



# **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 14, 2017

Marin Clean Energy | Charles McGlashan Room  
1125 Tamalpais Avenue, San Rafael, California

**\* REMINDER OF NEW MEETING LOCATION \***

**7:00 P.M. – CALL TO ORDER BY CHAIR**

**ROLL CALL BY CHAIR**

#### **AGENDA REVIEW**

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

#### **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**

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

**1. Approval of Meeting Minutes | October 12, 2017 Regular Meeting (action)**

Staff has prepared meeting minutes for the last meeting of the Commission. The minutes are being presented for formal approval with any desired corrections or clarifications.

**2. Commission Ratification | Reconciled Payments from September 1 to September 30, 2017 (action)**

The Commission will consider ratifying payments made by the Interim Executive Officer for the month of September. The payments cover all reconciled payroll and non-payroll expenses during the period and total \$43,372. The payments are being presented for formal ratification consistent with adopted policies.

**3. Budget Update for 2017-2018 and Year End Projections (action)**

The Commission will review a report comparing budgeted and actual transactions for 2017-2018 through November 30th and its projection Marin LAFCO is on pace to finish with a net difference of \$13,685 or 2.5%. This projection marks a significant improvement over the budgeted operating net of (\$10,000) and is largely tied to anticipated savings in payroll costs for reasons detailed. The report is being presented to the Commission to accept and file and to provide direction as needed.

**4. Approval of Meeting Dates for Calendar Year 2018 (action)**

The Commission will consider setting regular dates for the upcoming fiscal year as required under policy. Regular meeting dates are proposed for each even-numbered month with the resulting dates falling on February 8<sup>th</sup>, April 12<sup>th</sup>, June 14<sup>th</sup>, August 9<sup>th</sup>, October 11<sup>th</sup>, and December 13<sup>th</sup>. The Commission will also consider to postpone one special meeting, its Strategic Planning Workshop until the recruitment of a full-time Executive Officer.

**5. Progress Report on 2017-2018 Work Plan (action)**

The Commission will receive a progress report on accomplishing specific projects established as part of the adopted work plan for 2017-2018. The report is being presented to the Commission to formally accept as well as to provide direction to staff as needed.

**6. Current and Pending Proposals (information)**

The Commission will receive a report identifying active proposals on file with Marin LAFCO as required under statute. The report also identifies pending local agency proposals to help telegraph future workload. The report is being presented to the Commission for information only.

**7. Joint Powers of Authority | Agreements and Amendments Received (information)**

The Commission will receive an initial report identifying Joint Powers Authorities (JPAs) within Marin County that provide a municipal service as part of the requirements imposed by Senate Bill 1266 and that have submitted their agreements and any additional amendments with Marin LAFCO. The report is being presented to the Commission for information only.

**8. Notice of Expiring Commissioner Terms (information)**

The Commission will receive a report identifying membership terms that are set to expire on May 7, 2018 and necessitate new appointments and or reappointments. The report is being presented for information only.

**9. Little Hoover Commission Report | Special Districts (information)**

The Commission will receive a report from the Little Hoover Commission outlining recommendations to improve the oversight and transparency of special districts. The report is being presented to the Commission for information only.

**10. CALAFCO Annual Report to the Membership (information)**

The Commission will receive CALAFCO's annual report on current and pending activities of interest to the 58-member LAFCOs. The annual report is part of a journal prepared by the Executive Director and highlights, among other items, current legislative themes and priorities as well as case studies involving special district consolidations. The annual report is being presented to the Commission for information only.

**PUBLIC HEARING ITEMS**

Public hearing items require expanded public notification per provisions in State Law or directives of the Commission or Executive Officer.

There are no public hearing items presented to Commission.

**BUSINESS ITEMS**

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

**11. Proposal for Annexation of 1501 Lucas Valley Road to the Marin Municipal Water District (action)**

The Commission has received an application by the affected landowner (Andre Souang) requesting approval to annex approximately 61.3 acres of unincorporated/improved territory (164-280-35) located at 1501 Lucas Valley Road to Marin Municipal Water District (MMWD). The affected territory is improved with an existing single-family residence that was acquired by the applicant with the intention of serving as a primary residence going forward. The applicant is proposing annexation to MMWD to provide a reliable source of domestic water service given concerns regarding the continued use of an onsite well. The Commission extracted this proposal from an earlier and larger application involving a concurrent sphere amendment and annexation request to the Las Gallinas Valley Sanitary District, which was conditionally approved with amendments on February 12, 2015 and ultimately recorded on September 12, 2016.

**12. Contract Bookkeeping (action)**

The Commission will consider authorizing the Interim Executive Officer to enter into a memorandum of understanding with Alyssa Schiffmann to provide bookkeeping and related account services through December 31, 2019 and at a total do-not-to-exceed cost of \$15,000. Staff is also seeking authorization to expire its existing contract for support services with Southern Marin Fire Protection District.

**13. Legislative Report I End of Year Report on 2017 and Preview for 2018 (discussion)**

The Commission will receive an update from the Legislative Committee provided at CALAFCO's 2017 Annual Conference in San Diego as it relates to proposals impacting Local Agency Formation Commissions. The report is being presented to the Commission for discussion only.

**14. Social Media Policies and Protocols (action)**

The Commission will consider adopting policies involving the use of social media accounts as it relates to effective communication with local governmental agencies and the public.

**15. Appointment of Commission Counsel I Agreement (action)**

The Commission will receive a report back from the Policy Committee (Blanchfield, Baker and Connolly) with respect to the review of submittals received as part of a formal request for proposals on legal services for Marin LAFCO. This is expected to include the recommendation for the Commission to enter into an agreement with the top selected candidate at specified costs and terms. A separate agenda report on this item outlining review results of the three finalists will be issued prior to the December 14<sup>th</sup> meeting date.

**16. Report from CALAFCO Annual Conference (discussion)**

Attendees will provide a report to the Commission on sessions and related activities from the CALAFCO Annual Conference held in San Diego from October 25<sup>th</sup> to 27<sup>th</sup>. Verbal report only.

**EXECUTIVE OFFICER REPORT**

Update on Request for Proposal for Executive Search Services

**COMMISSIONER ANNOUNCEMENTS AND REQUESTS**

**ADJOURNMENT TO NEXT MEETING**

Thursday, February 8, 2018



Attest: Rachel Jones  
Interim Executive Officer

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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 arrangements or accommodations.

**Marin LAFCO**

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

T: 415-448-5877  
E: [staff@marinlafco.org](mailto:staff@marinlafco.org)  
W: [marinlafco.org](http://marinlafco.org)

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**Marin Local Agency Formation Commission**  
**Regional Service Planning | Subdivision of the State of California**

**AGENDA REPORT**  
 December 14, 2017  
 Item No. 1 (Consent/Action)

December 8, 2017

**TO:** Marin Commissioners

**FROM:** Rachel Jones, Interim Executive Officer

**SUBJECT:** **Approval of Meeting Minutes | October 12, 2017 Regular Meeting**  
 Staff has prepared meeting minutes for the last meeting of the Commission. The minutes are being presented for formal approval with any desired corrections or clarifications.

Local Agency Formation Commissions (LAFCOs) are political subdivisions of the State of California responsible for providing regional growth management services in all 58 counties. LAFCOs’ duties and responsibilities are prescribed under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

**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. The “Brown Act” requires – and among other items – public agencies to maintain minutes for all meetings.

**Discussion**

This item is for Marin LAFCO (“Commission”) to consider approving action minutes for the October 12, 2017 regular meeting. Attendance is noted below.

- All members were present at meeting held on October 12<sup>th</sup> with the exceptions of Commissioners Arnold and Kious (alternates).

The action minutes for both listed meetings accurately reflect the Commission’s actions as recorded by staff. A video recording of the October 12<sup>th</sup> meeting is also available online for viewing at [www.marinlafco.org](http://www.marinlafco.org).

## **Alternatives for Action**

The following alternatives are available to the Commission:

Alternative One (Recommended):

Approve the draft action minutes prepared for the October 12<sup>th</sup> meeting with any desired corrections or clarifications.

Alternative Two:

Continue consideration of the item to the next regular meeting and provide direction to staff as needed.

## **Recommendation**

It is recommended the Commission proceed with the action identified in the preceding section as Alternative One.

