the Commission to decide on. Staff is requesting that the Commission approve such policy and does not think that the optional part is needed but should the Commission decide to use that part it will use the first option and not the second option.

Administrative Office
Jason Fried, Executive Officer
1401 Los Gatos Drive, Suite 220
San Rafael, California 94903
T: 415-448-5877 E: staff@marinlafco.org
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Damon Connolly, Regular
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3. The Committee wanted more information on how other agencies handle a cap on sick-time accrued. Staff surveyed the other local government agencies in Marin County along with the other LAFCOs across the state (attached) to see what they do. For those agencies with emergency personnel, staff only collected information for their administrative staff. Of the nineteen local government agencies that replied to my request, eleven do not have a cap. Those with a cap varied widely on what that cap was from 80-2040 hours. IPUD is the agency with 80 hours and is currently reviewing this cap, in part due to COVID. Of the nine LAFCOs that replied only one has a cap (LA LAFCo) which also allowed a partial cash out of unused time. Another one uses the combined Pay Time Off system instead of the vacation and sick time system that all others used. Staff would request that we go with the majority of other agencies and do not put a cap on sick time. The final decision on this matter is left for the Commission to decide.

Staff Recommendation for Action

1. Staff recommendation – Approve attached handbook, with any desired amendments, and make final decisions on the three items listed above.
2. Alternate option - Continue consideration of the item to a future meeting of the Commission and provide direction to staff, as needed.

Attachment:

- 1) Draft Personnel Handbook
- 2) Three possible items for discussion
- 3) Sick time accrual survey results

MARIN LOCAL AGENCY FORMATION COMMISSION



PERSONNEL HANDBOOK

ADOPTED
?????

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Chapter 1 - Introduction and General Information Policies

1.1 Effect and Applicability of Personnel Policies

1.1a *No Contract Right; LAFCo Discretion to Modify These Policies*

These Personnel Policies (“Policies”) do not create any contract right, or any express or implied contract of employment. The Marin Local Agency Formation Commission (LAFCo) retains the full discretion to modify these Policies at any time in accordance with law.

1.1b *Applicability of Policies*

These Policies apply to all categories of employees of the LAFCo unless a specific section or provision excludes them. Independent contractors, volunteers, and Commissioners are not employees.

1.1c *Conflict Between These Policies and Contracts for Employment*

The LAFCo may, from time to time, enter into contracts with employees or contractors for specified services, such as the services of an Executive Officer. If a provision of these Policies conflicts with any provision of a valid employment agreement between the LAFCo and an employee or other contract worker, the provision of the agreement that is in conflict with these rules shall apply. The LAFCo is not otherwise bound by employment agreements, collective bargaining agreements, or other personnel rules applicable to agencies within its jurisdiction.

1.1d *Employee Acceptance of Policies and Revisions to Policies*

As a condition of employment, all employees are required to read and request necessary clarification of these Policies. Each employee is required to sign a statement of receipt acknowledging that: a) he or she has received a copy or has been provided access to the Policies; and b) understands that he or she is responsible to read and become familiar with the contents and any revisions to the Policies.

1.2 Delegation of Authority

1.2a *Delegation of Appointing and Personnel Authority to Executive Officer*

The LAFCo Board delegates to the Executive Officer, the authority to authorize employment, establish job responsibilities, and perform other personnel actions as to all subordinate employees in accordance with all federal and state laws and regulations and these Policies.

1.2b *Retention of Personnel Authority as to Certain Personnel*

As to those elected officials, or employees who directly report to the Commission Board, if any, the Commission Board retains all authority over all personnel actions as authorized by law and these Policies.

1.3 *Categories of Employees and Non-Employees*

1.3a *At-Will Employee*

An at-will employee is one who serves at the pleasure of the appointing authority, has no property right in continued employment, and has no right to any pre- or post-disciplinary procedural due process or evidentiary appeal. At-will employees include any of the following:

- (a) Executive Officer
- (b) General Counsel
- (c) Special Legal Counsels
- (d) Employees whose positions are funded under a state or federal employment program
- (e) Employees designated as temporary/ seasonal or extra-help, limited-term, etc.
- (f) Probationary employees

1.3b *Probationary Employee*

A probationary employee is one who is serving a probationary period at either: the outset of initial employment with LAFCo; or at the outset of a promotion to a higher classification. During the initial probationary period, a probationary employee serves at the pleasure of the appointing authority, has no property right in continued employment, and has no right to any pre- or post-disciplinary procedural due process or evidentiary appeal. A probationary employee serving in the initial probationary period is an at-will employee.

1.3c *For-Cause Employee*

A for-cause employee is one who has satisfactorily completed the initial probationary period and cannot be disciplined except when LAFCo has cause to do so. A for-cause employee has a property right in continued employment, and has the right to pre- and post-disciplinary procedural due process and an evidentiary appeal for certain types of disciplinary actions that result in a significant deprivation of property.

1.3d *Full or Part-Time Employee*

A full-time employee is one whose position is budgeted to work at least 40 hours per week. Full-time employees receive all benefits provided in these Policies, unless otherwise provided in an MOU, or an employment agreement approved by LAFCo. A part-time employee is one whose position is budgeted to work less than 40 hours per week. Part-time employees may

have different rights to leave and other benefits under the law or these Policies, depending on the number of hours they work.

1.3e *Temporary / Seasonal /Extra-Help Employee*

A temporary/ seasonal or extra-help employee is an at-will employee who is appointed other than from an eligible list for a short term or seasonal basis, not to exceed six months. A temporary/ seasonal or extra-help employee serves at-will and at the pleasure of the appointing authority, has no property right in continued employment, and has no right to any pre- or post-disciplinary procedural due process or evidentiary appeal.

1.3f *Volunteer*

A volunteer is not an employee, but instead is an individual who provides services to the Agency for civic or philanthropic reasons and receives no compensation or benefits other than nominal fees and reimbursement of expenses. A volunteer serves at-will and at the pleasure of the appointing authority, has no property right in continued employment, and has no right to any pre- or post-disciplinary procedural due process or evidentiary appeal.

1.3g *Independent Contractor*

An independent contractor is not an employee and serves solely pursuant to a contract that has been formed and approved as required by LAFCo purchasing policies and procedures. An independent contractor cannot be used to perform any part of the LAFCo regular and customary work.

Chapter 2 Equal Employment Opportunity

2.1 Equal Employment Opportunity Policy

LAFCo affords equal employment opportunity for all qualified employees and applicants as to all terms of employment, including compensation, hiring, training, promotion, transfer, discipline and termination. LAFCo prohibits discrimination against employees or applicants for employment on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age (40 and over), sexual orientation, or military and veteran status or any other basis protected by law. (Gov. Code § 12940(a).) Employees, volunteers, or applicants who believe they have experienced any form of employment discrimination or abusive conduct are encouraged to report the conduct immediately by using the complaint procedures provided in these Policies, or by contacting the U.S. Equal Employment Opportunity Commission, or the California Department of Fair Employment and Housing.

2.2 Policy Against Discrimination, Harassment and Retaliation; Complaint Procedure

2.2a *Purpose*

LAFCo has a strong commitment to prohibiting and preventing discrimination, harassment and retaliation in the workplace. LAFCo has zero tolerance for any conduct that violates this Policy. Conduct need not arise to the level of a violation of state or federal law to violate this Policy. Instead, a single act can violate this Policy and provide grounds for discipline or other appropriate sanctions. This Policy establishes a complaint procedure for investigating and resolving internal complaints of discrimination, harassment and retaliation. LAFCo encourages all covered individuals to report any conduct they believe violates this Policy as soon as possible. Any retaliation against an employee because they filed or supported a complaint or because they participated in the complaint resolution process is prohibited. Individuals found to have retaliated in violation of this Policy will be subject to appropriate sanction or disciplinary action, up to and including termination.

2.2a.1 *Covered Individuals and Scope of Policy*

The individuals covered by this Policy are: applicants, employees regardless of rank or title, elected or appointed officials, interns, volunteers, and contractors. This Policy applies to all terms and conditions of employment, internships, and volunteer opportunities, including, but not limited to, selection, hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, compensation, and training.

2.3 **Definitions**

2.3a **Protected Classification**

This Policy prohibits harassment, discrimination or retaliation because of an individual's protected classification. "Protected Classification" includes race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age (40 and over), sexual orientation, or military and veteran status, or any other basis protected by law. (Gov. Code § 12940(a).) This Policy prohibits discrimination, harassment or retaliation because: 1) of an individual's protected classification; 2) the perception that an individual has a protected classification; or 3) the individual associates with a person who has or is perceived to have a protected classification.

2.3b **Protected Activity**

This Policy prohibits discrimination, harassment, or retaliation because of an individual's protected activity. Protected activity includes: making a request for an accommodation for a disability; making a request for accommodation for religious beliefs; making a complaint under this Policy; opposing violations of this Policy; or participating in an investigation under this Policy.

2.3c **Discrimination**

This Policy prohibits treating covered individuals differently and adversely because of the individual's protected classification, actual or perceived; because the individual associates with a person who is member of a protected classification, actual or perceived; or because the individual participates in a protected activity as defined in this Policy. (Gov. Code § 12926(o).)

2.3d **Harassment**

Harassment includes, but is not limited to, the following types of behavior that are taken because of a person's actual or perceived protected classification:

- (a) Speech, such as epithets, derogatory comments or slurs, and propositioning on the basis of a protected classification. This includes inappropriate comments about appearance, dress, physical features, gender identification, or race-oriented stories and jokes.
- (b) Physical acts, such as assault, impeding or blocking movement, offensive touching, or physical interference with normal work or movement. This includes pinching, grabbing, patting, or making explicit or implied job threats or promises in return for submission to physical acts.
- (c) Visual acts, such as derogatory posters, cartoons, emails, pictures or drawings related to a protected classification.

- (d) Unwanted sexual advances, requests for sexual favors and other acts of a sexual nature, where submission is made a term or condition of employment, where submission to or rejection of the conduct is used as the basis for employment decisions, or where the conduct is intended to or actually does unreasonably interfere with an individual's work performance or create an intimidating, hostile, or offensive working environment. (Gov. Code §12940(j); 2 Cal.Code Regs § 11091(b)(1).)

2.3d.1 Guidelines for Identifying Harassment

Harassment includes any conduct which would be unwelcome or unwanted to an individual of the recipient's same protected classification. The following guidelines to determine if conduct is unwelcomed or unwanted should be followed:

- (a) It is no defense that the recipient "appears" to have consented to the conduct at issue by failing to protest about the conduct. A recipient may not protest for many legitimate reasons, including the need to avoid being insubordinate or to avoid being ostracized or subjected to retaliation.
- (b) Simply because no one has complained about a joke, gesture, picture, physical contact, or comment does not mean that the conduct is welcome. Harassment can evolve over time. Small, isolated incidents might be tolerated up to a point. The fact that no one has yet complained does not preclude someone from complaining if the conduct is repeated in the future.
- (c) Even visual, verbal, or physical conduct between two people who appear to welcome the conduct can constitute harassment of a third person who witnesses the conduct or learns about the conduct later. Conduct can constitute harassment even if it is not explicitly or specifically directed at a particular individual.
- (d) Conduct can constitute harassment even if the individual has no intention to harass. Even well-intentioned conduct can violate this Policy if the conduct is directed at, or implicates a protected classification, and if an individual would find it offensive (e.g., gifts, over-attention, endearing nicknames, hugs).

2.3e Retaliation

Retaliation occurs when adverse conduct is taken against a covered individual because of the individual's protected activity as defined in this Policy. "Adverse conduct" may include but is not limited to: disciplinary action, counseling, taking sides because an individual has reported harassment or discrimination; spreading rumors about a complainant or about someone who supports or assists the complainant; shunning or avoiding an individual who reports harassment or discrimination; or making real or implied threats of intimidation to prevent or deter an individual from reporting harassment or discrimination.

2.3f **Complaint Procedure**

A covered individual who believes he or she has been subjected to discrimination, harassment or retaliation may make a complaint -- orally or in writing -- to any supervisor, manager, or department head, without regard to any chain of command. Any supervisory or management employee who receives a harassment complaint should immediately notify the Executive Officer. Upon receiving notification of a harassment complaint, the Executive Officer will complete and/or delegate the following steps. If the Executive Officer is accused, or a witness to the events at issue, an individual with higher authority will complete and/or delegate the following steps.

- (a) Authorize and supervise the investigation of the complaint and/or investigate the complaint. The investigation will usually include interviews with: 1) the complainant; 2) the accused; and 3) other persons who have relevant knowledge concerning the allegations in the complaint.
- (b) Review the factual information gathered through the investigation to determine whether the alleged conduct violates the Policy giving consideration to all factual information, the totality of the circumstances, including the nature of the conduct, and the context in which the alleged incidents occurred.
- (c) Report a summary of the determination as to whether this Policy has been violated to appropriate persons. If discipline or sanctions are imposed, the level of discipline or sanctions will not be communicated to the complainant.
- (d) If conduct in violation of this Policy occurred, take or recommend to the appointing authority prompt and effective remedial action. The remedial action will be commensurate with the severity of the offense.
- (e) Take reasonable steps to protect the complainant from further harassment, discrimination or retaliation.

2.3f.1 **Proactive Approach**

LAFCo takes a proactive approach to potential Policy violations and will conduct an investigation if its supervisory or management employees become aware that harassment, discrimination or retaliation may be occurring, regardless of whether the recipient or third party reports a potential violation.

2.3g **Option to Report to Outside Administrative Agencies**

An individual has the option to report harassment, discrimination or retaliation to the U.S. Equal Employment Opportunity Commission (EEOC) or the California Department of Fair Employment and Housing (DFEH). These administrative agencies offer legal remedies and a complaint process. The nearest offices are listed on the Internet, in the government section of

the telephone book or employees can check the posters that are located and hanging in the copy room for office locations and telephone numbers.

2.3h **Confidentiality**

Every effort will be made to assure the confidentiality of complaints made under this Policy to the greatest extent allowed by law. Complete confidentiality cannot occur, however, due to the need to fully investigate and the duty to take effective remedial action. An employee who is interviewed during the course of an investigation is prohibited from attempting to influence any potential witness while the investigation is ongoing. An employee may discuss his or her interview with a designated representative. LAFCo will not disclose a completed investigation report except as it deems necessary to support a disciplinary action, to take remedial action, to defend itself in adversarial proceedings, or to comply with the law or court order.

2.3i **Responsibilities**

(a) Each non-manager or non-supervisor is responsible for:

- 1) Treating all individuals in the workplace or on worksites with respect and consideration.
- 2) Modeling behavior that conforms to this Policy.
- 3) Participating in periodic training.
- 4) Cooperating with LAFCo investigations pursuant to this Policy by responding fully and truthfully to all questions posed during the investigation.
- 5) Taking no actions to influence any potential witness while the investigation is ongoing.
- 6) Reporting any act he or she believes in good faith constitutes harassment, discrimination or retaliation as defined in this Policy, to his or her immediate supervisor.

(b) In addition to the responsibilities listed above, each manager and supervisor is responsible for:

- 1) Informing employees of this Policy.
- 2) Taking all steps necessary to prevent harassment, discrimination and, retaliation from occurring, including monitoring the work environment and taking immediate appropriate action to stop potential violations, such as removing inappropriate pictures or correcting inappropriate language.

- 3) Receiving complaints in a fair and serious manner, and documenting steps taken to resolve complaints.
- 4) Following up with those who have complained to ensure that the behavior has stopped and that there are no reprisals.
- 5) Informing those who complain of harassment or discrimination of his or her option to contact the EEOC or DFEH regarding alleged Policy violations.
- 6) Assisting, advising, or consulting with employees and the Executive Officer regarding this Policy.
- 7) Assisting in the investigation of complaints involving employee(s) in their departments and, when appropriate, if the complaint is substantiated, recommending appropriate corrective or disciplinary action in accordance with these Policies, up to and including termination.
- 8) Implementing appropriate disciplinary and remedial actions.
- 9) Reporting potential violations of this Policy of which he or she becomes aware to the Executive Officer, regardless of whether a complaint has been submitted.
- 10) Participating in periodic training and scheduling employees for training.

2.4 Reasonable Accommodation and Interactive Process

2.4a Reasonable Accommodation

Absent undue hardship or direct threats to the health and safety of employee(s), LAFCo provides employment-related reasonable accommodations to:

- (a) qualified individuals with disabilities, both applicants and employees, to enable them to perform essential job functions (Gov. Code § 12940(m)); and
- (b) employees with conditions related to pregnancy, childbirth, or a related medical condition, if she so requests, and with the advice of her health care provider (Gov. Code § 12945(3)(A)); and
- (c) employee victims of domestic violence, sexual assault, or stalking to promote the safety of the employee victim while at work (Labor Code § 230(f)(4)); and
- (d) employees who request reasonable accommodation to address a conflict between religious belief or observance and any employment requirement (Gov. Code § 12940(l)).

2.5 *Supporting Documentation or Certification*

2.5a *Reasonable Medical Documentation of Disability*

If the disability or the need for reasonable accommodation is not obvious, LAFCo may require the individual to provide reasonable medical documentation confirming the existence of the disability and the need for reasonable accommodation, along with the name and credentials of the individual's health care provider. If the individual provides insufficient documentation, the agency will: 1) explain the insufficiency; 2) allow the employee or applicant to supplement the documentation; and 3) pursue the interactive process only to the extent that the request for reasonable accommodation is supported by the medical documentation provided. (2 Cal.Code Regs § 11069(c)(2) & (d).)

2.5b *Medical Certification Indicating the Need for a Reasonable Accommodation or Transfer Due to Pregnancy or Related Conditions*

If a pregnant employee, or an employee with a pregnancy-related condition, requests a reasonable accommodation or transfer due to pregnancy, LAFCo will provide the employee with notice of the need for a medical certification within two business days after the employee's request for accommodation. A medical certification confirming the need for a reasonable accommodation, including transfer, is sufficient if it contains: a description of the requested accommodation or transfer; a statement describing the medical advisability of the accommodation or transfer due to pregnancy; and the date that the need for the accommodation or transfer will become necessary and the estimated duration of the accommodation or transfer. (2 Cal.Code Regs § 11050(b)(3).)

2.5c *Certification of Victim Status*

An employee who is a victim of domestic violence, sexual assault, or stalking and who requests an accommodation to provide for his or her safety while at work must provide both of the following:

- (a) a written statement signed by the employee or an individual acting on the employee's behalf, to certify that the accommodation is to address victim-safety concerns while at work; and
- (b) a certification demonstrating the employee's status as a victim of domestic violence, sexual assault, or stalking, which can be in the form of: a police report indicating the employee's victim status; a court order separating the perpetrator from the employee or that the employee has appeared in court for that purpose; or documentation from a medical professional or counselor that the employee is undergoing treatment for physical or mental injuries or abuse resulting from an act of domestic violence, sexual assault, or stalking. (Labor Code § 230(f)(7).)

2.6 Fitness for Duty Examinations

2.6a Applicants

After a conditional offer of employment has been extended to an applicant, LAFCo may require the applicant to submit to a fitness for duty examination that is job-related; necessary for efficient operations of the agency; and required of all applicants for the job classification. (Gov. Code § 12940(e) &(f).) An applicant or employee who is required to pass a medical and/or psychological examination will be notified of his/her right to obtain a second opinion at his/her expense and that he/she may submit such second opinions for consideration. (2 Cal.Code Regs § 11071(b)(2).)

2.6b Current Employee

The Executive Officer may require an employee to submit to a fitness for duty examination to determine if the employee has a disability and is able to perform the essential functions of his or her job when there is significant evidence that:

- (a) the employee's ability to perform one or more essential functions of his or her job has declined; or
- (b) could cause a reasonable person to question whether an employee is still capable of performing one or more of his or her essential job duties or is still capable of performing those duties in a manner that does not harm him or herself or others. (Gov. Code § 12940(e) &(f).)

2.6c Role of Health Care Provider

LAFCo may request the applicant's or employee's health care provider to conduct a fitness for duty exam on the applicant or employee or may request a LAFCo selected health care provider to do so at the LAFCo's expense. LAFCo will allow an employee paid time off to attend the exam. LAFCo will provide the health care provider with a letter requesting a fitness for duty examination and a written description of the essential functions of the job. The examination will be limited to determining whether the applicant or employee can perform the essential functions of his/her position and any work restrictions and/or functional limitations that apply to the applicant or employee. The health care provider will examine the employee and provide LAFCo with non-confidential information regarding whether:

- (a) the applicant or employee has a disability within the meaning of the California Fair Employment and Housing Act;
- (b) the applicant or employee is fit to perform essential job functions;

- (c) workplace restrictions or functional limitations apply to the applicant or employee, and the duration of the work restrictions or functional limitations;
- (d) there are any reasonable accommodations that would enable the employee to perform essential job functions; and
- (e) the employee's continued employment poses a threat to the health and safety of him or herself or others.

Should the health care provider exceed the scope of LAFCo's request and provide confidential health information, without valid consent of the applicant or employee, LAFCo will return the report to the health care provider and request another report that includes only the non-confidential fitness for duty information that LAFCo has requested. (2 Cal.Code Regs § 11069(c) & (d).)

2.6d *Authorization for Use of Medical Information*

During the course of a fitness for duty examination, LAFCo will not seek or use information regarding an employee's medical history, diagnoses, or course of treatment without an employee's written authorization.

2.6e *Medical Information from the Employee or Applicant*

If an employee or applicant submits medical information to LAFCo from his or her own health care provider, the Executive Officer will not forward that information on to the health care provider who conducted the examination for LAFCo, without the employee or applicant's written authorization. Upon receipt of the written authorization, the Executive Officer will request LAFCo-paid health care provider to determine whether the information alters the original fitness for duty assessment.

2.7 *Interactive Process*

2.7a *When to Initiate the Interactive Process*

The Executive Officer will initiate the interactive process when:

- (a) an applicant or employee with a known physical or mental disability or medical condition requests reasonable accommodation(s) (2 Cal.Code Regs § 11069(b)(1)); or
- (b) LAFCo otherwise becomes aware of the need for an accommodation through a third party (e.g., a doctor's note requesting an accommodation), or by observation of the employee's work (2 Cal.Code Regs. § 11069(b)(2)); or
- (c) LAFCo becomes aware of the possible need for an accommodation because the employee with a disability has exhausted workers' compensation leave, Family and

Medical Act leave, or other leave rights, but the employee and/or the employee's health care provider indicate that further accommodation is still necessary for recuperative leave or other accommodation (2 Cal.Code Regs. § 11069(b)(3)); or

- (d) an employee disabled by pregnancy, childbirth or related medical conditions requests a reasonable accommodation or transfer based on the advice of her health care provider (2 Cal.Code Regs § 11040(a)(1)); or
- (e) an employee with a physical or mental disability, regardless of cause, fails to return to work following pregnancy disability leave (2 Cal.Code Regs § 11047); or
- (f) an employee-victim of domestic violence, sexual assault, or stalking requests a reasonable accommodation(s) for his or her safety at work (Labor Code § 230(f)(1)); or
- (g) an employee requests an accommodation to address a conflict between religious belief, observance, or practice and any employment requirement (Gov. Code § 12940(l)); or
- (h) an employer is aware of the need for a reasonable accommodation for an employee's or applicant's religious beliefs, observance or practices. (2 Cal.Code Regs § 11060(b).)

2.7b *Interactive Communication*

After the occurrence of any of the above-stated circumstances that trigger the need to conduct an interactive process meeting, the Executive Officer will promptly arrange for a discussion or discussions, in person or via conference telephone call, with the applicant or employee and his or her designated representative, (if any). The purpose of the interactive communications will be to discuss in good faith all feasible potential reasonable accommodations. The Executive Officer will document these communications in writing. (Gov. Code 12940(n); 2 Cal.Code Regs § 11069(a).)

2.7c *Potential Accommodations for Applicants or Employees with Disabilities*

Depending on the facts of each case, the interactive process analysis will generally begin with a review of possible reasonable accommodations that would enable the individual to retain his or her current job. The process will generally then move on to possible reasonable accommodations in other vacant jobs, for which the individual is qualified, if there is no reasonable accommodation in the current job that does not cause undue hardship, or that does not present a risk of harm to the individual or others. LAFCo will consider accommodations that the applicant or employee suggests but has the right to select and implement any reasonable accommodation that it deems effective. The range of potential reasonable accommodations includes, but is not limited to:

- making existing facilities used by employees readily accessible to, and usable by, individuals with disabilities, including: acquisition or modification of equipment or

devices, adjustment or modifications of examinations, training materials or policies, and/or the provision of qualified readers or interpreters;

- job restructuring;
- part-time or modified work schedules (Gov. Code § 12926(p));
- paid or unpaid leave of absence of a finite duration that is likely to enable the employee to return to work at the end of the leave (2 Cal.Code Regs § 11068(c));
- preferential consideration to reassignment to a vacant, comparable position, except when such preference would violate a bona fide seniority system (2 Cal.Code Regs § 11068(d)(5));
- reassignment to a vacant lower-paid position if there is no funded, vacant comparable position for which the individual is qualified for (2 Cal.Code § 11068(d)(2)); or
- reassignment to a temporary position, if the individual agrees. (2 Cal.Code Regs § 11068(d)(3).)

2.7d *Potential Accommodations for Employees Affected by Pregnancy and Related Medical Conditions*

Depending on the facts of each case, the interactive process will attempt to identify and implement a reasonable accommodation that is consistent with the medical certification applicable to the applicant or employee. Whether an accommodation is reasonable is a case-by-case analysis that takes into account several factors, including, but not limited to: the employee’s medical needs; the duration of the needed accommodation; and the employer’s legally permissible past and current practices. (2 Cal.Code Regs. § 11040(a)(2)(A).) The range of potential accommodations includes, but is not limited to:

- transfer to a less strenuous or hazardous position for the duration of the pregnancy (Gov. Code § 12945(a)(3)(C));
- change in or restructuring of work duties, such as modifying lifting requirements (2 Cal.Code Regs § 11040(b));
- providing more frequent breaks;
- providing seating;
- time off for medical appointments;
- transfer temporarily to a job with equivalent pay and benefits that the employee is qualified to perform in order to accommodate reduced work schedule or intermittent leave. (2 Cal.Code Regs. § 11041(c).) (However, a reduction in work hours may be considered a form of pregnancy disability leave and deducted from the employee’s four-month pregnancy disability leave entitlement.) (2 Cal.Code Regs § 11040(b).)

2.7e *Potential Accommodations for Employee-Victims of Domestic Violence, Sexual Assault, or Stalking*

Depending on the facts of each individual case, the interactive process analysis will review all possible accommodations that would enhance the safety of the employee victim at work. In determining what accommodation is reasonable, LAFCo will consider the exigent circumstance

or danger facing the employee. LAFCo will consider the preferences of the employee to be accommodated but has the right to select and implement any accommodation that it deems effective. The range of potential safety measure accommodations includes, but is not limited to:

- transfer, reassignment, modified schedule;
- change in work telephone number;
- change in location of work station;
- installation of locks;
- assistance in documenting domestic violence, sexual assault, or stalking that occurs in the workplace;
- the implementation of a safety procedure(s);
- adjustment to job structure, workplace facility, or work requirement; and
- referral to a victim assistance organization. (Labor Code § 230(f)(2).)

2.7f ***Potential Accommodations for Religious Creed, Religious Dress Practice, or Religious Grooming Practice***

Depending on the facts of each case, the interactive process analysis will review all possible accommodations that would resolve the conflict between the religious belief or observance and any employment requirement. LAFCo will consider the preference of the employee or applicant but has the right to select and implement any accommodation that it deems effective. The range of potential accommodations includes, but is not limited to:

- (a) job restructuring or job reassignment (but not segregation from other employees or the public) (Gov. Code § 12940(l)(2));
- (b) modification of work practices, including dress or grooming standards (2 Cal.Code Regs § 11062(c)(2));
- (c) allowing time off in an amount equal to the amount of non-regularly scheduled time the employee has worked in order to avoid a conflict with his or her religious observances (2 Cal.Code Regs § 11062(a));
- (d) allowing alternatives to union membership or payment of union dues (2 Cal.Code Regs § 11062(c)(3)).

2.7g ***Determination***

After the interactive process communications, the Executive Officer will review the information received and determine: whether all available information has been reviewed; whether all potential accommodations that the applicant or employee has suggested have been considered; whether additional discussions with the applicant or employee would be helpful; whether the applicant's or employee's preferences have been taken into account; if there is a reasonable accommodation that would enable the applicant or employee to perform essential

job functions without harming him or herself or others; and if the accommodations would pose an undue hardship on LAFCo finances or operations. The Executive Officer will inform the applicant or employee of his or her determination in writing. The Executive Officer will use his or her discretion based upon the particular facts of each case.

2.7h *Access to Medical Information Regarding Fitness for Duty*

Medical records and information regarding fitness for duty, or the need for an accommodation, will be maintained separately from non-medical records and information. Medical records and information regarding fitness for duty and the need for accommodation will be accessible only by the Executive Officer, LAFCo's legal counsel, first aid and safety personnel in case of emergency, and supervisors who are responsible for identifying reasonable accommodations. Medical records and information contained therein may be released pursuant to state and federal law. (2 Cal.Code Regs § 11069(g).)

2.8 Whistleblower Protection

2.8a *Policy*

LAFCo prohibits all of the following:

- (a) taking any retaliatory adverse employment action against an employee because the employee has or is believed to have disclosed information to any government or law enforcement agency, including to LAFCo, if the employee has reasonable cause to believe that the information discloses a violation of state or federal law, or a violation or noncompliance with a local, state, or federal rule or regulation (Labor Code § 1102.5(b));
- (b) preventing an employee from disclosing information to a government agency, including to LAFCo, if the employee has reasonable cause to believe that the information discloses a violation of state or federal law, or a violation or noncompliance with a local, state, or federal rule or regulation (Labor Code § 1102.5(a));
- (c) retaliating against an employee for refusing to participate in any activity that would result in a violation of state or federal law, or a violation or noncompliance with a local, state, or federal rule or regulation (Labor Code § 1102.5(c)); and
- (d) retaliating against an employee because the employee's family member has or is perceived to have engaged in any of the protected activities listed in (a)-(c) above.

2.8b *Policy Coverage*

This Policy governs and protects LAFCo officials, officers, employees, seasonal/ temporary/ extra help employees, or applicants for employment.

2.8c Definitions

(a) **“Protected activity”** includes any of the following:

- Filing a complaint with a federal or state enforcement or administrative agency that discloses any information that the employee has reasonable cause to believe violates state or federal law or a violation or noncompliance with a local, state, or federal rule or regulation.
- Participating in or cooperating in good faith with a local, federal or state enforcement agency that is conducting an investigation in to alleged unlawful activity.
- Testifying in good faith and with reasonable cause as a party, witness, or accused regarding alleged unlawful activity.
- Associating with another covered individual who is engaged in any of the protected activities enumerated here.
- Making or filing in good faith and with reasonable cause an internal complaint with the LAFCo regarding alleged unlawful activity.
- Providing informal notice to the LAFCo regarding alleged unlawful activity.
- Calling a governmental agency’s “Whistleblower hotline” in good faith.
- Filing a written complaint under penalty of perjury that LAFCo has engaged in gross mismanagement, a significant waste of public funds, or a substantial and specific danger to public health or safety. (Labor Code §§ 53296(c) & 53297(d).)
- Refusing to participate in any activity that the employee reasonably believes would result in a violation of state or federal law, or a violation or noncompliance with a local, state, or federal rule or regulation. (Labor Code § 1102.5(c).)

(b) **“Adverse action”** may include, but is not limited to, any of the following:

- Real or implied threats of intimidation to attempt or prevent an individual from reporting alleged wrongdoing or because of actual or potential protected activity.
- Refusing to hire an individual because of actual or potential protected activity.
- Denying promotion to an individual because of actual or potential protected activity.
- Taking any form of disciplinary action because of actual or potential protected activity.
- Extending a probationary period because of actual or potential protected activity.
- Altering work schedules or work assignments because of actual or potential protected activity.
- Condoning hostility and criticism of co-workers and third parties because of actual or protected activity.
- Spreading rumors about a person because of that person’s actual or perceived protected activity.
- Shunning or unreasonably avoiding a person because of that person’s actual or perceived protected activity.

2.8d ***Complaint Procedure***

An applicant, employee, or seasonal/ temporary/ extra help employee who feels he or she has been retaliated against in violation of this Policy should immediately report the conduct according to the complaint procedure in LAFCo's Policy Against Discrimination, Harassment or Retaliation (Section 2.2) so that the complaint can be resolved fairly and quickly. Supervisors and Managers have the same responsibilities as defined in the Policy Against Discrimination, Harassment or Retaliation.

Chapter 3 Classification Policies

3.1 Classification Plan

3.1a *Classification Plan*

The Executive Officer shall ascertain and record the duties and responsibilities of all positions and, after consulting with affected department heads, shall recommend a classification plan, including job descriptions, for such positions.

3.2 *Reclassification*

The Executive Officer may initiate a job audit to determine whether the duties of a position have changed to such an extent that they necessitate reclassification of the position from the existing classification to a more appropriate classification. Upon completion of the job audit, the Executive Officer shall report to the Commission regarding reclassification changes.

Chapter 4 Recruitment, Selection, and Appointment

4.1 Recruitment, Selection and Appointment Policy

4.1a *Job Announcement*

The Executive Officer will prepare a job announcement to announce a proposed recruitment. The announcement may be posted on the LAFCo's website and other locations the Executive Officer deems appropriate, depending upon whether the recruitment is open to the public or current employees only. The announcement will include:

- The title and pay for the position;
- The nature of the work to be performed and essential job duties of the position;
- The minimum qualifications, including whether the job is a promotional position;
- The last date that the Executive Officer will accept applications, if any;
- The time, place, and type of the examination, if known, and if a medical examination, and/or a drug screen will be required following a conditional offer of employment; and
- Such other information as determined in the discretion of the Executive Officer.

4.1b *Application Process*

Job applications shall require information describing an individual's training, experience, and other pertinent information as deemed necessary to assess qualifications for the job. Applicants may be required to provide supplementary information, including but not limited to: answers to job-related questions; resume; licenses; certifications; diplomas; letters of recommendation; and references. All applications must be completed in full, physically or electronically, by the person applying. The Executive Officer will not process any application which is not fully completed. Should an applicant be appointed to a position, the supplemental information shall become a part of the individual's permanent employment records.

4.1c *Disqualification of Applications*

The Executive Officer may reject any application which: is not properly completed or incomplete; received after the application deadline; or indicates that the applicant does not meet the minimum qualifications for the position.

4.1d *Criminal Conviction Check*

After LAFCo makes a conditional offer of employment, the Executive Officer may then request information about criminal convictions, except for misdemeanor marijuana-related convictions that are over two years old, or convictions that have been judicially sealed, eradicated, or expunged. (Labor Code §§ 432.7-432.8.) Unless required by law, LAFCo will not deny employment to any applicant solely because he or she has been convicted of a crime. LAFCo may, however, consider the nature, date and circumstances of the offense, evidence of

rehabilitation, as well as whether the offense is relevant to the duties of the position. This Policy does not apply to applicants for public safety jobs.

4.1e *Employment Examinations*

- (a) The Executive Officer will determine the manner and methods of administering employment examinations. Examinations may consist of: written tests; oral tests; performance tests; evaluations of prior training and performance, experience and/or education; interviews; working style assessments; practical exercises; file review; or any combination thereof. The content of all examinations will be job-related and designed to test knowledge, skills or abilities that help predict successful completion of job duties.
- (b) The content of all examinations will be kept confidential prior to the administration of the examination. All applicants who are invited to the examination will be notified of the nature of the examination.
- (c) An applicant with a disability may request accommodation in an examination process. Following receipt of a request for accommodation, the Executive Officer may require additional information, such as reasonable documentation of the existence of a disability. (2 Cal.Code Regs § 11069(c)(2).)
- (d) Failure in one part of the examination, or the failure to meet established standards described in the job announcement, may be grounds for declaring such applicant as failing in the entire examination or as disqualified for subsequent parts of an examination. Each applicant will be notified by mail or email whether he or she will continue in the examination process.
- (e) Applicants who meet the minimum qualifications and pass all examinations may be subject to a background and/or reference check.

4.1f *Appointments*

- (a) The Executive Officer will make all appointments except for those classifications that report to the governing body. The Executive Officer has discretion to decide in what manner a vacancy shall be filled. Vacancies may be filled by reinstatement, promotion, transfer, demotion, appointment of temporary / seasonal employees, or from an appropriate eligibility list if available. The LAFCo Commission will make appointments for those classifications that report to it.
- (b) Appointment to certain positions may be made contingent upon the applicant/employee passing a drug / alcohol test, and/or a job-related medical and/or psychological examination. Such examination shall only be required after a conditional offer of employment has been made. (See Policy 2.4, Reasonable Accommodation and Interactive Process; and Policy 12.4, Prohibitions on Drugs and Alcohol in the Workplace.)

- (c) The person accepting appointment shall report to the Executive Officer or designee on the date designated by the Executive Officer. Otherwise, the applicant shall be deemed to have declined the appointment.

4.1f.1 *Probationary Appointment*

- (a) At-Will Status: The probationary period is part of the examination process and is used to determine whether work performance or work-related behavior meets the required standards of the position. A probationary employee may be rejected at any time during the probationary period with or without cause or reason, without notice or appeal or grievance, and without any rights set forth under Policy 10.1, Causes for Discipline and Procedures. The probationary employee will be notified prior to the expiration of the probationary period that he or she has been rejected from probation.
- (b) Length of Probation: Unless otherwise specified by memorandum of understanding or these Policies, the probationary period is 6 months of actual and continuous service. The probationary period is automatically extended by the length of any absence of one work week or more. The probationary period can also be extended by the Agency at the discretion of the Executive Officer or his/her designee.

4.1g *Probationary Period for Promotional Appointments*

- (a) At-Will Status: A promotional probationary employee may be rejected at any time during the promotional probationary period with or without cause or reason, without notice or appeal or grievance, and without any rights described in Policy 10.1, Causes for Discipline and Procedures. If the employee fails to satisfactorily complete the probationary period in the promotional position, the employee may return to the position held prior to promotion at the range and step held prior to promotion, if there is a vacancy in the prior position, unless he or she is terminated for cause.
- (b) Length of Probation: On accepting a promotion, an employee serves a new probationary period of six months of actual and continuous service. The probationary period is automatically extended by the length of any absence of a week or more.

Chapter 5 Employment of Relatives or Spouses/ Domestic Partners

5.1 Employment of Relatives, Spouses, Domestic Partners

5.1a *Policy*

LAFCo regulates the employment and placement of relatives, spouses, and domestic partners so as to avoid conflicts of interest and to promote safety, security, supervision, and morale.

5.1b *Definitions*

- (a) “Relative” means child, stepchild, parent, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, niece, nephew, or in-laws of those enumerated by marriage or domestic partnership.
- (b) “Spouse” means one of two persons to a marriage, or two people who are registered domestic partners, as those terms are defined by California law. (Fam. Code § 297 & 300.)
- (c) “Supervisory relationship” means one in which one employee exercises the right or responsibility to control, direct, reward, or discipline another by virtue of the duties and responsibilities assigned to his or her LAFCo appointment.

5.1c *Employment of Relatives*

LAFCo will not appoint, promote or transfer a person to a position within the same department, division, or facility in which the person’s relative already holds a position, if any of the following would result:

- A direct or indirect supervisory relationship between the relatives;
- The two employees having job duties which require performance of shared duties on the same or related work assignment;
- Both employees having the same supervisor; or
- A potential for creating an adverse impact on supervision, safety, security, morale or efficiency.

5.1d *Spouses or Domestic Partners*

LAFCo will not appoint, promote, or transfer a person, to the same department, division, or facility in which the person’s spouse or registered domestic partner already holds a position, if such employment would result in any of the following:

- One spouse or domestic partner being under the direct supervision of the other spouse or domestic partner; or

- Potential conflicts of interest or hazards for married persons or those in domestic partnership which are greater than for those who are not married or in domestic partnerships.