## **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.

Respectfully,



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Rachel Jones  
Interim Executive Officer

Attachments:

- 1) Draft Minutes for October 12, 2017



# Marin Local Agency Formation Commission

## Regional Service Planning | Subdivision of the State of California

### MINUTES

#### REGULAR MEETING

Thursday, October 12, 2017

Marin Clean Energy | Charles McGlashan Room  
1125 Tamalpais Avenue, San Rafael, California

#### CALL TO ORDER BY CHAIR

Chair Blanchfield called the meeting to order at 7:00 pm.

#### ROLL CALL BY CHAIR

**Regulars Present:** Jeff Blanchfield, Chair  
Carla Condon, Vice Chair (7:05 pm)  
Jack Baker  
Damon Connolly  
Sashi McEntee  
Craig K. Murray  
Dennis Rodoni

**Alternates Present:** Matt Brown  
Chris Skelton

*\* voting in place of absent regular members*

#### AGENDA REVIEW

Chair Blanchfield asked if there were any requests for changes to the agenda. No requests were made.

#### OPEN TIME

Chair Blanchfield invited members of the audience to address the Commission on any LAFCO related matters not listed on the agenda. No requests were made from the public.

## **CONSENT CALENDAR ITEMS**

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

**1. Approval of Meeting Minutes I**

**September 7, 2017 and August 10, 2017 Regular Meeting (action)**

Staff has prepared meeting minutes for the last two meetings of the Commission. This involves a special meeting held on September 7<sup>th</sup> and a regular meeting held on August 10<sup>th</sup>. The minutes are being presented for formal approval with any desired corrections or clarifications.

**2. Commission Ratification I Reconciled Payments from July 1 to August 31, 2017 (action)**

The Commission will consider ratifying payments made by the Executive Officer between the months of July and August. The payments cover all reconciled payroll and non-payroll expenses during the period and total \$85,981. The payments are being presented for formal ratification consistent with adopted policies.

**3. Budget Update for 2017-2018 and Year End Projections (action)**

The Commission will review a report comparing budgeted and actual transactions for 2017-2018 through September 30th and its projection Marin LAFCO is on pace to finish with a net difference of \$13,685 or 2.5%. This projection marks a significant improvement over the budgeted operating net of (\$10,000) and is largely tied to anticipated savings in payroll costs for reasons detailed. The report is being presented to the Commission to accept and file and to provide direction as needed.

**4. Progress Report on 2017-018 Workplan (action)**

The Commission will receive a progress report on accomplishing specific projects established as part of the adopted workplan for 2017-2018. The report is being presented to the Commission to formally accept as well as to provide direction to staff as needed.

**5. Current and Pending Proposals (information)**

The Commission will receive a report identifying active proposals on file with Marin LAFCO as required under statute. The report also identifies pending local agency proposals to help telegraph future workload. The report is being presented to the Commission for information only.

**6. Request for Change in Condition of Approval Terms I 263 Second Street et al. to the Tomales Village Community Services District (action)**

The Commission will consider an applicant's request for a change in a condition to complete the terms established by Marin LAFCO in approving the annexation of territory at 263 Second Street and three adjacent and/or nearby undeveloped lots to the Tomales Village Community Services District on August 13, 2015. Staff believes the request is reasonable and recommends approval in order for the applicant to complete the change of organization. The affected parcels are identified by the County of Marin as 102-041-40, 41, 42, and 43.

**Chair Blanchfield noted minutes from the special meeting on September 7<sup>th</sup> would be revised and then added to the website.**

**APPROVED; M/S Commissioners Murray and Rodoni to approve the consent calendar and recommendations therein; all yes.**



## **PUBLIC HEARING ITEMS**

### **7. North Marin Water District I**

#### **Final Report on Sphere of Influence Update and Associated Items (action)**

The item has returned to the Commission from the previous public hearing held on August 10, 2017 for consideration in taking two actions tied to its scheduled sphere of influence update on the North Municipal Water District. The first action is to receive and file a final report prepared by staff evaluating the current sphere designation and update recommendations therein relative to State law and Commission policies. The second action is to consider adopting a resolution updating the sphere consistent with the recommendations of the final report and headlined by making one immediate modification to include approximately 2,230 acres located off of State Highway 1 in the West Marin service area. Other recommendations focus on policy statements involving Dillion Beach and South Sonoma County to designate these areas as priority reviews ahead of the next scheduled update. The item remains intact from the last regular meeting with some technical edits made in Appendix A of the report.

**Staff briefly discussed the final report as a continued item and opened up for any questions. No questions were asked.**

**North Marin Water District's General Manager Drew McIntyre spoke to the commission and thanked staff for updating the final report with his recommendations. Commission discussion followed.**

**Chair Blanchfield opened the public hearing and invited comments from the audience. Comments were received from Alternate Commissioner Chris Skelton that were acknowledged by the Interim Executive Officer.**

**Commission discussion continued.**

**Chair Blanchfield closed the public hearing. APPROVED: M/S by Commissioners Rodoni and Condon to close public hearing.**

**APPROVED; M/S made by Commissioners Murray and Baker to accept and file the final report and approve the resolution and recommendations therein; all yes.**

### **8. Boundary Change Proposal and Related ActionsI**

#### **Reorganization of 276 Mesa Road to the Bolinas Community Public Utility District (action)**

The Commission will consider a proposal from a landowner requesting annexation of approximately 20.6 acres of unincorporated territory in Bolinas to the Bolinas Community Public Utility District to establish public water service for the future development of a single-family residence. The affected territory lies outside the established sphere of influence for the District and a concurrent amendment is necessary to facilitate an annexation. Staff recommends approval of a concurrent sphere amendment and proposed annexation with standard terms. The subject parcel is identified by the County of Marin Assessor's Office as 188-170-54.

**Staff summarized a proposal to annex territory to Bolinas Community Public Utility District to establish public water service.**

**Commission discussion followed. Chair Blanchfield invited the applicant land owner to speak to the commission. The land owner explained the water service was needed for lack of access to clean water.**

**APPROVED; M/S made by Commissioners Rodoni and Baker to approve the reorganization of 276 Mesa Road to the Bolinas Community Public Utility District; all yes.**

## **BUSINESS ITEMS**

**18. Recommendations on the Temporary Appointment of the Interim Executive Officer (action)**

The Commission will consider to approve recommendations involving the duties, salary adjustment and agreement contract following the appointment of Marin LAFCO's Interim Executive Officer, Rachel Jones. The proposed recommendations include the completion of six items on the Commission's adopted work plan for 2017-2018 and a temporary salary adjustment of \$48.08 per hour. It is also recommended a contract of the appointment be memorialized by LAFCO's personnel counsel. Additionally, the Commission will consider the recommendation on the selection of a firm to oversee the recruitment of a new Executive Officer.

**Chair Blanchfield presented a report about the status of the current Interim Executive Officer position and the proposed process of moving forward with hiring a permanent Executive Officer.**

**Commission discussion followed.**

**APPROVED; M/S made by Commissioners Blanchfield and Rodoni and Baker to approve the duty and salary adjustments for Marin LAFCO's Interim Executive Officer; all yes.**

**APPROVED; M/S made by Commissioners Blanchfield and Rodoni and Baker to approve the selection of a firm to oversee the recruitment of a new Executive Officer; all yes.**

## **EXECUTIVE OFFICER REPORT**

**Interim Executive Officer updated the commission of Marin LAFCO's hosting of the 2018 Annual CALAFCO statewide workshop. Commission discussion followed regarding potential sites for tours as part of the statewide workshop.**

**Interim Executive Officer asked the commission to join her in congratulating Alternate Commissioner Skelton for his nomination for CALAFCO's Board election as a Public Member for the Coastal Region.**

## **COMMISSIONER ANNOUNCEMENTS AND REQUESTS**

**Chair Blanchfield informed the Commission that Commissioner Murray had been appointed to be the voting member for Marin LAFCO at the 2017 CALAFCO Annual Conference.**

## **ADOURNMENT TO NEXT MEETING**

**Chair Blanchfield adjourned the meeting at 7:50 pm.**

**APPROVED:**



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Jeff Blanchfield  
Chair

**ATTESTED:**



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Rachel Jones  
Interim Executive Officer

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# Marin Local Agency Formation Commission

## Regional Service Planning | Subdivision of the State of California

### AGENDA REPORT

December 14, 2017

Item No. 2 (Consent / Action)

December 8, 2017

**TO:** Marin Commissioners

**FROM:** Rachel Jones, Interim Executive Officer  
Alyssa Schiffmann, Contract Bookkeeper

**SUBJECT:** **Commission Ratification |  
Reconciled Payments from September 1 to September 30, 2017**

The Commission will consider ratifying payments made by the Executive Officer during the month of September. The payments cover all reconciled payroll and non-payroll expenses during the period and total \$43,372. The payments are being presented for formal ratification per adopted policies.