5.1e *Marriage or Domestic Partnership After Employment*

- (a) **Transfer:** If two LAFCo employees who work in the same department later become spouses or domestic partners, the Executive Officer has discretion to transfer one of the employees to a similar position in another department. Although the wishes of the two employees will be considered, the Executive Officer retains sole discretion to determine which employee will be transferred based upon LAFCo needs for supervision, safety, security or morale. Any such transfer that results in a salary reduction is not disciplinary and is not subject to any grievance or appeal, or pre- or post-disciplinary appeal due process.
- (b) **Separation:** If continuing employment of both employees, who work in the same department and who later become spouses or domestic partners, cannot be accommodated in a manner the Executive Officer finds to be consistent with the LAFCo's interest in the promotion of supervision, safety, security, or morale, then the Executive Officer retains sole discretion to separate one employee from LAFCo employment. Absent the resignation of one employee, the less senior employee will be separated. Any such separation is not considered to be disciplinary and is not subject to any grievance or appeal, or pre- or post-disciplinary appeal due process.

Chapter 6 Compensation and Payroll Practices

6.1 Work Schedules and Attendance

6.1a *Work Schedules*

Work schedules are determined at the discretion of the department head and are subject to change with or without notice, according to the needs of the department or LAFCo. An overtime-eligible employee shall be in attendance and at work during the hours specified by the supervisor.

6.1b *Meal Period*

A one-hour non-compensated meal period will be provided to all full-time overtime-eligible employees who work at least an eight-hour workday. A 30-minute non-compensated meal period will be provided to all overtime-eligible full-time employees who work more than five hours, but less than eight hours during the workday. Overtime-eligible employees are responsible for taking their meal period at a time designated by the supervisor.

6.1c *Rest Period*

A 15-minute compensated rest period will be provided to all overtime-eligible employees for each four-hour period of service. The rest period shall be taken at a time designated by the employee's supervisor. Rest periods may not be combined to shorten the workday unless approved by the Executive Officer.

6.1d *Lactation Break Time & Private Location*

LAFCo will provide a reasonable amount of break time to accommodate any employee desiring to express breast milk for the employee's infant child each time the employee has a need to express milk. The break time shall, if possible, run concurrently with any break time already provided to the employee. If the employee takes lactation breaks at times other than their provided break times, then the lactation break shall be unpaid, or the employee may choose to use accrued leave.

Those desiring to take a lactation break at times other than their provided break times must notify a supervisor prior to taking such a break. Breaks may be reasonably delayed if they would seriously disrupt operations. Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.

LAFCo will provide a room or other appropriate location in close proximity to the employee's worksite that is not in a bathroom to express milk in private. The room or location will meet the following requirements:

- Be shielded from view and free from intrusion while being used to express milk;
- Be safe, clean, and free of hazardous materials;
- Contain a surface on which to place a breast pump and personal items;
- Contain a place to sit; and
- Have access to electricity needed to operate an electric battery-powered breast pump.
- An employee occupying such private area shall either secure the door or otherwise make it clear to others through signage that the area is occupied and should not be disturbed. All other employees should avoid interrupting an employee during an authorized break under this section, except to announce an emergency or other urgent circumstance.

LAFCo will provide access to a sink with running water, and a refrigerator or other cooling device suitable for storing milk in close proximity to the employee's work area.

6.1d.1 Lactation Accommodation

An employee may make a request for lactation accommodation, either orally or in writing, with the Executive Officer.

Following receipt of a request for lactation accommodation, LAFCo will provide a timely written response to the employee in which LAFCo will indicate if it is unable to provide the requested break time or a requested location for the purposes of expressing breast milk.

An employee who does not believe that LAFCo is providing an appropriate lactation accommodation should immediately inform the Executive Officer.

An employee who does not believe that the LAFCo is providing an appropriate lactation accommodation as required by state law has the right to file a complaint with the California Division of Labor Standards Enforcement/Labor Commissioner.

6.1d.2 Storage of Expressed Milk

Any employee storing expressed milk in any authorized refrigerated area within LAFCo shall clearly label it as such. No expressed milk shall be stored at LAFCo beyond the employee's workday/ shift.

6.1e Advance Request for Permission to Deviate from Regular Work Hours

An overtime-eligible employee is required to seek advance permission from his or her supervisor for any foreseeable absence or deviation from regular working, break, and mealtimes.

6.1f *Notification of Unforeseen Late Arrival or Absence*

An overtime-eligible employee who is unexpectedly unable to report for work as scheduled must notify his or her immediate supervisor no later than the beginning of the employee's scheduled work time and report the expected time of arrival or absence. If the immediate supervisor is not available, the employee must notify the department head.

6.1g *Unauthorized Absence is Prohibited*

Arriving late to work or leaving early in connection with scheduled work times, breaks, or meal periods is prohibited, absent authorization. An overtime-eligible employee who fails to notify the supervisor of any absences as required by this Policy in a timely manner, or who is not present and ready to work during all scheduled work times will be deemed to have an unauthorized tardy or absence and will not receive compensation for the period of absence.

6.1h *Excessive Tardiness/Absenteeism and Abuse of Leave*

Excessive tardiness occurs when an overtime-eligible employee who, without authorization, is late to work or late to return from breaks more than three times during any 30-day period. Excessive absenteeism occurs when the number of unapproved absences for reasons that are not permitted by state or federal law, exceeds three days in any three-month period. Excessive tardiness or absenteeism may be grounds for discipline, up to and including termination.

Abuse of leave is a claim of entitlement to leave when the employee does not meet the requirements for taking the leave, and may be grounds for discipline, up to and including termination. Should the LAFCo suspect that there is an abuse of leave by an employee, the LAFCo may require that the employee submit a physician's certificate to support the absence.

6.2 *Work Week, Overtime and Compensatory Time Off*

6.2a *Work Week*

The work week begins at 12:00 a.m. on Sunday and ends at 11:59 p.m. on Saturday or as otherwise designated in an applicable MOU.

6.2a.1 *Work Week for 9/80 Work Schedule*

Employees working a 9/80 work schedule will have a regular day off every other week as determined by LAFCo. For employees working a 9/80 work schedule, each employee's designated work week shall begin exactly four hours after the start of his/her eight-hour shift on the day of the week that corresponds to the employee's alternating regular day off.

6.3a Overtime

Overtime is all hours an overtime-eligible employee actually works over 40 hours in his or her designated work week. Only actual hours worked will be counted toward the 40-hour threshold for purposes of calculating Fair Labor Standards Act (FLSA) overtime pay; paid leave will not be counted. Overtime-eligible employees who are directed to work overtime must do so.

6.3a.1 No Remote Access for Overtime-Eligible Employees

Unless the Executive Officer specifies otherwise in writing, overtime-eligible employees may not have remote access to LAFCo equipment, resources, or email unless the access is during normal work hours where the employee is working remotely and has received authorization to do so by the Executive Officer.

6.3a.2 Prior Approval Required for Overtime

Overtime-eligible employees are not permitted to work overtime except as directed and authorized by their supervisor, or in case of emergency, as determined by the agency. Working overtime without prior authorization or approval is grounds for discipline. In emergency situations that necessitate working overtime, the employee must notify a supervisor as soon as possible, and in no event later than the end of that day upon which the emergency occurred. If the supervisor denies the request to work overtime, the employee must obey the supervisor's directive and cease working. Failure to follow these overtime approval procedures may subject the employee to disciplinary action, up to and including termination, for violating the overtime approval procedures.

6.3b Accurate Time Reporting

All employees must accurately report all work time to the nearest five minutes.

6.3c No Volunteering of Work Time

All time spent for the benefit of the LAFCo must be reported as hours worked on time records so that the employee is paid for all work. Overtime-eligible employees may not "volunteer" work time to perform duties that are the same or similar as their stated or regular job duties. Employees have no authorization to work without compensation. No supervisor has authority to request overtime-eligible employees to volunteer work time.

6.3d Compensatory Time Off

An overtime-eligible employee may opt to accrue compensatory time-off (CTO) in lieu of cash payment for overtime worked if his or her supervisor agrees prior to overtime work being performed.

- (a) **Accrual Rate:** CTO accrues at the rate of 1.5 hours for each hour, or fraction thereof, worked after 40 hours of actual work within the employee's designated work week. Time in paid leave status does not count toward CTO. CTO cannot be accumulated in excess of 80 hours at any given time.

- (b) **Employee Request to Use CTO:** LAFCo will grant an employee's request to use accumulated CTO provided that: 1) the department can accommodate the use of CTO on the day requested without undue disruption to department operations; and 2) the employee makes the request in writing to the supervisor no later than five days prior to the date requested. If the employee does not provide five days' notice, or if the department cannot accommodate the time off without undue disruption, LAFCo will provide the employee the opportunity to cash out the amount of CTO requested at the end of the current pay period.

- (c) **LAFCo Cash Out:** LAFCo reserves the right to cash out accumulated CTO at any time.

- (d) **Value of CTO Cash Out:** During employment, CTO is cashed out at the employee's current FLSA regular rate of pay (including all FLSA-applicable salary differentials and special pays). Employees separating from LAFCo service shall be compensated for all accrued, unused compensatory hours at their current FLSA regular rate of pay, or their average FLSA regular rate for the prior three years, whichever is higher. (29 USC § 207(o)(3)(B) & (4); 29 CFR § 553.27.)

Chapter 7 Performance Evaluation Policies

7.1 Performance Evaluations**7.1a *Performance Evaluations***

A non-probationary employee's supervisor will prepare and sign a performance evaluation on a LAFCo form for each performance evaluation period. The Executive Officer will review and approve all performance evaluations of employees under his or her supervision. Additional performance evaluations may be prepared at any time the Executive Officer deems necessary. Outside of the six-month probationary review mentioned in section 7.1b all evaluations performed by the Executive Officer will occur between the LAFCo Commission meeting where the proposed budget is approved and the meeting where the final budget is to be approved. The Executive Officer and other at-will employees appointed by the Commission will be evaluated on a date and time determined by the Commission.

7.1b *Probationary Employee Performance Evaluations*

On or about the completion of six months of a probationary period, and again at any point prior to separation or the successful completion of the probationary period, the Executive Officer will prepare and sign a performance evaluation. The purpose of the probationary performance evaluation is to chart the probationer's progress toward meeting the standards of his or her position.

7.1c *Performance Evaluation Meeting*

The supervisor will meet with the employee to discuss the evaluation. The employee shall sign the evaluation to acknowledge its contents and that he or she has met with his or her supervisor to discuss the evaluation. The employee's signature shall not mean that he or she endorses the contents of the evaluation.

7.1d *No Appeal Right*

An employee does not have the right to appeal or submit a grievance regarding any matter relating to the content of a performance evaluation. Instead, the employee may comment on the evaluation in a written statement which will then be placed with the evaluation in the employee's personnel file. The written statement must be submitted within 10 days after the employee receives the evaluation.

Chapter 8 Leaves of Absences

8.1 Vacation Leave and Holidays

8.1a Vacation Leave

Eligible full-time and part-time employees, with the exception of temporary/ seasonal and extra help employees, earn vacation leave while in paid status until they reach the applicable vacation accrual cap. Employees accrue vacation time according to their full or part-time status and the number of consecutive years the employee has worked for LAFCo as follows:

- (a) **Full-Time Employee Accrual Rate:** Each full-time employee shall be entitled to accrue vacation credits for each hour on paid status in continuous service in accordance with the following schedule:

Months of Service	Hourly Standard Accrual	Maximum Accrued Workdays Per Year
Start through 24 months	.0385	10
Greater than 24 months through 108 Months	.0577	15
Greater than 108 months through 228 Months	.0770	20
Greater than 228 months through 348 Months	.0962	25
Greater than 348 months	.1154	30

- (b) **Part-Time Employee Accrue Pro-Rated Vacation:**

Part-time employees who are budgeted to work at least 20 hours per week earn vacation leave while in paid status in a pro-rated amount based upon the accrual applicable to full-time employees. Once a part-time employee reaches the pro-rated annual accrual cap, they stop earning vacation.

8.1b Limitations on Vacation Leave Accrual

Accumulated, unused vacation time shall not exceed three hundred (300) standard duty hours for any full- or part-time employee entitled to accrue vacation leave. Thereafter, additional accumulation shall be suspended unless otherwise approved in advance by the Executive Officer, in the Executive Officer sole discretion, in cases where such is beneficial to LAFCo.

8.1c *Scheduling of Vacation Leave*

Vacation leave may not be used until it is earned. The employee and the Executive Officer will schedule the times when an employee may take vacation leave. The scheduling will be based on the employee's preference and LAFCo operational needs. An employee shall provide a minimum of one week's written advance notice, unless waived by the department head, when requesting vacation time off. LAFCo may, at its discretion, require an employee to use accrued vacation.

8.1d *Unpaid Leave of Absence*

No vacation leave will accrue during any unpaid leave of absence.

8.1e *Unused Vacation Leave Upon Separation*

Any employee separating from the LAFCo who has accrued vacation leave shall be paid for all accrued vacation at his or her rate of pay at the time of separation.

8.1f *Holidays*

Full-time employees, except temporary, seasonal, and extra help employees receive the holidays listed below with pay. If New Year's Day, Independence Day, Veterans Day or December 25 falls on a Sunday, the Monday following shall be treated as the holiday. If any of those holidays falls on a Saturday, the preceding workday shall be treated as the holiday. Part-time employees whose scheduled work time falls on a holiday will receive that holiday off with pay for the hours they were scheduled to work.

- New Year's Day (January 1)
- Martin Luther King's Birthday (Third Monday in January)
- President's Day (Third Monday in February)
- Memorial Day (Last Monday in May)
- Independence Day (July 4)
- Labor Day (First Monday in September)
- Veteran's Day (November 11)
- Thanksgiving Day (Fourth Thursday in November)
- Day After Thanksgiving Day (Fourth Friday in November)
- December 24 shall be observed as half (1/2) day holidays if that date falls on a Monday, Tuesday, Wednesday, or Thursday.
- Christmas Day (December 25)
- December 26 through December 31 shall be deemed Holidays, any day that falls on the weekend shall not be moved as described above.

8.1g ***Effect of Holiday on Vacation Leave***

If one or more holidays falls within a vacation leave that an eligible full-time employee is taking, such holiday shall not be charged as vacation leave

8.1h ***Floating Holidays***

1. Each full-time employee on the payroll as of July shall be credited with two (2) floating holidays for that fiscal year (July 1 - June 30). Employees newly appointed between July 1 and December 31 shall be credited with two (2) standard workdays as floating holidays for that fiscal year. Employees newly appointed between January 1 and May 31 shall be credited with one (1) standard workday as floating holiday for that fiscal year. Employees newly appointed between June 1 and June 30 shall not be credited with any floating holidays for that fiscal year. This pro-ration shall also apply to employees who have returned from an approved leave of absence where they were in leave without pay status.
2. With the approval of the department head, floating holidays may be taken at any time or times during the year.
3. Floating holidays shall not accrue from one fiscal year to the next.
4. Upon termination, unused floating holidays shall be paid at the straight-time rate so that the total of unused floating holidays to be paid off and floating holidays used by the employee shall not exceed one (1) workday if the termination occurs between July 1 and December 31 or two (2) workdays if the termination occurs between January 1 and June 30 or per the prorated schedule for new employees.

8.1i ***Pay for Holidays***

Employees entitled to paid holidays or floating holidays shall be paid for the number of hours the employee was scheduled to work had it not been a holiday or floating holiday. An overtime-eligible employee who is required to work on a holiday will receive holiday pay and pay for the actual time worked on the holiday.

8.1j ***Personal Leave***

- A. Each regular (non-seasonal, non-temporary, non-extra help) employee who has passed probation and who is on the payroll as of July 1 shall be credited immediately with forty (40) personal leave hours for that fiscal year.
- B. Newly appointed employees who pass probation after July 1 and on or before October 31 shall be credited with forty (40) hours of personal leave for that fiscal year. Any such employee passing probation between November 1 and February 28 (29) shall be credited with twenty (20) hours of personal leave for the balance of that fiscal year. Any such employee passing probation between March 1 and May 31 shall be credited with eight (8) hours of personal leave for the balance of that fiscal year. Any such employee passing probation between June 1 and June 30 shall receive no personal leave for that

fiscal year. This pro-ration shall also apply to employees who have returned from an approved leave of absence where they were in leave without pay status.

- C. Accrued personal leave may be taken at any time or times during the year with the approval of the Executive Officer.
- D. Personal leave shall not accrue in excess of forty (40) hours. However, on July 1 each year, employees (other than new and probationary employees described in section B above) will have their personal leave balance restored to forty (40) hours.
- E. Upon termination of employees who have completed their initial probationary period, the employee's unused accrued personal leave shall be paid at a straight-time rate. Personal leave upon termination will not be paid to employees who have not completed their initial probationary period and thus have not accrued such leave.

8.2 Sick Leave

(a) Purpose

Sick leave is paid leave from work that can be used for the following purposes:

1. The diagnosis, care, or treatment of an existing health condition of, or preventative care for, an employee or any of the following of the employee's family members: child of any age or dependency status; parent; parent-in-law; spouse; registered domestic partner; grandparent; grandchildren; or sibling; or
2. For an employee who is a victim of domestic violence, sexual assault, or stalking to: i) obtain or attempt to obtain a temporary restraining order or other court assistance to help ensure the health safety or welfare of the employee or his or her child; or ii) obtain medical attention or psychological counseling; services from a shelter; program or crisis center; or participate in safety planning or other actions to increase safety.

(b) Accrual & Carryover for Different Categories of Employees:

- 1) **Regular Employees:** Regular, full-time employees shall accrue one working day of sick leave with pay for each month or fraction thereof served. Sick leave accruals shall be pro-rated for regular employees who work less than full time. Accrued and unused sick leave carries over from year to year up to a maximum of hours of sick leave. Employees stop earning sick leave once they have accrued hours / days of sick leave, whichever is greater.
- 2) **Seasonal and Temporary Employees:** A seasonal/ temporary or extra help employee who works 30 or more days within a year from the commencement of employment with LAFCo accrues one hour of paid sick leave for every 30 hours worked. (Labor Code § 246(a).) Accrued and unused sick leave carries over to the following year of employment but a seasonal/ temporary or extra help

employee stops earning sick leave once he or she has accrued 48 hours or 6 workdays/ shifts, whichever is greater. (Labor Code § 246(i).)

(c) Sick Leave Use

- 1) An employee may use accrued sick leave, in a minimum increment of two hours, subject to the limits and request provisions in this Policy. (Labor Code § 246(c) & (j).)
- 2) During the first six (6) months of employment, a full- or part-time employee who is not seasonal/ temporary or extra help, may borrow sick leave in excess of the number of hours accumulated aforesaid, not to exceed the standard workweek for the employee. However, if an employee borrows sick leave, such sick leave borrowed shall be subtracted from future accumulations as above provided until accumulations equal excess sick leave actually taken. Thereafter, sick leave shall accumulate as provided in section (b) above. An employee who separates from employment while in arrears on sick leave shall be required to agree to a repayment plan for such sick leave days.

(d) Sick Leave Request:

To request to use sick leave if the need for leave is foreseeable, an employee must give the immediate supervisor reasonable advance written or oral notice. (Labor Code §§ 246(l); 246.5(a).) If the need for sick leave is not foreseeable, the employee shall provide written or oral notice of the need for the leave as soon as practicable. (Labor Code § 246(l).) If the employee is required to be absent on sick leave for more than one day, the employee must keep the immediate supervisor informed each day as to the date the employee expects to return to work and the purpose of the leave. Failure to request sick leave as required by this Policy without good reason, may result in the employee being treated as absent without leave.

(e) Certification

LAFCo may require that employees who are not seasonal, temporary, or extra help, must provide a physician's certification to support any absence that involves the illness of the employee or family member if LAFCo suspects that there is an abuse of sick leave by the employee. All employees, including seasonal, temporary, or extra help, who use paid leave to address issues related to domestic violence, sexual assault or stalking, and who cannot provide advance notice of their need for leave must provide certification of the need for leave within a reasonable time thereafter. (Labor Code § 230(d)(2).)

(f) Sick Leave on Separation from Employment

Unused sick leave is not cashed out upon termination, resignation, retirement, or other separation from employment. (Labor Code § 246(f)(1).) Unused sick leave may be converted to retirement service credits only as may be permitted under applicable retirement system laws and regulations.

(g) Sick Leave Reinstatement:

If an employee separates and is rehired within one year from separation, accrued and unused sick leave, to a maximum of 6 days or 48 hours, whichever is greater, will be reinstated. (Labor Code § 246(f)(2).) An employee who worked at least 90 days in the initial employment with LAFCo may immediately use reinstated sick leave. An employee who had not worked 90 days in the initial employment with LAFCo must work the remaining amount of the 90 day-qualifying period to be able to use accrued sick leave. (Labor Code § 246(c).)

8.3 Family and Medical Care Leaves

8.3a *Statement of Policy; Concurrent Running of FMLA and CFRA Leaves*

LAFCo provides family and medical care leave for eligible employees as required by State and federal law. Employees who misuse or abuse family and medical care leave may be disciplined up to and including termination. Employees who fraudulently obtain or use CFRA leave are not protected by the CFRA's job restoration or maintenance of health benefits provisions. This Policy is supplemented by the Federal Family and Medical Leave Act ("FMLA"), and the California Family Rights Act ("CFRA"). Unless otherwise stated in this Policy, "Leave" means leave pursuant to the FMLA and CFRA. Unless otherwise provided by law, LAFCo will run each employee's FMLA and CFRA leaves concurrently.

8.3b *Definitions*

- (a) "12-Month Period" means a rolling 12-month period measured backward from the date leave is taken and continuous with each additional leave day taken. (29 CFR § 825.200(b)(4); 2 Cal.Code Regs § 11090(b).)
- (b) "Single 12 Month Period" means a 12-month period which begins on the first day the eligible employee takes FMLA leave to take care of a covered service member and ends 12 months after that date.

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- (c) “Child” means a biological, adopted, or foster child, a stepchild, a legal ward, a child of a domestic partner, or a child of a person standing in loco parentis. (Gov. Code § 12945.2(c)(1).)
- (d) “Grandchild” means a child of an employee’s child.
- (e) “Parent” means the biological parent of an employee or an individual who stands or stood in loco parentis (in place of a parent) to an employee when the employee was a child. This term does not include parents-in-law. (29 CFR § 825.102; Gov. Code § 12945.2(c)(7).)
- (f) “Parent-in-law” means the parent of a spouse or domestic partner.
- (g) “Grandparent” means the parent of an employee’s parent.
- (h) “Spouse” means one or two persons to a marriage, regardless of the sex of the persons, and for purposes of CFRA leave, includes a registered domestic partner as defined below. (29 CFR § 825.102; Fam. Code § 300; 2 Cal.Code Regs § 11087(r).)
- (i) “Domestic Partner” is another adult with whom the employee has chosen to share their life in an intimate and committed relationship of mutual caring and with whom the employee has filed a Declaration of Domestic Partnership with the Secretary of State, and who meets the criteria specified in California Family Code section 297. A legal union formed in another state that is substantially equivalent to the California domestic partnership is also sufficient. (Fam. Code § 299.2.)
- (j) “Sibling” means a person related to another person by blood, adoption, or affinity through a common legal or biological parent.
- (k) “Serious Health Condition” means an illness, injury impairment, or physical or mental condition that involves:
- 1) Inpatient Care in a hospital, hospice, or residential medical care facility, including any period of incapacity (e.g., inability to work or perform other regular daily activities due to the serious health condition, treatment involved, or recovery therefrom). A person is considered “inpatient” when a health care facility admits him or her to the facility with the expectation that he or she will remain at least overnight, even if it later develops that such person can be discharged or transferred to another facility, and does not actually remain overnight; or

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- 2) Continuing treatment by a health care provider: A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:
- a. A period of incapacity (i.e., inability to work, or perform other regular daily activities) due to serious health condition of more than three consecutive calendar days; and
 - b. Any subsequent treatment or period of incapacity relating to the same condition, that also involves:
 - i. Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision by a health care provider, or by a provider of health care services (e.g., a physical therapist) under orders of, or on referral by a health care provider; or
 - ii. Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider. This includes, for example, a course of prescription medication or therapy requiring special equipment to resolve or alleviate the health condition. If the medication is over the counter and can be initiated without a visit to a health care provider, it does not constitute a regimen of continuing treatment.
- 3) Any period of incapacity due to pregnancy or for prenatal care. (29 CFR § 825.120; Gov. Code §12945.2(c)(8).) Note that pregnancy is a "serious health condition" only under the FMLA. Under California law, an employee disabled by pregnancy is entitled to pregnancy leave. (See Policy 808, Leave Because of Pregnancy, Childbirth, or Related Medical Condition.)
- 4) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:
- i. Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;
 - ii. Continues over an extended period of time (including recurring episodes of a single underlying condition); and
 - iii. May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.). Absences for such incapacity qualify for leave even if the absence lasts only one day.

- 5) A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of but need not be receiving active treatment by health care provider.
 - 6) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment. (29 CFR § 825.113; Gov. Code § 12945.2(c)(8); 2 Cal.Code Regs § 11087(q)(1).)
- (l) “Health Care Provider” means:
- 1) A Doctor of Medicine or Osteopathy who is authorized to practice medicine or surgery in the State of California;
 - 2) Individuals duly licensed as a physician, surgeon, or osteopathic physician or surgeon in another state or jurisdiction, including another country, which directly treats or supervises treatment of a serious health condition;
 - 3) Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist) authorized to practice in California and performing within the scope of their practice as defined under California State law;
 - 4) Nurse practitioners and nurse-midwives and clinical social workers who are authorized to practice under California State law and who are performing within the scope of their practice as defined under California State law;
 - 5) Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; and
 - 6) Any health care provider from whom an employer or group health plan’s benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits. (29 CFR § 825.102; Gov. Code § 12945.2(c)(6).)
- (m) “Covered active duty” means: 1) in the case of a member of a regular component of the Armed Forces, duty during deployment of the member with the Armed Forces to a foreign country; or 2) in the case of a member of the reserve component of the Armed Forces, duty during the deployment of members of the Armed Forces to a foreign

country under a call or order to active duty under certain specified provisions. (29 CFR § 825.102.)

- (n) “Covered Servicemember” means: 1) a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or 2) a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy. (29 CFR § 825.102 & 825.122.)
- (o) “Outpatient Status” means, with respect to a covered servicemember, the status of a member of the Armed Forces assigned to either: (1) a military medical treatment facility as an outpatient; or (2) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients. (29 CFR § 825.102.)
- (p) “Next of Kin of a Covered Servicemember” means the nearest blood relative other than the covered servicemember’s spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the covered servicemember by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered servicemember has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA. (29 CFR § 825.102.)
- (q) “Serious Injury or Illness” means: 1) in the case of a member of the Armed forces, including a member of the National Guard or reserves, means an injury or illness that a covered servicemember incurred in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by the service in the line of duty on active duty in the Armed Forces) and that may render the servicemember medically unfit to perform the duties of the member’s office, grade, rank, or rating; or 2) in the case of a veteran who was a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran. (29 CFR § 825.102.)

8.3c *Reasons for Leave*

Leave is only permitted for the reasons listed below.

- (a) The birth of a child or to care for a newborn of an employee; (29 CFR § 825.120; Gov. Code § 12945.2(c)(3)(A));
- (b) The placement of a child with an employee in connection with the adoption or foster care of a child; (29 CFR § 825.121; Gov. Code § 12945.2(c)(3)(A));
- (c) Leave to care for a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner who has a serious health condition; (29 CFR § 825.113; Gov. Code § 12945.2(c)(3)(A) & (B));
- (d) Leave because of a serious health condition that makes the employee unable to perform any one or more essential functions of his/her position; (29 CFR § 825.113; Gov. Code § 12945.2(c)(3)(C));
- (e) Leave for a variety of “qualifying exigencies” arising out of the fact that an employee’s spouse, domestic partner, child, or parent is on active duty or call to active-duty status in the National Guard or Reserves in support of a contingency operation (29 CFR § 825.126 -- This is an FMLA leave and not a CFRA leave); or
- (f) Leave to care for a spouse, son, daughter, parent, or “next of kin” who is a covered servicemember of the U.S. Armed Forces who has a serious injury or illness: incurred in the line of duty while on active military duty; or existed before the beginning of the member’s active duty and was aggravated by service in the line of duty on active duty in the Armed Forces. This leave can run up to 26 weeks of unpaid leave during a single 12-month period. (29 CFR § 825.127 -- This is a FMLA leave and not a CFRA leave.)

8.3d Employees Eligible for Leave

An employee is eligible for leave if:

- (a) The employee has been employed by LAFCo for at least 12 months; and
- (b) The employee has been employed by LAFCo for at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave; and
- (c) The LAFCo directly employs at least 5 employees performing services for a wage or salary. (Gov. Code § 12945.2(b) (3).)

An employee is eligible for 12 weeks of parental leave to bond with a new child within one year of the child’s birth, adoption or foster care placement if:

- (a) The employee has been employed by LAFCo for at least 12 months; and
- (b) The employee has been employed by LAFCo for at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave; and

- (c) LAFCo directly employs at least 5 employees performing services for a wage or salary. (Gov. Code § 12945.6(b)(3).)

8.3e *Amount of Leave*

Eligible employees are entitled to a total of 12 workweeks (or 26 workweeks to care for a covered servicemember) of leave during any 12-month period. If FMLA leave qualifies as both military caregiver leave and care for a family member with a serious health condition, the leave will be designated as military caregiver leave first. (29 CFR § 825.127.)

8.3f *Minimum Duration of Leave*

- (a) If leave is requested for the birth, adoption or foster care placement of a child of the employee, leave must be concluded within one year of the birth or placement of the child. In addition, the basic minimum duration of such leave is two weeks. However, an employee is entitled to leave for one of these purposes (e.g., bonding with a newborn) for less than two weeks duration on any two occasions. (2 Cal.Code Regs § 11090(d).)
- (b) If leave is requested to care for a child, parent, spouse or the employee him/herself with a serious health condition, there is no minimum amount of leave that must be taken. However, compliance with the notice and medical certification provisions in this Policy is required. (29 CFR § 825.205; 2 Cal.Code Regs § 11090(e).)

8.3g *Employee Benefits While on Leave*

- (a) **Group Health Insurance During Unpaid Leave:** Leave under this Policy is unpaid. While on unpaid leave, employees will continue to be covered by LAFCo's group health insurance for up to 12 weeks each leave year to the same extent that coverage is provided while the employee is on the job. If the employee is disabled by pregnancy, coverage will continue up to four months each leave year. If an employee disabled by pregnancy also uses leave under the CFRA for baby-bonding, LAFCo will maintain her coverage while she is disabled by pregnancy (up to four months or 17 1/3 weeks) and during her CFRA leave (up to 12 weeks). (Gov. Code §§ 12945(a)(2)(A) & 12945.2(s).)
- (b) **Benefit Plans Not Provided through LAFCo Group Health Plan During Unpaid Leave Do Not Continue:** LAFCo does not pay for benefit plans that are not part of the group health plan for any employee on unpaid leave. As a result, employees will not continue to be covered under LAFCo benefit plans that are not provided through LAFCo group health plans while the employee is on unpaid leave. (2 Cal. Code Regs § 11092(e).)
- (c) **Payment of Premiums:** Employees may make the appropriate contributions for continued coverage under the health benefits plans by payroll deductions (if the employee is using his or her paid leave) or direct payments (if the employee is not using his or her paid leave). LAFCo will inform the employee whether the direct payments for premiums should be paid to the carrier or to LAFCo, and the deadlines for paying

premiums in order to prevent coverage from being dropped. Employee contribution rates are subject to any changes in rates that occur while employee is on leave.

- (d) **Recovery of Premium if the Employee Fails to Return from Leave:** If an employee fails to return to work after his/her leave entitlement has been exhausted or expires, LAFCo shall have the right to recover its share of health plan premiums for the entire leave period, unless the employee does not return because of the continuation, recurrence, or onset of a serious health condition of the employee or his/her family member which would entitle the employee to leave, or because of circumstances beyond the employee's control. (29 CFR § 825.213; Gov. Code § 12945.2(f)(1); 2 Cal.Code Regs § 11092(c)(5).)

8.3h *Substitution of Paid Accrued Leaves*

Although family and medical care leave is unpaid, an employee may elect and LAFCo will require an employee to concurrently use all paid accrued leaves during family and medical care leave as described below.

8.3i.1 *Employee's Right to Use Paid Accrued Leave Concurrently with Family Leave*

An employee may use any earned or accrued paid leave except sick leave for all or part of any unpaid family and medical care leave. An employee is entitled to use sick leave concurrently with family and medical care leave for the employee's own serious health condition or that of the employee's parent, spouse, domestic partner or child. (Gov. Code § 129045.2(e); Labor Code §§ 233 & 246.5(a)(1).)

8.3i.2 *LAFCo's Right to Require an Employee to use Paid Leave when using FMLA/CFRA Leave*

Employees must use and exhaust their accrued leaves concurrently with family and medical care leave to the same extent that employees have the right to use their accrued leaves concurrently with family and medical care leave with two exceptions:

- (a) Employees are not required to use paid leave during leave pursuant to a disability plan that pays a portion of the employee's salary while on leave unless the employee agrees to use paid leave to cover the unpaid portion of the disability leave benefit; (29 CFR § 825.207(d); 2 Cal.Code Regs. § 11092(b)(2) & (3)); and
- (b) An employee must agree to use accrued sick leave to care for a child, parent, spouse or domestic partner. (Gov. Code § 12945.2(e); 2 Cal.Code Regs § 11092(b).)

8.3i.3 LAFCo's Right to Require an Employee to Exhaust FMLA/CFRA Leave Concurrently with Other Leaves

If an employee takes a leave of absence for any purpose which also qualifies under both the FMLA and CFRA, LAFCo will designate that leave as running concurrently with the employee's 12-week FMLA/CFRA leave entitlement. (Labor Code §4850(e).)

8.3i.4 LAFCo's and Employee's Rights if an Employee Requests Accrued Leave without Mentioning FMLA or CFRA

If an employee requests to utilize accrued vacation leave or other accrued paid time off without reference to a FMLA/CFRA qualifying purpose, LAFCo may not ask the employee if the leave is for a FMLA/CFRA qualifying purpose. (2 Cal.Code Regs § 11092(b)(4)(A).) However, if LAFCo denies the employee's request and the employee provides information that the requested time off is for a FMLA/CFRA qualifying purpose, LAFCo may require the employee to exhaust accrued leave as described above. (2 Cal.Code Regs § 11092(b)(4)(A)(1).)

8.3j Medical Certification/ Recertification

Employees who request leave must provide a medical certification and/or recertification to support the need for the leave as described below:

- (a) **Employee's Own Serious Health Condition:** Employees who request leave for their own serious health condition must provide written certification from the health care provider that contains all of the following: the date, if known, on which the serious health condition commenced; the probable duration of the condition; and a statement that, due to the serious health condition, the employee is unable to work at all or is unable to perform any one or more of the essential functions of his or her position. (Gov. Code § 12945.2(j)(2); 2 Cal. Code Regs § 11087(a)(2); 2 Cal.Code Regs § 11091(b)(2).) Upon expiration of the time period the health care provider originally estimated that the employee needed for his/her own serious health condition, the employee must obtain recertification if additional leave is requested. (Gov. Code § 12945.2(j)(2); 2 Cal. Code Regs § 11091(b)(2); 29 CFR § 825.308.)

- (b) **Family Member Serious Health Condition:** Employees who request leave to care for a child, parent, grandparent, grandchild, sibling, domestic partner or a spouse who has serious health condition must provide written certification from the health care provider of the family member requiring care that contains all of the following: the date, if known, on which the serious health condition commenced; the probable duration of the condition; an estimate of the amount of time which the health care provider believes the employee needs to care for the child, parent, grandparent, grandchild, sibling, domestic partner, or spouse, and a statement that the serious health condition warrants the participation of the employee to provide care during a period of treatment or supervision of the family member. The term "warrants the participation of the

employee” includes, but is not limited to, providing psychological comfort, and arranging third party care for the covered family member, as well as directly providing, or participating in, the medical care. (Gov. Code § 12945.2(k)(1); 2 Cal.Code Regs § 11087(a)(1); 2 Cal.Code Regs § 11091(b)(1).) Upon expiration of the time period the health care provider originally estimated that the employee needed to care for a covered family member, the employer must obtain recertification if additional leave is requested. (Gov. Code § 12945.2(j)(2); 2 Cal.Code Regs § 11091(b)(1); 29 CFR § 825.308.)

- (c) ***Servicemember Serious Injury or Illness:*** Employees who request FMLA leave to care for a covered servicemember who is a child, spouse, parent or “next of kin” of the employee, must provide written certification from a health care provider regarding the injured servicemember’s serious injury or illness. (29 CFR § 825.310.) LAFCo will verify the certification as permitted by the FMLA regulations. (29 CFR § 825.310(e) &(f).)

- (d) ***Qualifying Exigency:*** The first time an employee requests FMLA leave because of a qualifying exigency, an employee may require the employee to provide a copy of the military member’s active-duty orders or other documentation issued by the military which indicates that the military member is on covered active duty or call to active-duty status in a foreign country, and the dates of the military member’s active-duty service. A copy of the new active-duty orders or similar documentation shall be provided to LAFCo if the need for leave because of a qualifying exigency arises out of a different active duty or call to active-duty status of the same or a different military member. (29 CFR § 825.309.) LAFCo will verify the certification as permitted by the FMLA regulations. (29 CFR § 825.309(d).)

8.3k *Time to Provide a Medical Certification*

When an employee has provided at least 30 days’ notice for a foreseeable leave, the employee must provide a medical certification before the leave begins. When this is not possible, the employee must provide the medical certification to LAFCo within the time frame requested by LAFCo (which must allow at least 15 calendar days after the employer’s request), unless it is not practicable under the particular circumstances to do so despite the employee’s diligent, good faith efforts. (2 Cal.Code Regs § 11091(b)(3); 29 CFR § 825.305(b).)

8.3l *Consequences for Failure to Provide an Adequate or Timely Certification*

If an employee provides an incomplete medical certification, the employee will be given a reasonable opportunity to cure any such deficiency. (2 Cal.Code Regs § 11091(b)(3); 29 CFR § 825.313(a) & (b).) However, if an employee fails to provide a medical certification within the time frame established in this Policy, LAFCo may delay the taking of FMLA/CFRA leave until required certification is provided or deny FMLA/CFRA protections following the expiration of the time period to provide an adequate certification. (2 Cal.Code Regs § 11091(b)(3); 29 CFR § 825.313(a).)

8.3m *Executive Officer Review of the Contents of Medical Certification for Employee's Own Serious Health Condition*

- (a) **Complete and Sufficient:** The employee must provide a certification for his or her own serious health condition that is complete and sufficient to support the request for leave. A certification is incomplete if one or more of the applicable entries on the certification form have not been completed. A certification is insufficient if the information on the certification form is vague, ambiguous, or not responsive. If the certification is incomplete or insufficient, the Executive Officer will give the employee written notice of the deficiencies and seven days to cure, unless a longer period is necessary in light of the employee's diligent, good faith efforts to address the deficiencies. (29 CFR § 825.305(c).)

- (b) **Authentication and Clarification:** After giving the employee an opportunity to cure the deficiencies in a medical certification for the employee's own serious health condition, the Executive Officer may contact the health care provider who provided the certification to clarify and/or authenticate the certification. "Authentication" means providing the health care provider with a copy of the certification form and requesting verification that the information on the form was completed or authorized by the health care provider who signed the form. "Clarification" means contacting the health care provider to understand the handwriting on the medical certification or to understand the meaning of the response. The Executive Officer may not ask for additional information beyond that required on the certification form. (29 CFR § 825.307(a).)

8.3n *Second and Third Medical Opinions for Employee's Own Serious Health Condition*

If LAFCo has a good faith, objective reason to doubt the validity of a certification for the employee's serious health condition, LAFCo may require a medical opinion of a second health care provider chosen and paid for by LAFCo. If the second opinion is different from the first, LAFCo may require the opinion of a third provider jointly approved by LAFCo and the employee but paid for by LAFCo. The opinion of the third provider will be binding. (29 CFR § 825.307(b) & (c); 2 Cal.Code Regs § 11091(b)(2)(A).) LAFCo must provide the employee with a copy of the second and third medical opinions, where applicable, without cost, upon the request of the employee. (29 CFR § 825.307(d); 2 Cal.Code Regs § 11091(b)(2)(D).)