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Local Agency Formation Commissions (LAFCOs) are responsible under the Cortese-Knox Hertzberg Local Government Reorganization Act of 2000 (“CKH”) to establish written policies and procedures in providing regional growth management services in all 58 counties in California. LAFCOs are also authorized to make their own provisions – including entering into contracts and agreements and without going through the Department of General Services – for all necessary staffing and service needs therein.

### Background

Marin LAFCO’s (“Commission”) adopted Policy Handbook delegates 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 be reconciled at the end of each month by the membership’s contracted bookkeeper. All reconciled payments are to be reported to the Commission at the next available meeting for formal ratification.

### Discussion

This item is for the Commission to consider ratification of all payments made by the Executive Officer between September 1 and September 30<sup>th</sup>. These payments have been reconciled by the Commission’s contracted bookkeeper – Alyssa Schiffmann with Southern Marin Fire Protection – and total \$43,372. The payments are detailed in Attachment One.

### **Alternatives for Action**

The following alternatives are available to the Commission:

Alternative One (Recommended):

Ratify the reconciled payments made by the Executive Officer between September 1<sup>st</sup> and September 30<sup>th</sup> as shown in Attachment One.

Alternative Two:

Continue consideration of the item to the next regular meeting and provide direction to staff as needed.

### **Recommendation**

It is recommended the Commission proceed with the actions outlined in the preceding section as Alternative One.

### **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.

Respectfully,



Rachel Jones  
Interim Executive Officer

Attachments:

- 1) Reconciled Payments from September 1 to September 30, 2017

**Marin Local Agency Formation Commission**  
**Expenses by Vendor Detail**  
**September 2017**

12/07/17

Accrual Basis

Date	Memo	Account	Amount
<b>ALHAMBRA &amp; SIERRA SPRINGS</b>			
09/18/2017	Services Through September 2017	5220110 · Office Supplies	38.07
Total ALHAMBRA & SIERRA SPRINGS			38.07
<b>BAKER, JOHN M</b>			
09/08/2017	Per Diem   9-7-17 Meeting	5211533 · Commissioner Per ...	125.00
Total BAKER, JOHN M			125.00
<b>BARBIER SECURITY GROUP</b>			
09/07/2017	August 2017 Meeting	5210110 · Professional Services	160.00
Total BARBIER SECURITY GROUP			160.00
<b>BLANCHFIELD, JEFFRY S</b>			
09/07/2017	Reimbursements: Travel to Office	5211533 · Commissioner Per ...	0.00
09/07/2017	Reimbursements: Travel to Office	5220110 · Office Supplies	0.00
09/07/2017	Reimbursements: Travel to Office	5211440 · Travel - Mileage	115.03
09/08/2017	Per Diem for 9-7-17 Meeting	5211533 · Commissioner Per ...	125.00
09/08/2017	Per Diem for 9-7-17 Meeting	5220110 · Office Supplies	0.00
09/08/2017	Per Diem for 9-7-17 Meeting	5211440 · Travel - Mileage	0.00
Total BLANCHFIELD, JEFFRY S			240.03
<b>Chris Skelton</b>			
09/08/2017	Per Diem   9-7-17 Meeting	5211533 · Commissioner Per ...	125.00
Total Chris Skelton			125.00
<b>CIVIC PLUS INC</b>			
09/08/2017	Second Year Payment   Commission A...	5210129 · Graphic Design	11,216.96
Total CIVIC PLUS INC			11,216.96
<b>CONDON, CARLA STONE</b>			
09/08/2017	LAFCO Per Diem 9-7-17	5211533 · Commissioner Per ...	125.00
Total CONDON, CARLA STONE			125.00
<b>COUNTY OF MARIN-CDA</b>			
09/15/2017	Digitizing Maps	5211516 · Mapping Services - ...	750.00
Total COUNTY OF MARIN-CDA			750.00
<b>COUNTY OF MARIN - DOF PAYROLL</b>			
09/18/2017	OPBEB Contribution - Banning / Augus...	5130525 · CalPERS - Retiree ...	445.47
Total COUNTY OF MARIN - DOF PAYROLL			445.47
<b>FP MAILING SOLUTIONS</b>			
09/07/2017	Meter Rental through 8-22-17	5210710 · Communications S...	137.34
09/18/2017	Wi-Fi Adapter for Postage	5210710 · Communications S...	9.81
Total FP MAILING SOLUTIONS			147.15
<b>GRAF VAN &amp; STORAGE INC</b>			
09/07/2017	Through August 2017	5211215 · Rent - Storage	35.19
Total GRAF VAN & STORAGE INC			35.19
<b>KIOUS, LEWIS</b>			
09/08/2017	Per Diem   9-7-17 Meeting	5211533 · Commissioner Per ...	125.00
Total KIOUS, LEWIS			125.00
<b>Marin CLEAN ENERGY</b>			
09/07/2017	August 2017 Room Fee	5211270 · Office Lease/Rent	168.10
Total Marin CLEAN ENERGY			168.10

**Marin Local Agency Formation Commission**  
**Expenses by Vendor Detail**  
**September 2017**

12/07/17

Accrual Basis

<u>Date</u>	<u>Memo</u>	<u>Account</u>	<u>Amount</u>
<b>MARIN IJ PROCESSING CENTER</b>			
09/22/2017	October 2017 Notices	5211520 · Publications/Notices	162.40
Total MARIN IJ PROCESSING CENTER			162.40
<b>MARIN MAC TECH</b>			
09/06/2017	Commission Approved   2/2 of Equipme...	5210935 · Office Equipment P...	7,626.90
09/06/2017	VPN Access - Staff	5210935 · Office Equipment P...	377.58
Total MARIN MAC TECH			8,004.48
<b>Matt Brown</b>			
09/08/2017	LAFCO Per Diem 9-7-17 Meeting	5211533 · Commissioner Per ...	125.00
Total Matt Brown			125.00
<b>McENTEE, SASHI</b>			
09/08/2017	Per Diem   9-7-17 Meeting	5211533 · Commissioner Per ...	125.00
Total McENTEE, SASHI			125.00
<b>MURRAY, CRAIG K</b>			
09/08/2017	Per Diem   9-7-17 Meeting	5211533 · Commissioner Per ...	125.00
Total MURRAY, CRAIG K			125.00
<b>PAYROLL</b>			
09/14/2017		5110110 · Sal - Regular Staff	7,316.38
09/14/2017		5110323 · Sick Leave	217.38
09/14/2017		5110328 · Personal Leave	515.04
09/14/2017		5110324 · Vacation Leave	0.00
09/14/2017		5110313 · Holiday Pay	0.00
09/14/2017		5130520 · Co Ret Cont Tier III	989.91
09/14/2017		5130521 · Co Ret Cont Tier IV	246.07
09/14/2017		5130110 · Ben-Med-GrpLifeln...	1.12
09/14/2017		5130120 · County of Marin - G...	824.17
09/14/2017		5130210 · Dental Insurance	21.99
09/14/2017		5130310 · Vision Service Plan	2.55
09/14/2017		5130410 · Benefits - Disability ...	12.97
09/14/2017		5140140 · Payroll Tax	149.14
09/14/2017		5130524 · Benefits - Fringe R...	0.00
09/30/2017		5110110 · Sal - Regular Staff	7,316.38
09/30/2017		5110323 · Sick Leave	217.38
09/30/2017		5110328 · Personal Leave	515.04
09/30/2017		5110324 · Vacation Leave	0.00
09/30/2017		5110313 · Holiday Pay	0.00
09/30/2017		5130520 · Co Ret Cont Tier III	989.91
09/30/2017		5130521 · Co Ret Cont Tier IV	246.07
09/30/2017		5130110 · Ben-Med-GrpLifeln...	1.12
09/30/2017		5130120 · County of Marin - G...	824.17
09/30/2017		5130210 · Dental Insurance	21.99
09/30/2017		5130310 · Vision Service Plan	2.55
09/30/2017		5130410 · Benefits - Disability ...	12.97
09/30/2017		5140140 · Payroll Tax	149.14
09/30/2017		5130524 · Benefits - Fringe R...	0.00
Total PAYROLL			20,593.44
<b>RODONI, DENNIS JAMES</b>			
09/08/2017	Per Diem   9-7-17	5211533 · Commissioner Per ...	125.00
Total RODONI, DENNIS JAMES			125.00
<b>SPECIAL DISTRICT RISK MNGMT - ACH</b>			
09/26/2017	Deposit	5140115 · Workers Compenst...	-100.97
Total SPECIAL DISTRICT RISK MNGMT - ACH			-100.97