8.3o *Intermittent Leave or Leave on a Reduced Leave Schedule*

If an employee requests leave intermittently (a few days or hours at a time) or on a reduced leave schedule for his or her own serious health condition, or to care for an immediate family member with serious health condition, the employee must provide medical certification that such leave is medically necessary. "Medically necessary" means there must be a medical need for the leave and that the leave can best be accomplished through an intermittent or reduced

leave schedule. (2 Cal.Code Regs § 11090(e); 29 CFR § 825.202(b).) LAFCo may require an employee who certifies the need for a reduced schedule or intermittent leave to temporarily transfer to an alternate position of equivalent pay and benefits that better accommodates the leave schedule. (2 Cal.Code Regs § 11090(e)(1); 29 CFR § 825.204.)

8.3p *Employee Notice of Leave*

Although LAFCo recognizes that emergencies arise which may require employees to request immediate leave, employees are required to give as much verbal or written notice as possible of their need for leave. (29 CFR § 825.304(a).) If leave is foreseeable, at least 30 days' notice is required. In addition, if an employee knows that he/she will need leave in the future but does not know the exact day(s) (e.g., for the birth of a child or to take care of a newborn), the employee shall inform his/her supervisor as soon as possible that such leave will be needed. (29 CFR § 825.302(a); 2 Cal.Code Regs § 11091(a)(2) & (3).) For foreseeable leave due to a qualifying exigency, an employee must provide verbal or written notice of the need for leave as soon as practicable, regardless of how far in advance such leave is foreseeable. (29 CFR § 825.302(a).)

8.3q *Reinstatement Upon Return from Leave*

- (a) **Reinstatement to Same or Equivalent Position:** Upon expiration of leave, an employee is entitled to be reinstated to the position of employment held when the leave commenced, or to an equivalent position with equivalent benefits and pay. Employees have no greater rights to reinstatement, benefits, and other conditions of employment than if the employee had been continuously employed during the FMLA/CFRA period. (2 Cal.Code Regs § 11087(f) & (g); 2 Cal.Code Regs § 11089(a); 29 CFR § 825.214-215; 29 CFR § 825.216.)

- (b) **Date of Reinstatement:** If a definite date of reinstatement has been agreed upon at the beginning of the leave, the employee will be reinstated on the date agreed upon. If the reinstatement date differs from the original agreement of the employee and LAFCo, the employee will be reinstated within two business days, where feasible, after the employee notifies the employer of his/her readiness to return. (2 Cal.Code Regs § 11089(c)(1) & (2).)

- (c) **Employee's Obligation to Periodically Report on His/her Condition:** Employees may be required to periodically report on their status and intent to return to work. This will avoid any delays to reinstatement when the employee is ready to return. (29 CFR § 825.311.)

- (d) **Fitness for Duty Certification:** As a condition of reinstatement of an employee whose leave was due to the employee's own serious health condition, which made the employee unable to perform his or her job, the employee must obtain and present a fitness-for-duty certification from the health care provider stating that the employee is able to resume work. Failure to provide such certification will result in denial of reinstatement. (Gov. Code § 12945.2(k)(4); 29 CFR § 825.312.)

8.3r **Required Forms**

Employees must complete the applicable forms to receive family and medical care leave. The forms may be found on the LAFCo server and copies can be printed if requested by staff.

8.4 **Leave Because of Pregnancy, Childbirth, or Related Medical Condition**

8.4a **Amount of Leave**

An employee who is disabled because of pregnancy, childbirth, or a related medical condition is entitled to an unpaid leave for up to the number of hours she would normally work within four calendar months (one-third of a year or 17 1/3 weeks). (Gov. Code § 12945(a).) For a full-time employee who works 40 hours per week, “four months” means 693 hours of leave entitlement, based on 40 hour per week times 17 1/3 weeks. (2 Cal. Code Regs § 11042(a)(1).) An employee who works less than 40 hours per week will receive a pro rata or proportional amount of leave. (2 Cal. Code Regs § 11042(a)(2).)

8.4b **Notice & Certification Requirements**

- (a) Notice:** Requests for pregnancy disability leave must be submitted in writing with reasonable advance notice of the medical need for the leave. (2 Cal.Code Regs § 11042(c)(1).) All leaves must be confirmed in writing, have an agreed-upon specific date of return, and be submitted to the Executive Officer. (2 Cal.Code Regs § 11042(a).)

- (b) Certification:** The request for pregnancy disability leave must be supported by a written certification from the attending physician stating that: 1) the employee is disabled from working by pregnancy, childbirth or a related medical condition; 2) the date on which the employee became disabled by pregnancy, childbirth or a related medical condition; and 3) the estimated duration or end date of the leave. (2 Cal.Code Regs §§11050(b)(7); 11050(e).)

8.4c **Compensation During Leave**

Pregnancy disability leaves are without pay. However, the employee must first use sick leave, if any. (2 Cal.Code Regs § 11044(b)(1).) Once sick leave is depleted, the employee may elect to use vacation leave or any other accrued paid time off during the leave. (2 Cal.Code Regs § 11044(b)(2).)

8.4d **Benefits During Leave**

- (a) Group Health Insurance:** An employee on pregnancy disability leave may continue to receive any group health insurance coverage that was provided before her leave, beginning on the date the pregnancy disability leave begins and continuing for up to four months in a 12-month period, at the same level and under the same conditions

that coverage would have been provided if the employee had continued in employment continuously for the duration of the leave. (Gov. Code § 12945(a)(2)(A); 2 Cal. Code Regs § 11044(c).) LAFCo may recover premiums it paid to maintain health coverage if an employee does not return to work following pregnancy disability leave, unless the reason for the failure to return is a circumstance beyond her control or the use of the separate right to 12 weeks of bonding leave under the California Family and Medical Leave Act. (Gov. Code § 12945(a)(2)(A); 2 Cal.Code Regs § 11044(c)(3).)

- (b) *Sick and Vacation Leaves*: Sick and vacation leaves do not accrue while an employee is on unpaid pregnancy disability leave. (See 2 Cal. Code Regs § 11044(d)(1).)
- (c) *Employee Status during Leave*: The employee retains employee status during the leave. The leave is not a break in service for purposes of longevity or seniority under any collective bargaining agreement or employee benefit plan. Benefits will be resumed upon the employee's reinstatement in the same manner and at the same levels as provided when the leave began, without any new qualification period, physical exam, or other qualifying provisions. (2 Cal.Code Regs § 11044(e).)

8.4e Reinstatement

- (a) Upon the expiration of pregnancy leave, the employee will be reinstated to her original or a comparable position, so long as it was not eliminated for a legitimate business reason during the leave. (2 Cal.Code Regs § 11043(c).)
- (b) If the employee's original position is no longer available, the employee will be assigned to a comparable, open position. (2 Cal.Code Regs § 11043(c)(2).)
- (c) If upon return from leave an employee is unable to perform the essential functions of her job because of a physical or mental disability, LAFCo will initiate an interactive process with the employee in order to identify a potential reasonable accommodation in accordance with these Policies. (See Policy 206, Reasonable Accommodation and Interactive Process.)

8.5 Other Leaves

8.5a Jury Duty Leave/Subpoenaed or Court-Ordered Witness Leave

Any employee, who is summoned to serve on a jury, or subpoenaed or ordered to be a witness, must notify his or her supervisor or department head as soon as possible. Any employee who is released from jury service prior to the end of his or her scheduled work hours must report to work unless otherwise authorized by his or her supervisor. (Gov. Code § 1230; Labor Code § 230; 28 USC § 1875(c).)

8.5a.1 Overtime-Eligible Employees

All overtime-eligible employees will be paid for actual work hours missed because of time spent in jury service or court. The time spent on jury duty is not work time for purposes of calculating overtime compensation. LAFCo will offset from pay the amount the employee receives from the Court for jury fees.

8.5a.2 Overtime-Exempt Employees

All FLSA-exempt employees will continue to receive their normal salary while on jury duty or as serving as a witness only for any work week in which they perform any work duties. (29 CFR § 541.602(a) & (b)(3).) LAFCo will offset the amount from pay the employee receives from the Court for jury fees. (29 CFR § 541.602(b)(3).)

8.5b Other Court or Administrative Proceeding Appearances

8.5b.1 Regarding Agency Duties

Any employee, including a temporary, seasonal, or extra help employee, who is subpoenaed to appear in court in a matter regarding an event or transaction in the course of his or her LAFCo job duties, must give his or her supervisor as much advance notice as is possible. LAFCo will determine whether the matter involves an event or transaction in the course of the employee's LAFCo job duties. If so, this leave to appear in court will be without loss of compensation, and the time spent will be considered work time. LAFCo will offset the amount from pay the employee receives for witness fees.

8.5b.2 Regarding Employee-Initiated Proceedings

Any employee, including a temporary, seasonal, or extra help employee who is subpoenaed to appear or appears in court because of civil or administrative proceedings that he or she initiated is not entitled to receive compensation for time spent related to those proceedings. An employee may request to receive time off without pay or may use any accrued leave other than sick leave for time spent related to those proceedings. The time spent in these proceedings is not considered work time. Notwithstanding the above, an employee who is testifying or appearing as the designated representative in PERB conferences or hearings, or at a personnel or merit commission is entitled to paid release time. (Gov. Code § 3505.3(a)(2) & (3).)

8.5b.3 Regarding Crime Victim/ Victim Family Member Court Attendance Leave

Any employee, including a temporary, seasonal, or extra help employee, who is a victim of a crime that is a serious or violent felony, or a felony involving theft or embezzlement, may take leave from work to attend judicial proceedings related to that crime, if the employee provides LAFCo a copy of the notice of the scheduled proceeding in advance. If advance notice is not feasible, the employee must provide LAFCo, within a reasonable time after the leave is taken,

documentation from the District Attorney, victim's rights office, or court / governing agency that shows that the judicial proceeding occurred when the leave was used. An employee who is an immediate family member of such a crime victim, including: a registered domestic partner; the child of the registered domestic partner; spouse; child; stepchild; brother; stepbrother; sister; stepsister; mother; stepmother; father; or stepfather of the crime victim is also entitled to leave from work to attend judicial proceedings relating to that crime. The leave is unpaid unless the employee elects to use accrued vacation, sick, or other paid leave, or compensatory time off. (Labor Code § 230.2.)

8.5b.4 *Regarding Crime Victim/ Family Member Victims' Rights Proceedings Leave*

Any employee, including a temporary, seasonal, or extra help employee, who is a victim of a crime listed in Labor Code section 230.5(a)(2)(A), may take leave from work to appear in court to be heard at any proceeding in which the right of the victim is at issue, if the employee provides the employer reasonable advance notice. If advance notice is not feasible, the employee must provide LAFCo, within a reasonable time after the leave is taken, certification from a police report, a district attorney or court, or from a health care provider or victim advocate, that the employee was a victim of any of the crimes listed in Labor Code section 230.5(a)(2)(A). An employee who is a spouse, parent, child, sibling, or guardian of such a crime victim is also a victim who is entitled to this leave if the above notice or certification requirements are met. The leave is unpaid unless the employee elects to use accrued vacation or paid leave, or compensatory time off.

8.5c *Leave for Victims of Domestic Violence, Sexual Assault, or Stalking to Obtain Restraining Orders or Injunctive Relief*

Any employee, including a temporary, seasonal, or extra help employee, who is a victim of domestic violence, sexual assault, or stalking, may take leave from work to obtain or attempt to obtain any relief, including, but not limited to: a temporary restraining order, restraining order, or other injunctive relief to help ensure the health, safety, or welfare of the employee or his or her child, if the employee provides advance notice of the need for leave. If advance notice is not feasible, the employee must provide any of the following certifications within a reasonable time after the leave: a police report indicating that the employee was a victim; a court order protecting the employee from the perpetrator; evidence from the district attorney or court that the employee has appeared in court; or documentation from a health care provider or counselor that the employee was undergoing treatment for physical or mental injuries or abuse. The leave is unpaid unless the employee elects to use 2014 Healthy Workplaces sick leave (Labor Code § 246.5(a)(2)), accrued vacation or paid leave, or compensatory time off. (Labor Code § 230.5(f).)

8.5c.1 *Leave for Victims of Domestic Violence, Sexual Assault, or Stalking to Obtain Medical Attention or Counseling or Safety Planning*

Any employee, including a temporary, seasonal, or extra help employee, who is a victim of domestic violence, sexual assault, or stalking, may take leave from work to attend to any of the

following: obtaining medical attention or psychological counseling; obtaining services from a shelter, program or crisis center; or participating in safety planning or other actions to increase safety, if the employee provides advance notice of the employee's intention to take time off for these purposes. If advance notice is not feasible, the employee must provide any of the following to LAFCo within a reasonable time after the leave: a police report indicating that the employee was a victim; a court order protecting the employee from the perpetrator; evidence from the district attorney or court that the employee has appeared in court; or documentation from a health care provider or counselor that the employee was undergoing treatment for physical or mental injuries or abuse. The leave is unpaid unless the employee elects to use 2014 Healthy Workplaces sick leave (Labor Code § 246.5(a)(2)), accrued vacation or personal leave, or compensatory time off.

8.5d *Bereavement Leave*

All employees, including or except temporary, seasonal, or extra help employees, may utilize paid bereavement leave to attend a funeral or memorial service, or to take care of family matters, that are related to the death of a member of immediate family. "Immediate family" consists of the following: employee's spouse, domestic partner, child, stepchild, parent, grandparent, grandchild, brother, sister, mother/father-in-law, son or daughter-in-law, brother or sister-in-law, legal guardian, or custodial child, or the same relatives of a domestic partner. Employees are entitled to up to three days for each death in the immediate family. An employee who utilizes bereavement leave shall notify his/her supervisor or department head of the intent to use such leave.

8.5e *Military Leave*

Military leave will be granted in accordance with state and federal law. An employee requesting leave for this purpose shall promptly provide the department head with a copy of the military orders specifying the dates, site and purpose of the activity or mission. Within the limits of such orders, the department head may determine when the leave is to be taken and may modify the employee's work schedule to accommodate the request for leave.

8.5f *School-Related Leave*

8.5f.1 *School or Licensed Day Care Activity Leave*

Any employee who is a parent, guardian, stepparent, foster parent, grandparent, or person who stands in loco parentis to one or more children who are in kindergarten or grades 1 through 12, or who are in a licensed child care facility, shall be allowed up to 40 hours each school year, not to exceed eight hours in any calendar month of the school year, to: participate in activities of their child's school or licensed child care facility; find, enroll, or re-enroll a child in a school or with a licensed childcare provider; or to pick up a child due to a childcare provider or school emergency. The employee must provide reasonable advance notice to his/her supervisor of the planned absence. The leave is unpaid unless the employee uses vacation, personal leave or compensatory time off. The employee must provide documentation from the

school or licensed childcare facility as verification that the employee participated in school or childcare facility activities on a specific date and at a particular time. If both parents, guardians, or grandparents having custody work for LAFCo at the same LAFCo work site, only the first parent requesting will be entitled to leave under this provision. (Labor Code § 230.8.)

8.5f.2 *Child Suspension Leave*

Any employee who is the parent or guardian of a child in grades 1 through 12 may take time off to go to the child's school in response to a request from the child's school, if the employee gives advance notice to his or her supervisor. A school has the authority to request that the parent attend the child's school if the child has: committed any obscene act; habitually used profanity or vulgarity; disrupted school activities; or otherwise willfully defied the valid authority of school personnel.

8.5g *Paid Administrative Leave*

LAFCo has the right to place an employee on leave with full pay for non-disciplinary reasons at any time when the Executive Officer has determined that the employee's and/or LAFCo best interests warrant the leave. The employee does not have a right to appeal the decision to be placed on administrative leave with pay.

8.5h *Leave of Absence Without Pay Must Be Authorized by Law or These Policies*

Unless authorized by law or a LAFCo policy, an employee is not entitled to a leave of absence without pay. An authorized leave of absence without pay is not a break in service for purposes of calculating seniority. Unless required by law, vacation leave credits, sick leave credits, increases in salary, all other paid leaves, holidays and fringe benefits and other similar benefits do not accrue to an employee on unpaid leave. Unless required by law, LAFCo will not maintain contributions toward group insurance or retirement coverage for the employee on such leave. During the period of authorized unpaid leave, all service and leave credits shall be retained at the levels existing as of the effective date of the leave.

8.5i *Industrial Injury Leave*

8.5i.1 *Employees Not Covered by Labor Code Section 4850*

Employees, other than those covered by Labor Code section 4850, who are absent from work by reason of an injury or illness covered by Workers' Compensation, shall continue in pay status under the following provisions.

8.5i.1.A *Coordination of Benefits*

When the employee authorizes, the difference between the amount granted pursuant to such Workers' Compensation and the employee's regular pay will be deducted from the employee's accumulated sick leave, vacation, personal holidays, and compensatory time, if any. The

employee will continue in pay status and receive his or her pay until his/her accumulated sick leave, and authorized compensatory time, personal holidays and vacation days, have been depleted to the nearest hour.

8.5i.1.B *Accrual of Sick and Vacation Leave Continues While on Paid Leave*

During the time the employee is in fully paid status while absent from work by reason of injury or illness covered by Workers' Compensation, he or she shall continue to accrue sick leave and vacation benefits as though he or she were not on leave of absence.

8.5i.1.C *Unpaid Leave and Continuation of Health Care Benefits*

Any employee subject to this Policy who depletes his or her accumulated sick leave, compensatory time, personal holiday time and vacation days while absent from work by reason of an injury or illness covered by Workers' Compensation may receive an unpaid leave of absence and continuation of health care benefits consistent with state and/or federal law.

8.5j *Time Off to Vote*

Any employee, if he or she does not have sufficient time outside of working hours to vote, may request up to two hours of paid leave either at the beginning or end of scheduled working hours to enable him or her to vote. The employee must request time off to vote from his or her supervisor at least two days prior to election day.

Chapter 9 Resignation, Job Abandonment, Layoff, and Separation

9.1 Resignation, Job Abandonment, Layoff and Separation

9.1a *Types of Separation*

All separations of employees from positions in LAFCo employment are designated as one of the following types:

- Probationary Release;
- Release of temporary/ seasonal/ extra help employee;
- Resignation;
- Retirement;
- Job abandonment;
- Layoff;
- Non-disciplinary separation; or
- Disciplinary separation.

9.1b *Probationary Release*

Probationary employees serving in their initial probationary period with LAFCo may be released at any time during the probationary period as recommended by the Executive Officer, without cause or reason or notice. A released probationary employee has no right to appeal or to submit a grievance.

9.1c *Release of Temporary/Seasonal/Extra Help Employees*

A temporary/ seasonal/ extra help employee may be separated at any time, without cause, and without right to any appeal or grievance.

9.1d *Resignation*

An employee who wishes to resign his or her LAFCo employment in good standing must submit written notice of resignation to the Executive Officer at least two weeks prior to the planned separation date. The written notice must state the reasons for the resignation. Failure to follow the aforementioned procedure may be cause for denying future employment with LAFCo. A resignation becomes final when the Executive Officer accepts the resignation in writing. Once a resignation has been accepted, it is final and irrevocable. A resignation can be accepted by the Executive Officer even if it is submitted less than two weeks prior to the planned resignation date.

9.1e Retirement

An employee planning to retire may provide a written notice to the Executive Officer prior to the effective date of the retirement. A notice of retirement becomes final when the Executive Officer accepts the notice of retirement in writing. Once a notice of retirement has been accepted, it is final and irrevocable.

9.1f Job Abandonment

An employee is deemed to have resigned from his/her position if he or she is absent for five consecutive scheduled workdays/shifts without prior authorization and without notification during the period of the absence. The employee will be given written notice, at his or her address of record, of the circumstances of the job abandonment, and an opportunity to provide an explanation for the employee's unauthorized absence. An employee who promptly responds to the agency's written notice, within the timeframe set forth in the written notice, can arrange for an appointment with the Executive Officer before final action is taken, to explain the unauthorized absence and failure of notification. An employee separated for job abandonment will be reinstated upon proof of justification for such absence, such as severe accident, severe illness, false arrest, or mental or physical impairment which prevented notification. No employee separated for job abandonment has the right to a post-separation appeal.

9.1g Layoff

Whenever, in the judgment of LAFCo Commission, a reduction in personnel is necessary for economic or operational reasons, any employee may be laid off or demoted for non-disciplinary reasons.

9.1g.1 Order of Layoffs

Employees will be laid off in the inverse order of their seniority in their classification in the department. Seniority is determined based on the length of employment in the affected classification in the department, or higher classifications in the department. Length of employment includes all days of employment in attendance at work and on authorized or legally-protected leaves of absence. Length of service does not include unauthorized periods of leave or suspension or layoff. Within each classification, employees will be laid off in the following order: temporary; part-time; probationary; and for-cause status. If two or more employees in a classification to be laid off have the same length of employment, the employee to be laid off will be decided by lottery.

9.1g.2 Notification of Layoff

Employees to be laid off will be given 21 calendar days' notice of layoff.

9.1g.3 *Displacement*

For-cause employees who are noticed for layoff and who have held for-cause status in a lower classification within the same classification series in the same department, may displace employees in the lower classification provided that the employee seeking to displace has greater length of employment in the lower classification than the incumbent in the lower classification. Employees in lower classifications will be displaced in inverse order of their length of employment in the classification. Any employee who seeks to displace another must provide the Executive Officer with written notice no later than five working days after the date of the notice of layoff.

9.1g.4 *Appeal*

An employee who has been noticed for layoff, and who has any questions or concerns about the layoff decision or process may make an appointment to be heard by the Executive Officer for an informal pre-layoff review. The employee must request this appeal in writing within five workdays from the date of the notice of layoff. The Executive Officer decision is final.

9.1h *Non-Disciplinary Separation*

Any employee separated because of an inability to accommodate after the reasonable accommodation and interactive process is concluded, will be given a written pre-separation notice of the reasons for the separation, the evidence supporting the decision to separate for non-disciplinary reasons, and an opportunity to respond before the separation takes effect. Any for-cause employee has the opportunity for a post-separation appeal as described in Chapter 10 of these rules, Causes for Discipline and Procedures.

9.1i *Disciplinary Separation*

A for-cause employee may be separated for disciplinary reasons pursuant to the policy and procedures in Chapter 10 of these rules, Causes for Discipline and Procedures.

9.1j *Return of LAFCo Property*

All LAFCo property in the employee's possession must be returned prior to separation, including keys, key fobs, identification cards, equipment, credit cards, gas cards, cell phones, pagers, and any other LAFCo equipment.

9.1k *Job References/Verification of Employment*

All reference inquiries and verifications of employment must be referred to and approved by the Executive Officer. Unless the Executive Officer receives a written waiver signed by the employee, LAFCo will release only the employee's dates of employment, last position held, and final salary rate. Department heads and supervisors should not provide information in

response to requests for reference checks or verification of employment, unless specifically approved by the Executive Officer on a case-by-case basis.

Chapter 10 Discipline

10.1 Causes for Discipline and Procedures

10.1a *Causes for Discipline*

Employees may be disciplined for, including but not limited to, any of the following causes of discipline:

1. Violation of any department rule, LAFCo policy or LAFCo regulation, ordinance or resolution;
2. Absence without authorized leave or tardiness;
3. Excessive absenteeism and/or tardiness as defined by the employee's department head, and/or these Policies;
4. Use of leave from work in a manner not authorized or provided for under LAFCo policies;
5. Making any false representation or statement, or making any omission of a material fact;
6. Providing wrong or misleading information or other fraud in securing appointment, promotion or maintaining employment;
7. Unsatisfactory job performance;
8. Inefficiency;
9. Damaging any LAFCo property, equipment, resource, or vehicle, or the waste of LAFCo supplies through negligence or misconduct.
10. Insubordination; or insulting or demeaning the authority of a supervisor or manager;
11. Dishonesty;
12. Theft;
13. Violation of the LAFCo's or a department's confidentiality policies, or disclosure of confidential LAFCo information to any unauthorized person or entity;
14. Misuse or unauthorized use of any LAFCo property, including, but not limited to: physical property, electronic resources, supplies, tools, equipment, LAFCo communication systems, LAFCo vehicles or intellectual property;

15. Mishandling of public funds;
16. Falsifying or tampering with any LAFCo record, including work time or financial records;
17. Discourteous or offensive treatment of the public or other employees;
18. Abusive conduct, including malicious verbal, visual or physical actions, or the gratuitous sabotage or undermining of a person's work performance.
19. Conviction, meaning any judicial determination of guilt, of a crime that has a nexus to the employee's job duties;
20. Unapproved outside employment or activity, or other enterprise that constitutes a conflict of interest with service to the LAFCo;
21. Any conduct that impairs, disrupts or causes discredit to the LAFCo, to the public service, or other employee's employment;
22. Reckless or unsafe conduct;
23. Working overtime without prior authorization or refusing to work assigned overtime;
24. Carrying firearms or other dangerous weapons while on duty when not required by job duties.
25. Horseplay or fighting.

10.1b *Types of Counseling, Reprimands and Discipline*

The following are types of counseling, reprimands and discipline which LAFCo may impose:

- (a) **Counseling Memo:** A counseling memo will be provided to an employee to identify: a failure of appropriate conduct or performance issue; the performance the employee is to demonstrate in the future; and consequences for failure to correct the behavior or problem. A counseling memo will be retained in the supervisor's file until the completion of the evaluation year, and then documented in the performance evaluation, as the supervisor deems necessary. A counseling memo is not subject to the discipline or discipline appeal procedures described below.
- (b) **Verbal Reprimand:** A verbal reprimand is a verbal direction from a supervisory employee to discontinue inappropriate conduct or to correct a performance issue. A verbal reprimand will be documented in writing and retained in the supervisor's file until the completion of the evaluation year and then documented in the performance evaluation, as the supervisor deems necessary. A verbal reprimand is not subject to the discipline or discipline appeal procedures described below.

- (c) **Written Reprimand:** A written reprimand is written direction from a supervisory employee to discontinue inappropriate conduct or to correct a performance issue. A written reprimand will be retained in the employee's personnel file and documented in the performance evaluation. Unless required by law, a written reprimand is not subject to the discipline or discipline appeal procedures described below. The employee has the right to have his or her written rebuttal attached to the reprimand in the employee's personnel file, if the employee submits the rebuttal to the Executive Officer within 14 days after the reprimand is received.
- (d) **Suspension Without Pay:** LAFCo may suspend an employee from his/her position without pay for cause. Documents related to a suspension shall become part of the employee's personnel file when the suspension is final and documented in the performance evaluation. A suspension without pay is subject to the discipline and discipline appeal procedures described below. Employees who are exempt from Fair Labor Standards Act (FLSA) overtime will only be suspended as authorized by the FLSA.
- (e) **Reduction in Pay or Paid Leave:** LAFCo may reduce an employee's pay or paid leave for cause. A reduction in pay for disciplinary purposes may take one of three forms: 1) a decrease in salary to a lower step within the salary range; 2) a decrease in salary paid to an employee for a fixed period of time; or 3) loss of accrued paid vacation or administrative leave, floating holiday, or compensatory time off. Documents related to a reduction in pay shall become part of the employee's personnel file when the reduction in pay is final and documented in the performance evaluation. A reduction in pay is subject to the discipline and discipline appeal procedures described below. Employees who are exempt from the Fair Labor Standards Act (FLSA) overtime requirements are not subject to pay reduction, except loss of accrued vacation, floating holiday, or administrative leave.
- (f) **Demotion:** LAFCo may demote an employee from his or her position to a lower position for cause. Documents related to a demotion shall become part of the employee's personnel file when the demotion is final and documented in the performance evaluation. A demotion is subject to the discipline and discipline appeal procedures described below.
- (g) **Dismissal:** LAFCo may dismiss an employee from his or her position for cause. Documents related to the dismissal shall become a part of an employee's personnel file when the dismissal is final. A dismissed employee is entitled to the discipline and discipline appeal procedures described below.

10.1c ***Discipline Procedures***

The following discipline procedures only apply to the LAFCo's for-cause employees. All employees other than for-cause employees, namely temporary, seasonal, extra-help, at-will, probationary employees, may be disciplined or separated at will, with or without cause, and

without the disciplinary procedures listed below. The following discipline procedures apply only to suspension without pay, reduction in pay, demotion, or dismissal.

(a) “Skelly” Notice of Intended Disciplinary Action to Employee: A written notice of the intended disciplinary action shall be given to the employee, which will include the following information:

- The level of the intended discipline;
- The specific charges that support the intended discipline;
- A summary of the facts that show that the elements of each charge at issue in the intended discipline;
- A copy of all materials upon which the intended discipline is based;
- Notice of the employee’s right to respond to the Executive Officer or designee regarding the intended discipline within seven calendar days from the date of the notice, either by requesting a *Skelly* conference, or by providing a written response, or both;
- Notice of the employee’s right to have a representative of his or her choice at the *Skelly* conference; and
- Notice that failure to respond by the time specified constitutes a waiver of the right to respond prior to final discipline being imposed.

(b) Response by Employee and *Skelly* Conference: If the employee requests a *Skelly* conference, the Executive Officer or designee will conduct an informal meeting with the employee. During the informal meeting, the employee shall have the opportunity to rebut the charges against him or her and present any mitigating circumstances. The Executive Officer will consider the employee’s presentation before issuing the disciplinary action. The employee’s failure to attend the conference, or to deliver a written response by the date specified in the *Skelly* notice, is a waiver of the right to respond, and the intended disciplinary action will be imposed on the date specified in the *Skelly* letter.

(c) Final Notice of Discipline: After the *Skelly* conference and/or timely receipt of the employee’s written response, the Executive Officer will: 1) take no disciplinary action; 2) modify the intended discipline; or 3) impose the intended disciplinary action. In any case, the Executive Officer will provide the employee with a notice that contains the following:

- The level of discipline, if any, to be imposed and the effective date of the discipline;
- The specific charges upon which the discipline is based;
- A summary of the facts that show that the elements of each charge at issue in the intended discipline;
- A copy of all materials upon which the discipline is based; and
- A reference to the employee’s appeal right and deadline to appeal.

- (d) Delivery of the Final Notice of Discipline:** The final notice of discipline will be sent by mail method that verifies delivery to the last known address of the employee or delivered to the employee in person. If the notice is not deliverable because the employee has moved without notifying LAFCo or the employee refuses to accept delivery, the effective date of discipline will be the date the post office or delivery service attempted delivery.

10.1d Discipline Appeal Procedures

The following appeal procedures only apply to LAFCo's for-cause employees. All employees other than for-cause employees, namely temporary, seasonal, extra-help, at-will, probationary employees, may be disciplined or separated at will, with or without cause, and without the disciplinary appeal procedures listed below. The following appeal procedures apply only to suspension without pay, demotion, reduction in pay or dismissal.

- (a) Request for Appeal Hearing:** An employee may submit a written request for appeal to the Executive Officer within 14 calendar days from: 1) receipt of the final notice of discipline; or 2) the date of attempted delivery by the post office or delivery service of the notice to the last known address of the employee. Failure to file a timely written request for an appeal waives the right to an appeal hearing and any appeal of the discipline. The Executive Officer shall forward a timely request for appeal to the Personnel Committee for further action.

Appeal Hearing Officer: LAFCo's Personnel Committee shall hear the appeal, unless it designates an individual selected through the State Medication and Conciliation Service (SMCS) to serve as the *Skelly* officer for the discipline at issue.

- (b) Date and Time of the Appeal Hearing:** Once the appeal hearing officer has been designated, the Executive Officer will set a date for an appeal hearing. The employee shall be notified in writing at least 21 days prior to the hearing of the scheduled date.
- (c) Prehearing Notice of Witnesses and Evidence:** No later than 10 days before the hearing date, each party will provide the other and the appeal hearing officer a list of all witnesses to be called (except rebuttal witnesses), and a copy of all evidence (except rebuttal evidence) to be submitted at the hearing. LAFCo will use numbers to identify its evidence; the employee will use alphabet letters. Neither party will be permitted to call any witness or evidence that has not been listed, unless that party can show that the party could not have reasonably anticipated the need for the witness or exhibit.
- (d) Subpoenas:** Upon the request of either party, and upon his or her own motion, the hearing officer will issue subpoenas to compel attendance at the appeal hearing. Each party is responsible for serving his/her/its own subpoenas. LAFCo employees who are subpoenaed to testify during working hours will be released with pay to appear at the hearing. LAFCo employees who are subpoenaed to testify during non-working hours will be compensated for the time they actually spend testifying.

- (e) **Continuances:** The appeal hearing officer may continue a scheduled hearing only upon good cause shown.
- (f) **Record of the Appeal Hearing:** The hearing shall be recorded, either electronically or by a court reporter, at the option of LAFCo. If LAFCo orders a transcript or makes a transcript of the recording, LAFCo will notify the employee within three days of ordering or making the transcript and will provide a copy of the transcript upon receipt of the costs of duplication.
- (g) **Employee Appearance:** The employee must appear personally before the hearing officer at the time and place set for the hearing. The employee may be represented by any person he or she may select.
- (h) **Conduct of the Hearing:**
- 1) **Sworn Testimony:** All witnesses shall be sworn in prior to testifying. The hearing officer or court reporter shall request each witness to raise his or her hand and respond to the following: “Do you swear that the testimony that you are about to give is the truth, the whole truth, and nothing but the truth?”
 - 2) **Evidence:** Hearings need not be conducted according to technical rules relating to evidence and witnesses, but hearings shall be conducted in a manner that the hearing officer decides is the most conducive to determining the truth. The rules dealing with privileges shall be effective to the same extent that they are recognized in civil actions. Irrelevant or unduly repetitious evidence may be excluded. The appeal hearing officer shall determine the relevance, weight and credibility of testimony and evidence.
 - 3) **Exclusion of Witnesses:** During the examination of a witness, all other witnesses, except the parties, shall be excluded from the hearing.
 - 4) **Burden of Proof:** LAFCo has the burden of proof by the preponderance of the evidence.
 - 5) **Authority of Hearing Officer:** The appeal hearing officer shall not have the power to alter, amend, change, add to, or subtract from any of the terms of these Policies.
 - 6) **Professionalism:** All parties and their attorneys or representatives shall not, by written submission or oral presentation, disparage the intelligence, ethics, morals, integrity or personal behavior of their adversaries or the appeal hearing officer.

- (i) **Presentation of the Case:** The parties will address their remarks, evidence, and objections to the appeal hearing officer. The appeal hearing officer may terminate argument at any time and issue a ruling regarding an objection or any other matter. The appeal hearing officer may limit redundant or irrelevant testimony, or directly question the witness. The hearing will proceed in the following order unless the appeal hearing officer directs otherwise:
- 1) LAFCo is permitted to make an opening statement;
 - 2) The employee is permitted to make an opening statement;
 - 3) LAFCo will produce its evidence;
 - 4) The employee will produce its evidence;
 - 5) LAFCo, followed by the employee, may present rebuttal evidence;
 - 6) Oral closing arguments of no more than 20 minutes may be permitted at the discretion of the appeal hearing officer. LAFCo argues first, the employee argues second, and if LAFCo reserved a portion of its time for rebuttal, LAFCo may present a rebuttal.
- (j) **Written Briefs:** Either party may request to submit a written brief and/or a draft decision. The appeal hearing officer will determine whether to allow written briefs or draft decisions, the deadline for submitting briefs, and the page limit for briefs.
- (k) **Appeal Hearing Officer's Recommended Decision:** Within 60 days of the conclusion of the hearing, the appeal hearing officer shall make written findings and a recommended decision as to the discipline.

The LAFCo Commission shall review the findings and recommendations of the appeal hearing officer and may then affirm, revoke, or modify the findings, recommendations, or disciplinary action taken. The decision of the LAFCo Commission is final. There is no process for reconsideration.

- (l) **Proof of Service of the Written Findings and Decision:** LAFCo will mail a copy of the final written findings and decision, along with a proof of service of mailing that confirms that each of the parties and each of the parties' representatives were mailed the final written findings and decision. It shall be the responsibility of the employee to inform the LAFCo of his/her address. A copy of the decision shall also be provided to the Executive Officer.

Chapter 11 Grievances

11.1 Grievance Procedures

11.1a *Definition of a Grievance*

A grievance is an alleged violation of a specific provision of these Policies that adversely affects the employee and that contains all of the information listed in the “Statement of the Grievance” below. The following procedure applies to all LAFCo employees, unless: another dispute resolution procedure applies to the dispute; or a discipline policy and procedure applies. The grievance procedure cannot be utilized to challenge the content of a performance evaluation.

11.1b *Statement of the Grievance*

A concern is not a grievance unless the affected employee is able to state each of the following: the date of the alleged violation; the specific provision(s) of these Policies that were allegedly violated; a description of all facts regarding how the alleged violation occurred; and a list of all persons who are witnesses or are involved. The grievant may use a LAFCo form to make the Statement of the Grievance. A Statement of the Grievance must be signed by the employee filing the grievance to certify that it is filed in good faith.

11.1c *Timelines*

Failure of the LAFCo to comply with the time limits of the grievance procedures allows the grievant to appeal to the next level of review. Failure of the grievant to comply with the time limits of the grievance procedures constitutes settlement and resolution of the grievance on the basis of the last disposition. The parties may extend time limits by mutual written agreement in advance of a deadline.

11.1d *Procedures*

- (a) Step I Informal Resolution with Supervisor:** The employee must first work in good faith to resolve the grievance informally through discussion with his/her immediate supervisor no later than 14 calendar days after the grievant first became aware of the facts or circumstances resulting in the filing of the grievance.

- (b) Step II Formal Resolution:** If the employee believes that the grievance has not been resolved through Step I, the employee may submit a written Statement of the Grievance to the Executive Officer. The employee must submit the Statement of the Grievance within 28 calendar days after he or she first became aware that a grievance has occurred. The Executive Officer shall consider, discuss the grievance with the grievant, and/or investigate as he/she deems appropriate, and shall, within 14 days of receipt of the written Statement of the Grievance, submit his/her decision in writing to the grievant.

(c) Step III Personnel Committee: If the employee believes that the grievance has not been resolved through Step II, the employee may appeal the grievance decision of the department head to the Policy and Personnel Committee . Such appeal must be filed within 14 days of the date of the department head’s written decision. The Policy and Personnel Committee shall consider, discuss the grievance with the grievant, and/or investigate as it deems appropriate, and shall, within 21 days of receipt of the written Statement of the Grievance, submit its decision in writing to the grievant. The decision of the Policy and Personnel Committee shall be final.

Chapter 12 Miscellaneous Policies

12 Personnel Files

12.1a *Confidential LAFCo Files*

LAFCo maintains a personnel file on each employee. Files are kept for at least three years after separation of employment. (Labor Code § 1198.5(c)(1).) A personnel file will contain only material that LAFCo deems necessary and relevant or that is required by law. Personnel files are the property of LAFCo, and access to the information they contain is restricted to protect employee privacy interests.

12.1b *Notification of Changes*

Each employee is responsible to promptly notify the Executive Officer of any changes in his or her contact and benefits information, including: mailing address; telephone number; persons to contact in emergency; and number and names of dependents.

12.1c *Access to Applicant or Employee Medical Information*

All medical information about an employee or applicant is kept in separate medical files and is treated as confidential. Access to employee or applicant medical information shall be strictly limited to only those with a legitimate need to have such information for LAFCo business reasons, or if access is required by law, subpoena or court order. In the case of an employee with a disability, managers and supervisors may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations. (2 Cal.Code Regs § 11069(g)(1).)

12.1d *Employee Access to Personnel File*

- (a) Inspection of File:** A current employee may inspect his or her own personnel file, at reasonable times and at reasonable intervals, within 30 days of a written request. A former employee is entitled to inspect his or her personnel records one time per year. (Labor Code § 1198.5(d).) A current or former employee and/or his or her representative, who wishes to review his or her personnel file should make a written request to the Executive Officer. (Labor Code § 1198.5(b)(2)(A).) The inspection must occur in the presence of the Executive Officer or designee and: 1) at a location where the employee works and at a time other than the employee's work time (Labor Code § 1198.5(b)(1)); or 2) at another agreed upon location without loss of compensation to the employee. (Labor Code § 1198.5(c)(2).)
- (b) Copies:** A current or former employee is entitled to receive a copy of his or her personnel records within 30 days after the employer receives a written request. (Labor Code § 1198.5(b)(1).) A current or former employee who wishes to receive such a copy

should contact the Executive Officer in writing. LAFCo may charge a fee for the actual cost of copying. (Labor Code § 1198.5(b)(1); 1198.5 (b)(2)(A).)