**Marin Local Agency Formation Commission**  
**Expenses by Vendor Detail**  
**September 2017**

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<u>Date</u>	<u>Memo</u>	<u>Account</u>	<u>Amount</u>
<b>US BANK GOVERNMENT SERVICES</b>			
09/06/2017	dropbox	5210710 · Communications S...	9.99
09/06/2017	mcafee	5210935 · Office Equipment P...	179.95
09/06/2017	staples	5220110 · Office Supplies	180.99
Total US BANK GOVERNMENT SERVICES			370.93
<b>VERIZON WIRELESS</b>			
09/18/2017	EO Mobile Plan   Thru September 2017	5210710 · Communications S...	141.09
Total VERIZON WIRELESS			141.09
<b>TOTAL</b>			<b>43,372.34</b>

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**Marin Local Agency Formation Commission**  
**Regional Service Planning | Subdivision of the State of California**

**AGENDA REPORT**

December 14, 2017

Item No. 3 (Consent / Action)

December 8, 2017

**TO:** Marin Commissioners

**FROM:** Rachel Jones, Interim Executive Officer  
 Alyssa Schiffmann, Contract Bookkeeper

**SUBJECT: Budget Update for 2017-2018 and Year End Projections**  
 The Commission will review a report comparing budgeted and actual transactions for 2017-2018 through November 30, 2017 and its projection Marin LAFCO is on pace to finish with an operating net of \$13,685.28 or 2.5%. This projection marks a significant improvement over the budgeted operating net of (\$10,000) and is largely tied to anticipated savings in payroll costs for reasons detailed. The report is being presented to the Commission to accept and file and to provide direction as needed.

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 mandates operating costs for Local Agency Formation Commissions (LAFCOs) shall be annually funded by the affected counties, cities, and independent special districts on a one-third apportionment process. Apportionments for cities and independent special districts are further divided and proportional to each agency’s total revenues as a percentage of the overall revenue amount collected by these agencies as determined by the State Controller’s Office. LAFCOs are also authorized to collect fees to offset contributions.

**Background**

Marin LAFCO’s (“Commission”) adopted final budget for 2017-2018 totals \$556,781. This amount represents the total approved operating expenditures for the fiscal year divided between three active expense units: salaries and benefits; administrative activities; and services and supplies. A purposeful operating deficit of (\$10,000) or (1.8%) was budgeted with setting annual revenues at \$546,781 in step with phasing a corresponding contribution increase among the funding agencies in recent years. Budgeted revenues are divided between three active units and are intergovernmental contributions, service charges, and investments. The Commission’s estimated available unaudited fund balance as of July 1, 2017 was \$191,436.

Budgeted 17-18 Expenses	Budgeted 17-18 Revenues	Budgeted 17-18 Year End Balance	Budgeted 17-18 Revenues
\$556,781	\$546,781	(\$10,000)	\$191,436

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**Damon Connolly, Regular**  
 County of Marin

**Dennis J. Rodoni, Regular**  
 County of Marin

**Judy Arnold, Alternate**  
 County of Marin

**Carla Condon, Vice Chair**  
 Town of Corte Madera

**Sashi McEntee, Regular**  
 City of Mill Valley

**Matthew Brown, Alternate**  
 Town of San Anselmo

**Jack Baker, Regular**  
 North Marin Water District

**Craig K. Murray, Regular**  
 Las Gallinas Valley Sanitary

**Lew Kious, Alternate**  
 Almonte Sanitary District

**Jeffrey Blanchfield, Chair**  
 Public Member

**Chris Skelton, Alternate**  
 Public Member

## Discussion

This item is for the Commission to receive an update comparison of (a) budget to (b) actual expenses and revenues through the month of November. The report provides the Commission the opportunity to track expenditure trends and accompanied by year-end operating balance projections from the Executive Officer. The report is being presented to the Commission to formally accept and file and provide related direction as needed.

### Summary of Operating Expenses

The Commission’s budgeted operating expense total for 2017-2018 is \$556,781. Actual expenses processed through the first six months totaled \$143,998; an amount representing 25.9% of the budgeted total with 50% of the fiscal year complete.

Expense Units	Adopted w/ Amendments	Actuals Through 11/30	Percent Expended	Unexpected Balance
1) Salaries and Benefits	360,639	57,159	16%	303,480
2) Administrative	90,614	14,663	16%	75,951
3) Services and Supplies	105,529	72,176	68%	33,353
4) Contingencies	-	-	-	-
<b>Total</b>	<b>\$556,781</b>	<b>\$143,998</b>	<b>26%</b>	<b>\$412,784</b>

Actuals through the first six months and related analysis suggest the Commission is on pace to finish the fiscal year with \$533,096 in total expenses and produce an unexpended budgeted savings of \$23,686 or 4%. An unexpended discussion on budgeted and actual expenses through the first six months and related year-end projections follow.

### Salaries / Benefits Unit

The Commission budgeted with amendments \$360,639 in the Salaries and Benefits Unit for 2017-2018 with proceeds largely tied to funding 2.85 full-time equivalent employees as well as existing retiree obligations. Through the first six months the Commission’s actual expenses within the seven affected accounts totaled \$57,713 or 16% of the budgeted amount. One of the accounts, Workers Compensation – finished with balances exceeding the proportional 50% spending threshold for the period with explanations provided below. Additionally, with the recent departure of one fulltime equivalent employee, the Executive Officer, and the hiring of a part-time employee, the Administrative Associate, it is reasonable to assume staff salaries, benefits and pension contributions will amount to only 80% of the budgeted totals with the adjustment in anticipated staffing levels. In the absence of any additional amendments at this time, however, it is projected the Commission finish the fiscal year with an expense total of \$293, 380, and result in a surplus of \$67,259 or 19%.<sup>1</sup>

- Workers Compensation

This account covers the Commission’s contract costs to participate in the Special Districts Risk Management Authority’s (SDRMA) risk-pool for employee injury and disability coverage while performing work-related functions. The Commission budgeted \$1,774 in this account in 2017-2018 based on recent trends and ahead of a formal notification from SDRMA. Actual

<sup>1</sup> The projected year-end total assumes the Commission Clerk will remain on full leave through June 30<sup>th</sup> and factors in the reduction in .. anticipated staffing levels.

expenses through November totaled \$1,643 or 94.2% of the budgeted amount and tied to providing full invoice payment in September. Staff anticipates all budgeted costs are paid and the Commission will finish with a \$0 ending balance.

### **Administrative Activities Unit**

The Commission budgeted with amendments \$90,614 in the Administrative Activities Unit for 2017-2018 to provide funding for *direct* support services necessary to operate Marin LAFCO (emphasis).<sup>2</sup> Through the first six months the Commission's actual expenses within the six affected accounts totaled \$11,251 or 12% of the budgeted amount. One of the affected accounts – Work Conferences – finished with balances exceeding the proportional 50% spending threshold for the period with explanations provided below. Additionally, with the departure of one fulltime equivalent employee, it is reasonable to assume the Commission will expend additional consultant costs over the current budgeted outlay in professional services for additional staff support. In the absence of subsequent amendments at this time, it is projected the Commission will finish the fiscal year with an expense total of \$132,614 and result in a shortfall of (\$42,000) or (46%).

- Work Conferences

This account covers the Commission's costs for continued educational training specific to attending overnight conferences and workshops. The Commission budgeted \$2,965 in this account for 2017-2018 based on recent actual trends. Actual expenses through November totaled \$4,641 and attributed to registration costs for the CALAFCO Annual Conference held in October in San Diego. Staff projects no additional registration costs over the succeeding nine months and estimates a resulting year-end shortfall of (\$1,676) or (44%).

- Professional Services

This account covers the Commission's costs to retain professional accounting services specific to transacting day-to-day business. The Commission budgeted \$30,680 in this account for 2017-2018 based on projected needs and highlighted by ongoing support services of a new computer network system with local vendor, Marin Mac Tech for four new Apple computers. Actual expenses in this account through November totaled \$2,478 or 8.1% of the budgeted amount. An additional \$40k in consultant costs over the current budgeted outlay in professional services is reasonable to assume for recruitment and additional staff support. It is projected the Commission will ultimately expend \$70,680 in this account through June, and result in a yearend shortfall of (\$40,000) or (130%).

### **Services and Supplies Unit**

The Commission budgeted \$105,529 in the Services and Supplies Unit for 2017-2018 to provide funding for indirect support services necessary to operate Marin LAFCO (emphasis). Through the first six months the Commission's actual expenses within the 11 affected accounts totaled \$72,176 or 68% of the budgeted amount. Five accounts – Membership Dues, General Insurance, Office Equipment and Replacement, Ongoing Education and Training, Graphic Website/Design and Public Notices and Publications – finished with balances exceeding the proportional 50% spending threshold for the period with explanations provided below. In the absence of subsequent amendments, it is projected the Commission will finish the fiscal year with an expense total of \$107,102, and result in an overall shortfall of (\$1,573) or (1.5%).

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<sup>2</sup> The original budgeted amount in the Administrative Unit totaled \$86,114. This total was subsequently amended to \$90,614 with the increase - \$4,500 – being drawn from the Salaries/Benefits Unit.

▪ Membership Dues

This account covers the Commission's annual dues for ongoing membership with several outside agencies and organizations as previously authorized by the members. This includes MarinMap and CALAFCO memberships. The Commission budgeted \$14,556 in this account for 2017-2018 based on recent actual trends. Actual expenses in this account through the first six months totaled \$12,726 or 87% of the budgeted amount and tied to providing full payment of all budgeted costs with the exception of Marin Television and California Special Districts Association (CSDA). Staff anticipates all budgeted costs will be paid and the Commission will finish with a \$0 ending balance.

▪ General Insurance

This account covers the Commission's contract cost to participate in SDRMA's risk-pool for general liability coverage to meet future claims and losses tied to third-party injuries and property damages. The Commission budgeted \$3,993 in this account in 2017-2018 based on the prior year's charge. Actual expenses through the first six months totaled \$3,993 or 100% of the budgeted amount and tied to providing full payment upon receipt of an invoice in August. No other invoices are expected, and accordingly the Commission should finish the fiscal year with an ending balance of \$0.

▪ Office and Equipment

This account covers the Commission's general overhead costs ranging from basic material supplies to office furniture. The Commission amended its budget to \$23,066 in this account for 2017-2018 based on projected year-end totals. Actual expenses in this account through the first six months totaled \$24,527 or 106.3% of the budgeted amount. Nearly two-thirds of these expenses are attributed to the purchase, delivery and set up of a new computer network system and computers for four workstations; costs that had been amended to the budget this fiscal year. It is projected the Commission will ultimately expend \$25,000 in this account through June, and result in a year-end deficit of (\$1,934) or (8%).

▪ Training

This account covers ongoing education services for Commissioners and staff. The Commission budgeted \$1,250 in this account for 2017-2018. Actual expenses in this account through the first six months totaled \$1,350 or 108% of the budgeted amount with the costs tied to the Interim Executive Officer completing a certificate program from eCornell in Measuring and Improving Business Performance. No additional expenses are expected within this account through June and producing a year-end deficit balance of (\$50) or (4%).

▪ Graphic/Website Design

This account covers the Commission's general costs tied to utilizing professional services for all specified graphic and website design or edits. The Commission budgeted \$11,613 in this account in 2017-2018 with nearly all funds earmarked for the design, launch and maintenance

of the new website. Actual expenses in this account through the first six months totaled \$11,217 or 97% of the budgeted amount and predominately tied to paying in full the second of four annual installment payments to CivicPlus for website design and ongoing support services. Limited additional costs are expected, and as such the Commission is projected to finish with an ending balance of \$0.

▪ Public Notices and Publications

This account covers the Commission’s costs to utilize outside vendors for photocopying and related services as all as posting notices and advertisements in local newspapers. The Commission budgeted \$5,000 in this account for 2017-2018. Actual expenses in this account through the first six months totaled \$2,609 or 52.2% of the budgeted amount with the costs tied to using a third party to copy/bind the Commission’s draft and final reports on the Central Marin Wastewater Study. Staff anticipates year-end expenses totaling \$3,500 and resulting in a balance surplus of \$1,500 or 30%.

### Summary of Operating Revenues

The Commission’s budgeted operating revenue total for 2017-2018 is \$546,781. Actual revenues collected through the first six months totaled \$523,076. This amount represents 96% of the budgeted total with 50% of the fiscal year complete. A summary comparison of budgeted to actual operating revenues follows.

Revenue Unit	Adopted	Actuals Through 11/30	Percent Collected	Amount Outstanding
1) Intergovernmental	514,781	514,780	100%	1
2) Service Charges	30,000	8,296	28%	21,704
3) Interest Earnings	2,000	-	0%	-
<b>Total</b>	<b>\$546,781</b>	<b>\$523,076</b>	<b>26%</b>	<b>\$23,705</b>

Actuals through the first six months and related analysis suggest the Commission’s year-end revenue totals will tally \$546,781 and result in an ending balance of \$0. An expanded discussion on the budgeted and actual revenues through the first six months in the main revenue units follows.

#### Intergovernmental Fees Unit

The Commission budgeted \$514,781 in the Intergovernmental Fees Unit for 2017- 2018. This total budgeted amount was to be divided into three equal shares at \$171,594 and invoiced among the County of Marin, 11 cities/towns, and 30 independent special districts as provided under State statute. All invoices are received. Accordingly, the Commission will finish with an ending balance of \$514,780 or 100% of the budgeted amount.

#### Application Fees Unit

The Commission budgeted \$30,000 in the Application Fees Unit for 2017-2018. Through the first six months \$8,296 in application fees have been collected. Staff anticipates – and at least for budgeting purposes – the account ultimately tallying \$30,000 and result in a year-end balance of \$0.

### **Interest Unit**

The Commission budgeted \$2,000 in the Interest Unit for 2017-2018. No interest earnings have been booked by the County Treasurer through the first six months and as such no monies have been collected. Staff anticipates – and at least for budgeting purposes – the account ultimately tallying \$2,000 and result in a year-end balance of \$0.

Activity through the first six months of the fiscal year indicates the Commission is proceeding as planned while also – and advantageously – on pace to eliminate its budgeted net operating deficit of (\$10,000) and finish with a surplus of \$13,685. This projected improvement is largely tied to accruing salary and related benefit savings associated with the continued leave of one the Commission’s three budgeted positions and the departure of the Executive Officer. These saving in salary and benefits – and among other potential uses – is expected to help absorb significant projected overruns general administrative and office expenses with the latter tied to the purchase of a new computer networking system and ongoing support services.

### **Alternatives for Action**

The following alternatives are available to the Commission:

#### Alternative One (Recommended):

Accept and file the report as presented and provide direction as needed to staff with respect to any related matters for future consideration.

#### Alternative Two:

Continue consideration of the report to a future meeting and provide direction for more information as needed.

### **Recommendation**

It is recommended the Commission proceed with the actions outlined in the preceding section as Alternative One.

### **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.

Respectfully,



Rachel Jones  
Interim Executive Officer

#### Attachments:

- 1) 2017-2018 General Ledger through November 30, 2017





		FY14-15	FY14-15	FY15-16	FY15-16	FY16-17	FY16-17	FY17-18	FY17-18	As of 9-30-17 (22.8% of FY)	% of Budget	FY17-18
<b>Intergovernmental</b>												
<b>Account</b>	<b>Description</b>											
4710510	Agency Contributions	348,366	348,367	387,528	387,528	470,362	469,161	514,781	514,781	514,780	100.0%	514,781
		348,366	348,367	387,528	387,528	470,362	469,161	514,781	514,781	514,780	100.0%	514,781
<b>Service Charges</b>												
4640333	Application Fees	25,000	15,536	25,000	17,424	30,000	23,778	30,000	30,000	8,296	27.7%	30,000
4710631	Miscellaneous	-		226	365	-	-	-	-	-	-	-
		25,000	15,536	25,226	17,789	30,000	23,778	30,000	30,000	8,296	27.7%	30,000
<b>Investments</b>												
	Interest	1,500	700	1,500	769	1,500	1,417	2,000	2,000	-	0.0%	2,000
		1,500	700	1,500	769	1,500	1,417	2,000	2,000	-	0.0%	2,000
<b>REVENUE TOTALS</b>		<b>374,866</b>	<b>364,603</b>	<b>414,254</b>	<b>406,086</b>	<b>501,862</b>	<b>494,356</b>	<b>546,781</b>	<b>546,781</b>	<b>523,076</b>	<b>95.7%</b>	<b>546,781</b>
<b>OPERATING NET</b>		-	6,064	(56,000)	(55,713)	(25,000)	14,299	(10,000)	(10,000)			13,685.28
(negative amounts reflect draw down on reserves)												
<b>AUDITED FUND BALANCE</b>												
As of June 30th		\$ 196,618.00		\$ 177,137.00								



# Marin Local Agency Formation Commission

## Regional Service Planning | Subdivision of the State of California

### AGENDA REPORT

December 14, 2017

Item No. 4 (Consent / Action)

December 8, 2017

**TO:** Marin Commissioners  
**FROM:** Rachel Jones, Interim Executive Officer  
**SUBJECT:** **Approval of Meeting Dates for Calendar Year 2017**

The Commission will consider setting regular dates for the upcoming fiscal year as required under policy. Regular meeting dates are proposed for each even-numbered month with the resulting dates falling on February 8<sup>th</sup>, April 12<sup>th</sup>, June 14<sup>th</sup>, August 9<sup>th</sup>, October 11<sup>th</sup> and December 13<sup>th</sup>. The Commission will also consider to postpone one special meeting, its Strategic Planning Workshop until the recruitment of a full-time Executive Officer.