(c) Representative's Inspection: If the current or former employee wishes to have another person/representative inspect his or her personnel file, he or she must provide the person/representative with written authorization. (Labor Code § 1198.5(e).) The Executive Officer will notify the employee and/or representative of the date, time and place of the inspection in writing.

(d) No Removal of File Documents: No person inspecting a personnel file is permitted to add or remove any document or other item to/from the personnel file.

12.1e *Limitations on Access or Copying of Personnel File*

Prior to making a copy of personnel records or allowing inspection, LAFCo may redact the names of nonsupervisory employees. (Labor Code § 1198.5(g).) Under no circumstances will LAFCo provide access or copying of the following categories of personnel file documents: records relating to the investigation of a possible criminal offense; letters of reference; ratings, reports, or records that were obtained prior to employment, prepared by identifiable examination committee members, or obtained in connection with a promotional examination. (Labor Code § 1198.5(h).)

12.2 **Limitations on Outside Employment**

12.2a *No Outside Employment Without Prior Approval*

An employee shall not engage in any paid or self-employment, activity, or enterprise which is inconsistent, incompatible or in conflict with his or her LAFCo duties, functions, responsibilities, or that of the department in which he or she is employed at LAFCo. In order to avoid perceived or actual conflicts of interest that may arise from outside employment, all employees must obtain written approval from the Executive Officer prior to undertaking any outside employment as described in this Policy. (Gov. Code § 1126(a).)

12.2b *Authorization and Appeal Process*

- (a) Written Request:** Any employee who wants to undertake a paid outside employment, activity, or enterprise must submit a written request to his or her department head. The written request must include: the work hours and/or time required; job title or the nature of the activity; the work location; and the supervisor, manager and name of the employer or activity.
- (b) Analysis and Decision:** The Executive Officer will determine if the outside employment, activity, or enterprise is compatible with the employee's employment at LAFCo. If the Executive Officer determines such activity is compatible, or would be if any conditions or restrictions applied, he or she will authorize the activity and specify the conditions/

restrictions in writing, give the employee the outside employment authorization, and place a copy of the written authorization in the employee's personnel file.

- (c) **One Year Authorization:** An outside employment authorization is valid only up to one year. Should the employee continue the outside employment, activity, or enterprise for a longer duration, he or she must make another request following the process in this Policy.
- (d) **Appeal:** If the Executive Officer denies an employee's outside employment request, the employee may submit a written notice of appeal to the Policy and Personnel Committee within 10 days after the date of the denial. The decision on appeal will be put in writing, provided within 10 days after the receipt of the appeal, and will be final.

12.2c *Prohibited Outside Activities*

An employee's outside employment, activity, or enterprise may be prohibited if it:

- (a) involves the use for private gain or advantage of LAFCo time, facilities, equipment, and supplies, or the badge, uniform, prestige, or influence of LAFCo or employment by LAFCo;
- (b) involves receipt or acceptance by the employee of any money or other consideration from anyone other than LAFCo for the performance of an act which the employee would be required or expected to render in the regular course of his/her LAFCo employment;
- (c) involves the performance of an act in other than his/her capacity as a LAFCo employee which act may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement by such employee or the department by which he/she is employed;
or
- (d) involves time demands that would render the employee's performance of his or her regular LAFCo employment less efficient or dangerous to the employee.

12.2d *Changes in Outside Employment Status*

The employee must promptly report in writing to the Executive Officer any of the following changes that may occur during the year of an authorized outside employment: the outside employment ends; or the authorized employment changes as to the number of work hours, location, or types of duties.

12.2e *Revocation / Suspension of Outside Employment Authorization*

Any outside employment authorization may be revoked or suspended during the year it is granted under the circumstances listed below. An employee may appeal the revocation or suspension as provided in this Policy.

- (a) The employee's work performance declines; or
- (b) An employee's conduct or outside employment conflicts with the conditions of the outside work authorization or is incompatible with the employee's work for LAFCo.

12.2f *Use of LAFCo Equipment Prohibited*

Under no circumstances may an employee use any LAFCo equipment, vehicles, tools, supplies, machines, or any other item that is LAFCo property while an employee is engaged in any outside employment, activity or enterprise.

12.3 Limitations on Political Activity

12.3a *No Solicitation During Work Hours or LAFCo Offices*

LAFCo employees or officers may not solicit or receive political funds or contributions to promote the passage or defeat of any ballot measure that would affect working conditions during the working hours of its officers and employees, or in LAFCo offices. (Gov. Code § 3209.)

12.3b *No Targeted Solicitation of LAFCo Officers or Employees*

Officers or employees of LAFCo, or candidates for elective office of LAFCo, may not directly or indirectly solicit political contributions from other officers or employees of LAFCo unless the solicitation is part of a solicitation made to a significant segment of the public which may incidentally include officers from and employees of LAFCo. (Gov. Code § 3205(c).)

12.3c *No Political Activity in Uniform*

No LAFCo employee or official shall participate in political activities of any kind while in a LAFCo uniform or other LAFCo -issued clothing. (Gov. Code § 3206.)

12.3d *No Political Activity on LAFCo Property or Work Hours*

LAFCo employees and officials are prohibited from engaging in political activity during working hours or on LAFCo property. (Gov. Code § 3207.)

12.4 Prohibitions on Drugs and Alcohol in the Workplace

12.4a *Purpose and Scope*

The purpose of this Policy is to promote a drug and alcohol-free workplace and to eliminate drug and alcohol-related inefficiencies and risks. This Policy applies to all LAFCo employees, whether they are on LAFCo property, or they are performing LAFCo related business elsewhere, except as this Policy is superseded by a memorandum of understanding or federally mandated

drug and alcohol policies. Compliance with this Policy is a condition of employment. Disciplinary action will be taken against those who violate this Policy.

12.4b Drug- and Alcohol-Free Awareness Program

LAFCo's employee assistance provider (EAP) offers counseling and treatment of drug- or Alcohol-related problems. The employee assistance provider has information about: (a) the dangers of drug or alcohol abuse in the workplace; (b) the penalties that may be imposed for drug or alcohol abuse violations; (c) the LAFCo's Policy of maintaining a drug- and alcohol-free workplace; and (d) any available drug or alcohol counseling, rehabilitation or employee assistance programs. (41 USC § 701(a)(1)(B) – federal contractors; 41 USC § 702(a)(1)(B) – federal grant recipients; Gov. Code § 8355(a)(2).)

12.4c Prohibited Conduct

- (a) The manufacture, distribution, sale, dispensation, possession, or use of any controlled substance in either LAFCo workplaces or wherever LAFCo business is performed. (41 USC §§ 701-702; Gov. Code § 8355(a)(1).)
- (b) Working or being subject to call in if impaired by alcohol or any controlled substance.
- (c) An employee's failure to notify his/her department head before beginning work when taking medications or drugs which could interfere with the safe and effective performance of duties or operation of LAFCo equipment.
- (d) An employee's failure to notify the Executive Officer of any criminal conviction for a drug violation that occurred in the workplace within five days after such conviction. (41 USC § 701-702.)
- (e) An employee's criminal conviction for a drug violation that occurred in the workplace.

12.4d Drug and Alcohol Testing

LAFCo has discretion to test applicants and employees for alcohol and drug use under the following circumstances. LAFCo will use an outside laboratory to perform all testing.

- (a) **Pre-Employment Testing for External Applicants for Certain Jobs:** Those external applicants who apply for certain jobs where a special need for pre-employment drug and alcohol testing exists must take and pass a drug and alcohol test following a conditional offer of employment. The categories of jobs subject to pre-employment drug and alcohol testing include, but is not limited to:
 - 1) safety sensitive jobs that have public safety implications, such as operating heavy trucks to transport hazardous material, protecting national security,

enforcing drug laws, and/or operating natural gas pipelines; and

- 2) jobs that involve the direct influence over children.

(b) **Reasonable Suspicion Testing:** LAFCo may require a blood test, urinalysis, or other drug and/or alcohol screening of those employees who are reasonably suspected of using or being under the influence of a drug or alcohol at work, under the following circumstances.

- 1) **“Reasonable suspicion”** to test exists if, based on objective factors, a reasonable person would believe that the employee is under the influence of drugs or alcohol at work. Examples of objective factors, include, but are not limited to: unusual behavior, slurred or altered speech, body odor, red or watery eyes, unkempt appearance, unsteady gait, lack of coordination, sleeping on the job, a pattern of abnormal or erratic behavior, a verbal or physical altercation, puncture marks or sores on skin, runny nose, dry mouth, dilated or constricted pupils, agitation, hostility, confused or incoherent behavior, paranoia, euphoria, disorientation, inappropriate wearing of sunglasses, tremors, or other evidence of recent drug or alcohol use. If LAFCo suspects drugs or alcohol may have played a role in an accident involving LAFCo property or equipment, that will also constitute reasonable suspicion.
- 2) **Document and Analysis:** In order to receive authority to test, the supervisor must record the factors that support reasonable suspicion in writing and analyze the matter with the Executive Officer. Any reasonable suspicion testing must be pre-approved by the Executive Officer.
- 3) **Testing Protocol:** If the documentation and analysis show that there is a reasonable suspicion of drug or alcohol abuse at work, and the Executive Officer has approved, the employee will be relieved from duty, transported to the testing facility and to his or her home after the test. The employee will be placed on sick or other paid leave until the test results are received.

12.5 Use of LAFCo Equipment or Resources

12.5a *Policy and Applicability*

LAFCo equipment and resources may only be used to conduct LAFCo business, except for incidental personal use that is consistent with this Policy. As a result, LAFCo equipment and resources are non-public forums. Every LAFCo employee is required to adhere to this Policy.

12.5b Agency Equipment or Resources

LAFCo equipment or resources is any LAFCo-owned or supplied item or resource, including, but not limited to: intellectual property (e.g., photographs, plans, drawings, formulas, customer lists, designs, formulas), vehicles, telephones, cell phones, pagers, tools, machines, supplies, copy machines, facsimile machines, desks, office equipment, computers (including hardware and software), file cabinets, lockers, Wi-Fi, internet, intranet, LAFCo network, data systems, routers, voice mail, servers, and email or voice mail communications stored in or transmitted through LAFCo electronic resources or equipment.

12.5c No Expectation of Privacy

LAFCo periodically and without prior notice, monitors, reviews, accesses, or retrieves data from its equipment or resources, including electronic communications and content contained in or transmitted through LAFCo networks or electronic resources. LAFCo employees must provide the agency with the employee's username or password for any LAFCo issued equipment or resource. The existence of passwords or delete functions does not restrict the LAFCo's access. As a result, LAFCo employees have no expectation of privacy in their use of any LAFCo equipment or resources.

12.5d Appropriate Use Only -- No Misuse

Employees may only use LAFCo equipment or resources in compliance with LAFCo policies. Except as authorized by this Policy, employees are expected to avoid any use or communication which is unrelated to LAFCo business, destructive, wasteful, or illegal. LAFCo has discretion to restrict or rescind employee access to LAFCo equipment or resources. The following are examples of misuse of LAFCo equipment or resources:

- (a) Any use that violates applicable law and/or LAFCo policies, rules or procedures.
- (b) Exposing others to material which is offensive, harassing, obscene or in poor taste. This includes information which could create an intimidating, offensive or hostile work environment.
- (c) Any use that may create or further a hostile attitude or give offense on the basis of race, color, religion, sex, gender, gender expression, gender identity, national origin, ancestry, citizenship, age, marital status, physical or mental disability, medical condition, genetic information, sexual orientation, veteran status or any other basis protected by law.
- (d) Communication of confidential LAFCo information to unauthorized individuals within or outside of LAFCo.
- (e) Unauthorized attempts to access or use LAFCo data or break into any LAFCo or non-LAFCo system.

- (f) Theft or unauthorized transmission or copying of paper or electronic files or data.
- (g) Initiating or sustaining chain/spam letters, e-mail or other unauthorized mass communication.
- (h) Misrepresentation of one's identity for improper or illegal purposes.
- (i) Personal commercial or business activities (e.g. "for sale" notices, personal ads, etc.).
- (j) Transmitting/accessing obscene material and/or pornography.
- (k) E-Commerce.
- (l) Online gambling.
- (m) Installing or downloading unauthorized software or equipment.
- (n) Violating terms of software licensing agreements.
- (o) Using LAFCo equipment or resources to access and/or use dating web resources, personal social media, or games of any type.
- (p) Any unauthorized access to LAFCo equipment or resources, including: using keys or key cards; using or disclosing the username or password of another person or employee to gain access to his or her email or other electronic resources; or making LAFCo equipment or resources available to others who would otherwise have no authorized access.
- (q) Using LAFCo equipment or resources to speak on the LAFCo's behalf without authorization.

12.5e *LAFCo Email Address Must be Used for LAFCo Business*

LAFCo's email system is an official communication tool for LAFCo business. LAFCo establishes and assigns official email addresses to each employee as LAFCo deems necessary. Employees must send all LAFCo communications that are sent via email to and from his or her official LAFCo email address. Employees are prohibited from using their private email address (such as Gmail, yahoo, MSN/Hotmail, etc.) when communicating LAFCo business via email. Should an email related to LAFCo business be sent to an employee's personal email account, the email should be immediately forwarded to the employee's LAFCo email account and responded to accordingly.

12.5f *Incidental Personal Use of LAFCo Communications Equipment Permitted*

Employees may use LAFCo telephones, cell phones, internet access, and e-mail for incidental personal communications provided that the use:

- (a) Is kept to a minimum and limited to break times or non-working hours;
- (b) Does not interfere or conflict with LAFCo operations or the work performance of any LAFCo employees;
- (c) Allows the employee to more efficiently perform LAFCo work;
- (d) Is not abusive, illegal, inappropriate, or prohibited by this Policy (for example, no social media use, no electronic dating, no gaming); and
- (e) Clearly indicates it is for personal use and does not indicate or imply LAFCo sponsorship or endorsement.

12.6 *Policy Against Violence in the Workplace*

12.6a *Safe and Secure Workplace*

LAFCo is committed to providing a safe and secure workplace and will not tolerate acts or threats of violence in the workplace. (Labor Code § 6400.) The workplace includes any location where LAFCo business is conducted, including vehicles and parking lots. Any violation of this Policy may lead to criminal prosecution, and/or disciplinary action, up to and including termination.

12.6b *Prohibited Behavior*

Employees are prohibited from participating in or promoting acts of intimidation, violence, threats, coercion, assault and/or abusive behavior toward any person while in the course of LAFCo employment. LAFCo has zero tolerance for any conduct that references workplace violence, even if it was intended to be harmless, humorous, a prank, blowing off steam, or venting.

12.6c *“Workplace Violence”*

“Workplace violence” is defined as any conduct that causes an individual to reasonably fear for his or her personal safety or the safety of his or her family, friends, and/or property. Specific examples of workplace violence include, but are not limited to, the following:

- (a) Threats or acts of physical harm directed toward an individual or his/her family, friends, associates, or property.

- (b) The destruction of, or threat of destruction of LAFCo property or another employee's property.
- (c) Fighting, challenging another person to fight, or participating in dangerous or threatening horseplay.
- (d) Striking, punching, slapping, or assaulting another person.
- (e) Grabbing, pinching, or touching another person in an unwanted way whether sexually or otherwise.
- (f) Harassing or threatening phone calls.
- (g) Surveillance.
- (h) Stalking.
- (i) Possessing a weapon(s) during work hours unless LAFCo issues the weapon(s) for performance of the job. "Weapon" is defined as a firearm, chemical agent, club or baton, knife, or any other device, tool, or implement that can cause bodily harm if used as a weapon or displayed in such a manner to cause harm or threaten a person with harm.

12.6d *Incident Reporting Procedures*

- (a) Employees must immediately report to their supervisor or department director whether they have been a victim of, or have witnessed, workplace violence. The supervisor or department director will immediately report the matter to the Executive Officer.
- (b) The Executive Officer or designee will document the incident, including the employee names(s), date/time, location, incident description, witness names and statements, description of unidentified parties, description of the act(s) and/or behavior arising from the incident, action taken, and provide any other relevant information regarding the incident.
- (c) The Executive Officer or designee will take appropriate steps to provide security, such as:
 - 1) Placing the employee alleged to have engaged in workplace violence on administrative leave, pending investigation;
 - 2) Asking any threatening or potentially violent person to leave the site; or
 - 3) Immediately contacting an appropriate law enforcement agency.

12.6e Investigation

The Executive Officer will see that reported violations of this Policy are investigated as necessary.

12.6f Prevention

The Executive Officer or any department head has the authority to enforce this Policy by:

- (a) Training supervisors and subordinates about their responsibilities under this Policy;
- (b) Assuring that reports of workplace violence are accurately and timely documented and addressed;
- (c) Notifying the Policy and Personnel Committee, Executive Officer and/or law enforcement authorities of any incidents;
- (d) Making all reasonable efforts to maintain a safe and secure workplace; and
- (e) Maintaining records and follow up actions as to reports of workplace violence.

12.7 Appearance Standards

12.7a Basis for Standards

These dress code, tattoo, and body piercing appearance standards are designed to promote LAFCo's legitimate and non-discriminatory goals to promote workplace safety and a professional image that is consistent with the employee's job duties and level of public contact.

12.7b Dress Code

Employees are required to dress appropriately for the jobs they are performing. The following dress code regulations shall apply to all LAFCo employees. If an employee has questions about how these standards apply, the matter should be immediately raised with the employee's supervisor for consideration and determination.

- (a) All clothing and footwear must be neat, clean, in good repair, and appropriate for the work environment and functions performed.
- (b) Employee must present themselves in a manner that is neat, clean and well-groomed.
- (c) Jewelry is acceptable except where it constitutes a health or safety hazard.
- (d) Good personal hygiene is required.
- (e) Dress must be professionally appropriate to the work setting, particularly if the employee has contact with the public at work.

12.7c ***Tattoos***

Employees are expected to project a professional appearance while at work. If an employee has questions about how these standards apply, the matter should be immediately raised with the employee's supervisor for consideration and determination.

12.7d ***Piercing***

Employees are expected to project a professional appearance while at work and not endanger themselves or others with excessive body piercing. If an employee has questions about how these standards apply, the matter should be immediately raised with the employee's supervisor for consideration and determination.

Instructions: *Separate form and return to executive officer.*

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ACKNOWLEDGMENT

I, _____ [*print name*], acknowledge that I have received a copy of the Marin Local Agency Formation Commission (“LAFCo”) Personnel Handbook, and that LAFCo has provided me with instructions about how to access the document electronically. I further acknowledge and understand that I am responsible for reading and becoming familiar with the contents of the Handbook, and any of its revisions.

EMPLOYEE SIGNATURE

DATE

1.3h Regular Employee Status

As used in these policies, “regular employee” means a non-elected individual who has been appointed to a regularly allocated position and who, upon satisfactorily completing a probationary period, has a continued expectation of employment. Regular employees may be full or part-time employees, but do not include at-will, probationary or temporary/seasonal/extra-help employees, volunteers, or independent contractors.

[OR]

As used in these policies, “regular employee” means a non-elected individual who has been appointed to one of the following regularly allocated positions:

- Executive Officer
- Policy Analyst
- Junior Analyst/Clerk

8.2 Sick Leave

(a) Purpose

For the purposes of these Personnel Policies, sick leave is paid leave from work that can be used for the following purposes:

1. The diagnosis, care, or treatment of an existing health condition of, or preventative care for, an employee or any of the following:
 - a. The employee’s family members: child of any age or dependency status; parent; parent-in-law; spouse; registered domestic partner; grandparent; grandchildren; or sibling;
 - b. The employee’s pre-designated and substitute family members: a person *with whom the employee resides* [OR] *with whom the employee has resided for no less than X years*, and who the employee pre-designates as substituting for a “family member” in the above list (e.g. substitute a significant other for a spouse or registered domestic partner). The intent of this provision is not to expand the number of persons included in the definition of family members or to increase paid leave opportunities, but, rather to recognize variations in family structure.
2. For an employee who is a victim of domestic violence, sexual assault, or stalking to: i) obtain or attempt to obtain a temporary restraining order or other court assistance to help ensure the health safety or welfare of the employee or his or her child; or ii) obtain medical attention or psychological counseling; services from a shelter; program or crisis center; or participate in safety planning or other actions to increase safety.