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The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 requires Local Agency Formation Commissions (LAFCOs) to adopt policies and procedures with respect to holding meetings. Government Code Section 56375(i) specifies LAFCOs must establish regulations to ensure meetings are conducted on a regular and orderly basis. This section also directs LAFCOs to schedule special meetings in advance to address issues of specific interest and importance whenever possible.

### Background

It is the policy of Marin LAFCO (“Commission”) to set its meeting schedule for the proceeding calendar year every December. Policies also provide that regular meetings may be held either monthly or every other month on the second Thursday and based on anticipated workload. These policies also provide that all regular meetings shall be called to order at 7:00 P.M. and take place at the Marin Clean Energy Building at 1125 Tamalpais Avenue in San Rafael. The Commission may also schedule special meetings in conjunction with calendared regular meetings as deemed necessary. The Chair also has the authority to independently call special meetings as needed.

### Discussion

This item is for the Commission to formally set meeting dates for the upcoming calendar year as required under policy. This includes considering anticipated workload and Commission preferences therein in holding meetings.

## **Proposed Meeting Dates**

The anticipated workload of the Commission by way of the adopted work plan coupled with current and expected application activities suggests it would be appropriate to hold regular meetings every even-numbered month. Holding regular meetings every two months would be consistent with recent calendaring practices and allow for odd numbered months to continue to be used to hold individual committee meetings. If approved this calendar would result in holding regular meetings on February 8<sup>th</sup>, April 12<sup>th</sup>, June 14<sup>th</sup>, August 9<sup>th</sup>, October 11<sup>th</sup>, and December 13<sup>th</sup>.

It is also advised the Commission postpone one special meeting the annual workshop at this time until a permanent Executive Officer has been appointed by the Commission. The newly appointed Executive Officer will review workshop topics with the Chair and Vice Chair with the expectation of calendaring a meeting within the current fiscal year.

## **Alternatives for Action**

The following alternatives are available to the Commission:

### Alternative One (Recommended):

- (a) Approve regular meeting dates on the following even-numbered Thursday: February 8<sup>th</sup>, April 12<sup>th</sup>, June 14<sup>th</sup>, August 9<sup>th</sup>, October 11<sup>th</sup>, and December 13<sup>th</sup>.
- (b) Approve the postponement of the annual workshop until a permanent Executive Officer has been appointed by the Commission.

### Alternative Two:

Continue consideration of the agenda report to a date specific meeting and provide direction for more information as needed.

## **Recommendation**

It is recommended the Commission proceed with the actions outlined in the preceding section as Alternative One.

## **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.

On behalf of staff,



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Rachel Jones  
Interim Executive Officer

Attachments: None

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# Marin Local Agency Formation Commission

## Regional Service Planning | Subdivision of the State of California

### AGENDA REPORT

December 14, 2017

Item No. 5 (Consent / Action)

December 8, 2017

**TO:** Marin Commissioners  
**FROM:** Rachel Jones, Interim Executive Officer  
**SUBJECT:** **Progress Report on 2017-2018 Work Plan**

The Commission will receive a progress report on accomplishing specific projects established as part of the adopted work plan for 2017-2018. The report is being presented to the Commission to formally receive and file as well as provide direction to staff as needed.

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Local Agency Formation Commissions (LAFCOs) are responsible for regulating the formation and development of local government agencies and municipal service areas under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH). This includes timing the establishment, expansion and reorganization of local government and their public services to meet current and future community needs. LAFCOs inform their regulatory powers through various administrative and planning activities with an increasing emphasis on performance measurement.

### Background

Marin LAFCO's ("Commission") current fiscal year work plan was adopted at a noticed public hearing held on June 8, 2017. The work plan is divided into two distinct categories – statutory and administrative – with one of three priority rankings: high; moderate; or low. The underlying intent of the work plan is to serve as a management tool to allocate Commission resources in an accountable and transparent manner over the corresponding 12-month period. Further, while it is a stand-alone document, the work plan should be reviewed in relationship to the adopted operating budget given the planned goals and activities are facilitated and or limited accordingly.

This item provides the Commission with a status update on the two-dozen plus targeted projects established for the fiscal year with a specific emphasis on the “top ten”: the projects that represent the highest priority to complete during the fiscal year as determined by the membership. This includes identifying the projects already completed, underway or pending in the accompanying attachment. The report and the referenced attachment is being presented for the Commission to formally receive and file while also providing additional direction to staff as appropriate.

## **Discussion**

The Commission has initiated work on four of the two-dozen plus projects and has completed five projects included in the adopted work plan. This includes the completion of four high priority projects and highlighted by the appointment of Commission Counsel and the recruitment of a temporary hire to supplement the Commission Clerk position. With the departure of the Executive Officer, additional support is needed to prioritize resources in addressing LAFCO's duties and responsibilities. Other notable projects underway is the Commission's 2016-2017 Audit, the municipal service review on San Rafael and Lucas Valley, and the sphere updates for Central Marin wastewater agencies.

## **Alternatives for Action**

The following alternatives are available to the Commission:

### Alternative One (Recommended):

Accept and file the report as presented.

### Alternative Two:

Continue consideration of the report to a future meeting and provide direction to staff for more information 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.

Respectfully,



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Rachel Jones  
Interim Executive Officer

### Attachments:

- 1) 2017-2018 Work Plan with Notations





# Marin Local Agency Formation Commission

## Regional Service Planning | Subdivision of the State of California

### 2017-2018 Work Plan

#### Introduction:

Local Agency Formation Commissions (LAFCOs) operate under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (“CKH”) and are delegated broad regulatory and planning responsibilities by the Legislature to oversee the formation and subsequent development of local government agencies and their municipal service areas. Common regulatory functions include approving boundary change and outside service requests. Common planning functions include preparing studies to independently evaluate the availability, performance, and need for urban services and establishing spheres of influence – which are the Legislature’s version of urban growth boundaries and gatekeepers to future boundary changes – for all cities and special districts. All regulatory and planning activities undertaken by LAFCOs may be conditioned and must be consistent with administrative policies and procedures.

#### Objective:

This document represents Marin LAFCO’s (“Commission”) formal 2017-2018 Work Plan. The Workplan draws on the Commission’s existing strategic plan and other germane and time-demanding projects identified by the Executive Officer and vetted with the Budget Committee (McEntee, Murray, and Rodoni) in the course of developing an operating budget for the fiscal year. The Workplan is divided into two distinct categories – statutory and administrative – with one of three priority rankings: high, moderate, or low. The underlying intent of the Workplan is to serve as a management tool to allocate Commission resources in an accountable and transparent manner over the 12 month period. Further, while it is a stand-alone document, the Workplan should be reviewed in relationship to the adopted operating budget given the planned goals and activities are facilitated and or limited accordingly.

#### Executive Summary:

The 2017-2018 Workplan continues to guide the Commission to prioritize resources in addressing statutory duties and responsibilities. Most notably this includes p two comprehensive municipal service reviews involving the San Rafael/Lucas Valley and Novato regions. Commission initiated reorganizations involving Murray Park and San Quentin Village Sewer Maintenance Districts are also scheduled. Notable new administrative projects include filling staff positions, performing policy updates, and establishing long-term bookkeeping and payroll protocols instep with the Commission’s recent transition to a stand-alone accounting system. A limited number of projects have also been identified as low priorities with the policy intention therein for the Commission to address – such as updating the application packet and establishing social media polices and protocols – as resources allow.

Priority	Urgency	Type	Status	Project	Key Issues	Status
1	High	Statutory	New	Commission Counsel Appointment	Statutory Need for Commission to Appoint Counsel   RFP Process	C
2	High	Statutory	Rollover	New Website Design and Implementation	Required to Maintain Website; Serves as Main Communicative Tool   Focus on Branding	C
3	High	Administrative	New	Contract Bookkeeping Services	Need Long-Term Bookkeeping Solution in Step with New Finance System	C
4	High	Statutory	Rollover	General MSR on San Rafael/Lucas Valley Region	First MSR for Region since 2005   Community Outreach in Islands	U
5	High	Statutory	Rollover	General MSR on Novato Region	First MSR for Region since 2002   Community Outreach and UGB Compatibility	P
6	High	Statutory	New	Policy Review: Personnel Procedures	Existing Policies Tie LAFCO to County; Need to Scaledown	U
7	High	Administrative	New	MPSMD and SQVSM Reorganization	Discretionary; Consistent with Recommendation of Central Marin Wastewater Study	P
8	High	Administrative	New	Recruit and Hire New Staff Member	Fill and/or Supplement Commission Clerk Position	C
9	High	Statutory	New	Sphere Updates for Central Marin WW Agencies	First SOI Updates for Most Agencies Since 2005   RVSD; CMSD; SRSD; and LGVSD	U
10	High	Administrative	New	Evaluate Pension Contract with CalPERS	Explore Cost-Savings Opportunity; Potential Synch with OPEB Relationship	P
11	Moderate	Administrative	New	Prepare Informational Report on JPAs	Post Enactment of SB 1266; Enhance Repository on Local Governmental Services	U
12	Moderate	Administrative	New	Policy Review: Dual Annexation Policy	Follows San Rafael and Novato Region MSRs; Define Substantially Surrounded	P
13	Moderate	Administrative	New	Establish Contract Payroll Services	County Desiring Separation with Outside Users; Address Benefits and Holdings	P
14	Moderate	Administrative	New	2016-2017 Audit	Best Practice   First Audit of QuickBooks System	U
15	Moderate	Administrative	New	E-Agenda Packets	Simplify Agenda Packet Production through E-Tablets   Purchase and Training	C
16	Moderate	Administrative	New	Host 2018 CALAFCO Staff Workshop	April 2018   Expected 120 Plus Attendees	P
17	Moderate	Administrative	New	Memorialize Employer Benefit Contracts	Potential MOU with County or Other to Memorialize Benefit Services	P
18	Moderate	Administrative	New	Evaluate Contract Human Resource Services	Reconcile Government Agency with Scale	P
19	Low	Statutory	Rollover	Mutual Water Companies	AB 54 Implementation; Onus on Mutual to Cooperate	P
20	Low	Statutory	Rollover	Disadvantaged Unincorporated Communities	SB 244 Implementation; Coordinate with CALAFCO	P
21	Low	Administrative	Rollover	Update Application Packet	Current Application Dated; Need to Address New Requirements; Make User Friendly	P
22	Low	Administrative	Rollover	Social Media Policies and Protocols	Expand Outreach to Capture Alternate Media Forums	C
23	Low	Administrative	Rollover	Local Agency Directory	Current Directory Out of Date and Limited to Browser   Opportunity to Show Value	P
24	Low	Administrative	New	Review GIS Needs and Options	Existing Benefit of MarinMap Relative to Cost Merits Review; Address Data Limitations	P
25	Low	Administrative	Rollover	Special District Selection Committee	Assist in Re-establishing Special Selection Committee in Marin County	P

**Status Notations:**

C: Completed

U: Underway

P: Pending



# Marin Local Agency Formation Commission

## Regional Service Planning | Subdivision of the State of California

### AGENDA REPORT

December 14, 2017

Item No. 6 (Consent / Information)

December 8, 2017

**TO:** Marin Commissioners  
**FROM:** Rachel Jones, Interim Executive Officer  
**SUBJECT:** **Current and Pending Proposals**

The Commission will receive a report identifying active proposals on file with Marin LAFCO as required under statute. The report also identifies pending local agency proposals to help telegraph future workload. The report is being presented to the Commission for information only.

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The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (“CKH”) delegates Local Agency Formation Commissions (LAFCOs) with regulatory and planning duties to coordinate the formation and development of local government agencies and their municipal services. This includes approving or disapproving boundary changes involving the formation, expansion, merger, and dissolution of cities, towns and special districts as well as sphere of influence amendments. It also includes overseeing outside service extensions. Proposals involving jurisdictional changes filed by landowners or registered voters must be put on the agenda as information items before any action may be considered by LAFCO at a subsequent meeting.

### Information / Discussion

#### Current Proposals | Approved and Awaiting Term Completions

The following two proposals were previously approved by Marin LAFCO (“Commission”) but remain active given not all approval terms established by the membership have been met. CKH provides applicants one calendar year to complete approval terms or receive extension approvals before the proposals are automatically terminated.

- **Annexation of 700 and 726 Sequoia Valley Road | Homestead Valley Sanitary District (LAFCO File No. 1322)**

This proposal was filed by the Homestead Valley Sanitary District requesting approval to annex approximately 1.1 acres of unincorporated territory. The stated purpose of the proposal is to align HVSD’s existing jurisdictional boundary with its existing service area given the affected territory and its two developed residential parcels at 700 (046-231-07) and 726 (046-301-01) Sequoia Valley Road connected to the District through non-conforming connections in the early 1990s. The Commission approved the proposal with amendments to include adjacent portions of the public right-of-way along Sequoia Valley Road and Panoramic Highway on June 9, 2016 with standard terms. Terms remain outstanding as of date and therefore the proposal remains active. The Commission separately approved a one-year extension to complete the terms in June 2017.

**Administrative Office**  
Rachel Jones, Interim 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

**Dennis J. Rodoni, Regular**  
County of Marin

**Judy Arnold, Alternate**  
County of Marin

**Carla Condon, Vice Chair**  
Town of Corte Madera

**Sashi McEntee, Regular**  
City of Mill Valley

**Matthew Brown, Alternate**  
Town of San Anselmo

**Jack Baker, Regular**  
North Marin Water District

**Craig K. Murray, Regular**  
Las Gallinas Valley Sanitary

**Lew Kious, Alternate**  
Almonte Sanitary District

**Jeffrey Blanchfield, Chair**  
Public Member

**Chris Skelton, Alternate**  
Public Member

- **Annexation of 355 and 347 Margarita Drive | San Rafael Sanitation District (LAFCO File No. 1333)**

This proposal was filed by the affected landowner (Matthew Thomas) at 355 Margarita Drive (016-011-19) requesting approval to annex an approximate 0.52-acre parcel in the unincorporated community of County Club to the San Rafael Sanitation District (SRSD). The stated purpose of the proposal is to make public sewer available to facilitate a home remodeling project and in doing so eliminate a private septic system. The Commission approved the proposal with an amendment to include an adjacent unincorporated parcel at 347 Margarita Drive (016-011-18) along with terms on February 9, 2017; the latter highlighted by requiring both landowners to record consent agreements to annex into the City of San Rafael should it be proposed in the future. All terms are complete with the exception of a final map and description, and as such the proposal remains active.

### Current Proposals | Under Review and Awaiting Hearing

There are currently two active proposals on file with the Commission that remain under administrative review and awaiting hearings as of the date of this report.

- **Annexation of 255 Margarita Drive | San Rafael Sanitation District (LAFCO File No. 1328)**

The Commission has received a proposal by the affected 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 is also recently established service with the San Rafael Sanitation District 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.<sup>1</sup> The application remains incomplete at this time and awaits consent determination by SRSD.

- **Reorganization of 400 Upper Toyon Road | City of San Rafael and Town of Ross (LAFCO File No. 1335)**

The Commission has received a proposal from the affected landowner (Raphael de Balmann) requesting approval to reorganize one incorporated parcel totaling 2.5 acres located at 400 Upper Toyon Drive (012-121-28) in the City of San Rafael. The proposed reorganization involves the detachment of the affected territory and concurrent annexation therein to the Town of Ross. The affected territory is developed to date with a four-bedroom single family residence and accessible through a privately-owned and maintained road located atop a ridge at approximately 520 feet. The stated purpose of the proposal is to match the affected territory with the applicant's preferred municipality given the communities of interests with Ross. Concurrent sphere of influence amendments would be needed to accommodate the request. The application is currently under administrative review and is deemed incomplete at this time.