The uses permitted by this sick leave policy do not apply to any statutory leave entitlements.

Commented [EK1]: Does LAFCo intend to include Executive Officer in definition of “Regular Employee” as that term is used in Personal Leave and Sick Leave sections? Or will EO leave be articulated in EO contract?

If including EO within definition of “regular employee” strike the language highlighted by this comment.

Commented [EK2]: Also strike this if intending to include EO (or other at-will employees) within definition of a “regular employee”.

Commented [EK3]: This is a more certain way to handle the definition and ensure that the leaves available to ‘regular employees’ (the personal leave, and more generous sick leave provisions) apply to all allocated staff positions. However, this method also requires the agency to update Personnel Rules every time classifications are added or changed. (Could also handle by identifying these positions by an Appendix to the Rules, that could be more easily updated, or by a reference to positions on LAFCo’s salary or pay schedule.)

Commented [EK4]: Added to clarify that the expanded definitions here do not apply to statutorily protected leaves; but apply only for the purposes of this LAFCo policy.

Commented [EK5]: OPTIONAL: This is optional text if LAFCo wants to restrict use to those with whom the employee resides or has resided for a minimum number of years.

Commented [EK6]: FYI: As written, an employee could also, for example, pre-designate an aunt or uncle in the place of a parent or grandparent – limited by whether or not LAFCo wants to include the residence requirement above.

Commented [EK7]: Added to clarify that this expanded definition does not enable an employee to use other statutory leaves (e.g. FMLA/CFRA leave) for these purposes; and to protect against a claimed violation of state sick leave law in relation to the denial of leave for use other than one defined by statute.

(b) Accrual & Carryover for Different Categories of Employees:

- 1) **Regular Employees:** Regular, full-time employees shall accrue one working day of sick leave with pay for each month or fraction thereof served. Sick leave accruals shall be pro-rated for regular employees who work less than full time. Accrued and unused sick leave carries over from year to year up to a maximum of ___ hours of sick leave. Employees stop earning sick leave once they have accrued _____ hours / _____ days of sick leave, whichever is greater.

Commented [EK8]: Add accrual cap here, if desired.

Organization	Sick Cap	Notes
LA LAFCo	360 Hours	Pay 50% of accrual time at separation
Solano LAFCo	No Cap	
Nevada LAFCo	No Cap	
Orange LAFCo	No Cap	
San Mateo LAFCo	No Cap	
Tulare LAFCo	No Cap	
El Dorado LAFCo	No Cap	Can cash out based on years of service
Fresno LAFCo	PTO	You can accrue 3x your annual PTO accrual rate which goes up with years of service
Contra Costa LAFCo	No Cap	
RVSD	1000 Hours	
Fairfax	No Cap	
RBSD	480 Hours	
Larkspur	No Cap	
LGVSD	No Cap	
SD 5	No Cap	Can convert to time served for CALPERS
Novato	1000 hours	
Mill Valley	No Cap	
TFPD	1040 hours	
Ross	No Cap	
Marinwood CSD	192 hours	They are mostly part time/seasonal employees
Inverness PUD	80 hours	In process of reviewing due to COVID
Alto SD	No Cap	Don't have a policy so assuming no cap
SMCSD	No Cap	
NFPD	2080 hours	
NMWD	No Cap	
San Rafael	No Cap	
SMFD	No Cap	
KFPD	1028 Hours	



Marin Local Agency Formation Commission

Regional Service Planning | Subdivision of the State of California

AGENDA REPORT
December 10, 2020
Item No. 9 (Business Item)

TO: Local Agency Formation Commission

FROM: Olivia Gingold, Clerk/Jr. Analyst

SUBJECT: Approval of a Revised Five-Year Study Schedule & Update on MSRs

Background

In October 2018, the Commission adopted a five-year Municipal Service Review (MSR) study schedule. The commission instructed staff to come back with any needed updates as we continued to have discussions with each jurisdiction on the list to see if any special needs or other circumstances warranted moving items around.

In April 2019, the Commission approved an amendment to address the fact that five West Marin jurisdictions had not been included and were not part of the 2016-2017 MSRs. Another amendment was approved at the June 2019 Commission Meeting to break up the Marin County Flood Control Districts into their individual flood zones and do each flood zone when doing the MSRs for the regions they correspond to rather than reviewing all of the Flood District in its entirety.

While recently compiling a list of past SOI updates, a few issues were discovered that staff is suggesting necessitate another revision to the study schedule. The first is that some of the studies conducted in 2016 and 2017, which focused on a specific service rather than a region, didn't cover all the services provided by some agencies in West Marin. IPUD, Bolinas Community Public Utility District, and Muir Beach CSD were all reviewed in the Countywide Water Study, but only their water services were reviewed. These West Marin agencies all cover services beyond water that weren't evaluated in the 2016 Water Services Review. What's more, a number of the agencies reviewed in the Countywide Water Study and the Sewer Study never had SOI updates done, so although their services have been reviewed, their SOIs haven't been amended or reaffirmed. It was also noticed that Bolinas Fire Protection District wasn't included in the initial service study schedule for unknown reasons.

The incomplete reviews of IPUD, BCPUD, and Muir Beach CSD, as well as the addition of Bolinas FPD to the West Marin agencies list has made the service review unusually large – a total of 12 agencies need to be reviewed compared to the normal 6 to 8. The service review is nearly double the size of a normal service review.

Staff has concerns at how feasible it will be to finish the West Marin service review in the proposed 6-month time frame, while still maintaining the quality of the report. For context, most other LAFCos take 9-12 months at minimum to complete reports that are smaller in scope than the West Marin one is scheduled to be. With this in mind, some re-organization of the study schedule is being suggested to allow for a year-long study rather than a 6-month study of West Marin. Additionally,

Administrative Office

Jason Fried, Executive Officer
1401 Los Gatos Drive, Suite 220
San Rafael, California 94903
T: 415-448-5877 E: staff@marinlafco.org
www.marinlafco.org

Damon Connolly, Regular
County of Marin

Judy Arnold, Regular
County of Marin

Dennis J. Rodoni, Alternate
County of Marin

Sashi McEntee, Chair
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given that the 2016 and 2017 MSRs are now approaching five years staff is looking to see how they could be incorporated near the end of our current five-year plan to create a complete study schedule.

Staff believes that it may have found a way to complete all agencies that need MSRs by making some changes to the current adopted five-year schedule.

The proposed new study schedule consolidates the “Parks and Open Space” and “Public Healthcare Services” studies because they didn’t seem robust enough to be logical service reviews in and of themselves. Those two agencies would be included in a new study category: “Multi-Regional” which includes agencies like CSA 31 and Marin Healthcare District which are county-wide, as well as NMWD and MMWD which cover a large enough breadth of different cities and towns that it becomes difficult to consider them in a regional scope. These agencies are closer to “Quasi-county-wide” agencies, hence the term “Multi-Regional”. The proposed revised study schedule (attached) also includes the agencies in West Marin that were missed in the previous draft of the study schedule.

Items that are apt for discussion include:

- 1) Does a County-Wide/Quasi-County-Wide Regional service review sound logical?
- 2) Should CSA 31 and the Marin County Resources & Conservation District be included in West Marin or the County-Wide Study? They are both technically county-wide/multi-regional but primarily serve West Marin.
- 3) Should West Marin be 1 single year-long study or split into 2 smaller 6-month studies, potentially by location (Northern West Marin and Southern West Marin) or by agency type (independent vs. dependent districts, etc.)

Staff believes it is most logical to create this Multi-Regional Service review in lieu of the other service reviews previously scheduled, include CSA 31 in the Multi-Regional Study but keep the Marin County Resources & Conservation District in West Marin, and make the West Marin study a year-long study. This recommendation is reflected in the attached amended Study Schedule.

Staff Recommendation for Action

1. Staff Recommendation – Approve the attached amended MSR Schedule with any amendments desired by the Commission.
2. Alternate Option – Take no action today and give staff further instructions to revise the study schedule as desired.

Attachment

1. Proposed Amended MSR schedule.

Marin LAFCo - Adopted Five-Year Study Schedule | FY 2018-2023

Adopted October 11, 2018 Revised June 2019

FY 2018-2019

San Rafael Area Study (Region Specific)

- City of San Rafael
- Marinwood Community Services District
- CSA No. 6 (Santa Venetia)
- CSA No. 9 (Northbridge)
- CSA No. 13 (Lucas Valley)
- CSA No. 18 (Gallinas Village)
- CSA No. 19 (Unincorporated San Rafael)
- CSA No. 23 (Terra Linda)
- Marin County Flood Control Zone 6 and 7 (Supplemental)

Novato Area Study (Region Specific)

- City of Novato
- Novato Sanitary District
- Novato Fire Protection District
- Bel Marin Keys Community Services District
- CSA No. 1 (Loma Verde)
- CSA No. 20 (Indian Valley)
- CSA No. 25 (San Marin)
- Marin County Flood Control Zone 1 (Supplemental)

FY 2019-2020

East Peninsula Area Study (Region Specific)

- Town of Tiburon
- City of Belvedere
- Strawberry Recreation District
- TiburonSanitaryDistrictNo.5
- Tiburon Fire Protection District
- CSA No. 29 (Paradise Cay)
- Marin County Flood Control Zone 4/4a

Ross Valley Area Study (Region Specific)

- Town of Fairfax
- Town of Ross
- Town of San Anselmo
- Kentfield Fire Protection District
- Sleepy Hollow Fire Protection District
- Ross Valley Fire Authority (JPA)
- CSA No. 27 (Ross Valley)
- Marin County Flood Control Zone 9

Date to be Determined

Countywide Fire Service Study (**STARTED**)

Countywide Police Service Study

FY 2020-2021

Twin Cities Area Study (Region Specific)

- City of Larkspur
- Town of Corte Madera
- CSA No. 16 (Greenbrae)
- CSA No. 17 (Kentfield)
- Central Marin Police Authority (JPA)

West Marin (Region Specific) **- year long (Will go into FY 21-22)**

- Stinson Beach Fire Protection District
- Tomales Village Community Services District
- CSA No. 28 (West Marin)
- CSA No. 33 (Stinson Beach)
- Marin County Flood Control Zone 5 and 10
- Bolinas Fire Protection District
- Inverness PUD
- Bolinas Community PUD
- Muir Beach CSD
- Stinson Beach Water District
- Marin County Resources Conservation District

FY 2021 – 2022

Golden Gate Corridor Study (Region Specific)

- City of Mill Valley
- City of Sausalito
- Marin City Community Services District
- Tamalpais Community Services District
- Marin City–Sausalito Sanitary District
- Southern Marin Fire Protection District
- CSA No. 14 (Homestead)
- Marin County Flood Control Zone 3

~~**Park and Open Space** (Services Specific)~~

- ~~- Marin County Parks and Open Space District~~
- ~~- Marin County Resources Conservation District~~
- ~~- Multiple CSAs~~

FY 2022-2023

Southern Marin Wastewater Study (Service Specific) -

- City of Mill Valley
- Almonte Sanitary District
- Alto Sanitary District
- Homestead Valley Sanitary
- Las Gallinas Valley Sanitary
- Richardson Bay Sanitary District
- Sewer Agency of Southern Marin (JPA)

~~Public Healthcare~~Multi-Regional Services Study

~~(Service-Specific)~~

- Marin Healthcare District
- CSA No. 31 (Fire Services)
- North Marin Water District
- Marin Municipal Water District
- Marin County Parks and Open Space District



Marin Local Agency Formation Commission

Regional Service Planning | Subdivision of the State of California

AGENDA REPORT

December 10, 2020

Executive Officer Report – Section A

TO: Local Agency Formation Commission

FROM: Jason Fried, Executive Officer

SUBJECT: Budget Update for FY 2020-2021

Background

Marin Local Agency Formation Commission (LAFCo) adopted a budget for FY 2020-2021 totaling \$566,577.88. From July 1, 2020, through November 30, 2020, LAFCo has spent \$204,068.93. This report covers 5 months, which is about 45% of the year. We have spent about 36% of our budget this year.

All agencies have now made their annual payments to LAFCo.

As previously reported only two items (Line items 15 and 30) are extremely over the 45% threshold. Both items cover areas where we make large annual payments and both items should stay the same for the rest of the year. Other line items are close to or slightly over the 45% number and staff is watching those items closely.

Attachment:

- 1) FY 2020-2021 Budget Reports as of 12/01/2020

Administrative Office

Jason Fried, Executive Officer
1401 Los Gatos Drive, Suite 220
San Rafael, California 94903
T: 415-448-5877 E: staff@marinlafco.org
www.marinlafco.org

Damon Connolly, Regular
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Marin Local Agency Formation Commission
20/21 BUDGET REPORT
 July 2020 through June 2021

	Jul '20 - Jun 21	Budget	\$ Over Budget	% of B...
Ordinary Income/Expense				
Income				
4700000 · Prior Year Carryover	63,007.60	63,007.60	0.00	100.0%
4710510 · Agency Contributions	503,570.28	503,570.28	0.00	100.0%
Total Income	566,577.88	566,577.88	0.00	100.0%
Expense				
05 · Commissioner Per Diems	2,250.00	10,000.00	-7,750.00	22.5%
10 · Conferences	0.00	5,000.00	-5,000.00	0.0%
15 · General Insurance	7,032.73	8,000.00	-967.27	87.9%
20 · IT & Communications Services	5,790.59	16,000.00	-10,209.41	36.2%
25 · Legal Services	14,971.30	45,000.00	-30,028.70	33.3%
30 · Memberships & Dues	13,142.00	13,000.00	142.00	101.1%
35 · Misc Services	173.85	2,000.00	-1,826.15	8.7%
40 · Office Equipment Purchases	1,992.48	4,139.00	-2,146.52	48.1%
45 · Office Lease/Rent	13,961.75	33,588.88	-19,627.13	41.6%
50 · Office Supplies & Postage	956.42	4,000.00	-3,043.58	23.9%
55 · Professional Services	9,318.00	20,000.00	-10,682.00	46.6%
60 · Publications/Notices	431.20	3,000.00	-2,568.80	14.4%
65 · Rent - Storage	200.00	650.00	-450.00	30.8%
70 · Training	0.00	1,700.00	-1,700.00	0.0%
75 · Travel - Mileage	0.00	3,500.00	-3,500.00	0.0%
8-51110 · Salary and Benefit Costs				
5110109 · Salaries	115,192.31	307,000.00	-191,807.69	37.5%
5130120 · County of Marin - Group Health	8,253.99	45,000.00	-36,746.01	18.3%
5130500 · MCERA / Pension	10,402.31	39,000.00	-28,597.69	26.7%
5130525 · Retiree Health	0.00	6,000.00	-6,000.00	0.0%
Total 8-51110 · Salary and Benefit Costs	133,848.61	397,000.00	-263,151.39	33.7%
Total Expense	204,068.93	566,577.88	-362,508.95	36.0%
Net Ordinary Income	362,508.95	0.00	362,508.95	100.0%
Other Income/Expense				
Other Income				
4410125 · Interest Earnings	2,114.07			
Total Other Income	2,114.07			
Other Expense	-102.82			
Net Other Income	2,216.89			
Net Income	364,725.84	0.00	364,725.84	100.0%



Marin Local Agency Formation Commission

Regional Service Planning | Subdivision of the State of California

AGENDA REPORT

December 10, 2020

Executive Officer Report – Section B

TO: Local Agency Formation Commission

FROM: Olivia Gingold, Clerk/Junior Analyst

SUBJECT: **Current and Pending Proposals**

Background

The Commission is invited to discuss the item and provide direction to staff on any related matter as needed for future discussion and/or action.

LAFCo has received three new applications since the last Commission meeting in October. One was received on November 20th from applicant Brendan Hickey for annexation into SRSD (File #1352). This application is in its 30-day review period and will likely be heard at the next Commission meeting. Applications being considered at today's Commission meeting include the one-year extension of File #1346, as well as applications for the two inactive CSAs, CSAs 23 and 25 (Files# 1350 & 1351 respectively), which need to be dissolved. More information on LAFCo File numbers 1346, 1351, and 1352 can be found as part of the packet for each of their agenda items.

Attachment:

1) Chart of Current and Pending Proposals

Administrative Office

Jason Fried, Executive Officer
1401 Los Gatos Drive, Suite 220
San Rafael, California 94903
T: 415-448-5877 E: staff@marinlafco.org
www.marinlafco.org

Damon Connolly, Regular
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Current and Pending Proposals

LAFCo File #	Status	Proposal	Description	Government Agency	Latest Update
1350	Pending	Dissolution of CSA 23	Dissolution of CSA 23 pursuant to State Controller's Office recommendation and LAFCo MSR recommendation.	CSA 23	Application is being initiated/heard at the December 10, 2020 meeting.
1351	Pending	Dissolution of CSA 25	Dissolution of CSA 23 pursuant to State Controller's Office recommendation and LAFCo MSR recommendation.	CSA 25	Application is being initiated/heard at the December 10, 2020 meeting.
1352	Pending	Annexation of 2000 Point San Pedro Road into SRSD	Landowner (Brendan Hickey) requesting annexation approval of property 2000 Point San Pedro Road (APN 184-030-01) into the San Rafael Sanitation District. The affected territory is approximately 1.9 acres in size and is zoned for residential single-family use with plans for the construction of a new single family home that needs sewer connection.	San Rafael Sanitation District	Currently in 30-day review period.
1346	Approved by Commission and Awaiting Completion of Terms	Annexation of 4576 Paradise Drive	Sierra Pines Group LLC ("applicant") requesting approval to annex one lot totaling 9.575 acres to the Town of Tiburon. The affected territory is near the Town of Tiburon with a situs address of 4576 Paradise Drive (038-142-02.)	Town of Tiburon	Terms must be completed by 12/12/20. An extension request is being heard on the December 10, 2020 agenda.

Current and Pending Proposals

LAFCo File #	Status	Proposal	Description	Government Agency	Latest Update
1341	Emergency OSA and Future Application	Emergency OSA and awaiting application to annex into San Rafael Sanitation District	32 Fairway Dr, San Rafael, had a failed septic tank which they reported to Marin County Environmental Health Services Division and needs an OSA to connect into SRSD. The applicant also plans to annex permanently into SRSD but first needs to get all needed materials, such as legal description and legal maps produced. They should be submitting application in the near	San Rafael Sanitation District	On 3/28/19 SRSD informed LAFCo the basic plans had been approved for OSA. Applicant has since re-engaged with LAFCo
	Possible Future Item	San Quentin Village Sewer Maintenance District consolidation with Ross Valley Sanitary District	Based on past action of Marin LAFCo, discussion of possible consolidation between SQVSMD with RVSD has been deemed as seemingly in the best interest of the community of San Quentin Village customers.	SQVSMD and RVSD	Staff is currently reviewing outstanding issues with the staffs from both SQVSMD and RVSD.
1328	Deemed Terminated	Annexation of 255 Margarita Drive	Landowner (Paul Thompson) requesting annexation approval of 255 Margarita Drive (016-011-29) in the unincorporated island community of Country Club to the San Rafael Sanitation District. The affected territory is approximately 1.1 acres in size and currently developed with a single-family residence. It has also established service with the SRSD as part of a LAFCo approved outside service extension due to evidence of a failing septic system. The outside service extension was conditioned – among other items – on the applicant applying to LAFCo to annex the affected territory to the San Rafael Sanitation District as a permanent means to public wastewater service. The application remains incomplete at this time and awaits consent determination by SRSD.	San Rafael Sanitation District	Application is now deemed terminated and staff is working to get SRSD to disconnect or get the applicant to resubmit application.
1349	Withdrawn	Annexation of 200 Pacheco Ave	Landowner (Ian Murdock) requesting annexation approval of 200 Pacheco Ave (146-230-79) in the unincorporated island community of Indian Valley to the Novato Sanitation District. The affected territory is approximately 2 acres in size and currently has a single family home with an old septic system.	Novato Sanitary District	Withdrawn 8/13/20