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<sup>1</sup> The outside service extension originally extended for one calendar year through August 13, 2016 before receiving separate six-month extensions that currently run one full calendar year to August 13, 2017. An additional six-month extension was granted as part of the August 10, 2017 meeting.

## Pending Proposals

There are two potential new proposals staff believes *may* be submitted to the Commission in the near future from local agencies based on ongoing discussions with proponents (emphasis added).<sup>2</sup> These potential proposals are summarized below to aid the Commission in telegraphing the agency's impending workload.

- **Police Power Activation |**

- **Muir Beach Community Services District**

- The Muir Beach Community Services District – which presently provides water, fire, and recreation services – has conveyed interest on a potential proposal to activate the District's latent police powers. This interest is borne from the District's desire to establish and maintain more effective traffic / parking control either directly or by contract with an existing law enforcement agency. The interest – which has been effectuated in areas like Pebble Beach (Monterey County) – responds to an increasing problem with visitors to Muir Beach where illegal / haphazard parking has become a public nuisance to community residents.

- **Conditions, Covenants and Restrictions Service Power Activation |**

- **Bel Marin Community Services District**

- The Bel Marin Community Services District – which presently provides park and recreation, reclamation and lighting services – received special legislation through Assembly Bill 1995 (Levine) to add enforcement of conditions, covenants and restrictions (CCRs) as a latent power under its principal act. The special legislation became effective January 1, 2015 with the intent the District will proceed to apply for formal activation approval with Marin LAFCO as part of an agreement with the local home owner associations.

## Commission Review

This item has been placed on the agenda as part of the consent calendar for information only as required under State law. 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.

Attachments: none

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<sup>2</sup> Staff uses discretion in listing pending proposals and limits to only activities to be initiated by a local governmental agency. Pending proposals to be initiated by landowners and or registered voters are not disclosed until an actual filing date is made.

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# Marin Local Agency Formation Commission

Regional Service Planning | Subdivision of the State of California

## AGENDA REPORT

December 14, 2017

Item No. 7 (Consent / Information)

December 8, 2017

**TO:** Marin Commissioners

**FROM:** Rachel Jones, Interim Executive Officer

**SUBJECT:** **Joint Powers Authority | Agreements and Amendments**

The Commission will receive an initial report identifying Joint Powers Authorities (JPAs) within Marin County that provide a municipal service as part of the requirements imposed by Senate Bill 1266 and have submitted their agreements and any additional amendments with Marin LAFCO. A follow up report will be presented to the Commission at the next regular meeting. The report is being presented to the Commission for information only.

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (“CKH”) delegates Local Agency Formation Commissions (LAFCOs) with regulatory and planning duties to coordinate the formation and development of local government agencies and their municipal services. This includes approving or disapproving boundary changes involving the formation, expansion, merger, and dissolution of cities, towns and special districts as well as sphere of influence amendments. It also includes overseeing outside service extensions. Proposals involving jurisdictional changes filed by landowners or registered voters must be put on the agenda as information items before any action may be considered by LAFCO at a subsequent meeting.

### Information / Discussion

Effective January 1, 2017 Senate Bill No. 1266 amended the current Joint Exercise Powers Act by requiring Joint Powers Authorities (JPAs) to file a copy of the full text of its agreement, and any amendments made to the agreement with the local LAFCO in which the JPA is providing its services. JPAs that fail to submit their agreements will be prohibited from issuing bonds or incurring indebtedness of any kind. The new requirement set by SB 1266 apply to JPAs that;

1. Provide municipal services as defined in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000
2. The JPA includes a city, county, and or district. CKH defines a JPA as “an agency or entity formed pursuant to the Joint Exercise of Powers Act that is formed for the local performance of governmental functions that includes the provisions of municipal services.” G.C. Section (56047.7)

The Commission has received agreements and amendments from the following JPAs:

#### Animal Control Services

**Administrative Office**  
Rachel Jones, Interim 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

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**Carla Condon, Vice Chair**  
Town of Corte Madera

**Sashi McEntee, Regular**  
City of Mill Valley

**Matthew Brown, Alternate**  
Town of San Anselmo

**Jack Baker, Regular**  
North Marin Water District

**Craig K. Murray, Regular**  
Las Gallinas Valley Sanitary

**Lew Kious, Alternate**  
Almonte Sanitary District

**Jeffrey Blanchfield, Chair**  
Public Member

**Chris Skelton, Alternate**  
Public Member

Central Marin Sanitation Agency

Marin Public Financing Authority

Marin General Services Authority

Marin County Stormwater Pollution Prevention Program

Marin County Hazardous and Solid Waste Management

Marin Emergency Radio Authority

Marin Telecommunications Agency

Sewerage Agency of Southern Marin

Tamalpais Community Services District

### **Commission Review**

This item has been placed on the agenda as part of the consent calendar for information only as required under State law. 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.

#### Attachments:

- 1) Senate Bill No. 1266
- 2) JPA Agreements and Amendments Received



## Senate Bill No. 1266

### CHAPTER 173

An act to amend Section 6503.6 of, and to add Section 6503.8 to, the Government Code, relating to local government.

[Approved by Governor August 22, 2016. Filed with  
Secretary of State August 22, 2016.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 1266, McGuire. Joint Exercise of Powers Act: agreements: filings.

The Joint Exercise of Powers Act generally authorizes 2 or more public agencies, by agreement, to jointly exercise any common power, which is generally termed a joint powers agreement. When a joint powers agreement provides for the creation of an agency or entity, separate from the parties to the agreement and responsible for its administration, existing law requires that agency or entity to cause a notice of the agreement or amendment to be prepared and filed, as specified, with the Secretary of State. Existing law requires an agency or entity that files a notice of agreement or amendment with the Secretary of State to also file a copy of the original joint powers agreement, and any amendment to the agreement, with the Controller.

This bill would require an agency or entity required to file documents with the Controller, as described above, that meets the definition of a joint powers authority or joint powers agency, as specified, that was formed for the purpose of providing municipal services and that includes a local agency member, as specified, to also file a copy of the agreement or amendment to the agreement with the local agency formation commission in each county within which all or any part of a local agency member's territory is located within 30 days after the effective date of the agreement or amendment to the agreement. The bill would also require an agency or entity that meets the definition of a joint powers authority or joint powers agency, as specified, that was formed for the purpose of providing municipal services prior to the effective date of this act and that includes a local agency member, as specified, to file a copy of the agreement and any amendments to the agreement with the local agency formation commission in each county within which all or any part of a local agency member's territory is located no later than July 1, 2017. This bill would prohibit an agency or entity administering an agreement or amendment that has failed to make the required filings within the specified timeframes from issuing bonds or incurring any indebtedness until those filings have been made.

By requiring specified joint powers agencies to file certain documents with a local agency formation commission, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

*The people of the State of California do enact as follows:*

SECTION 1. Section 6503.6 of the Government Code is amended to read:

6503.6. (a) When an agency or entity files a notice of agreement or amendment to the agreement with the office of the Secretary of State pursuant to Section 6503.5, the agency or entity shall file a copy of the full text of the original joint powers agreement, and any amendment to the agreement, with the Controller. An agency or entity that meets the definition of a joint powers authority or joint powers agency under Section 56047.7 that was formed for the purpose of providing municipal services and that includes a local agency member that is a city, district, or county shall, within 30 days after the effective date of the agreement or amendment to the agreement, file a copy of the agreement or amendment to the agreement with the local agency formation commission in each county within which all or any part of a local agency member's territory is located.

(b) Notwithstanding any other provision of this chapter, any agency or entity administering a joint powers agreement or amendment to such an agreement, which agreement or amendment becomes effective on or after the effective date of this section, which fails to file the notice with a local agency formation commission required by this section within 30 days after the effective date of the agreement or amendment shall not thereafter, and until those filings are completed, issue any bonds or incur indebtedness of any kind.

SEC. 2. Section 6503.8 is added to the Government Code, to read:

6503.8. (a) No later than July 1, 2017, an agency or entity that meets the definition of a joint powers authority or joint powers agency under Section 56047.7 that was formed for the purpose of providing municipal services prior to the effective date of this section, and that includes a local agency member that is a city, district, or county, shall cause a copy of the agreement and any amendments to the agreement to be filed with the local agency formation commission in each county within which all or any part of a local agency member's territory is located.

(b) Notwithstanding any other provision of this chapter, any agency or entity administering a joint powers agreement or amendment to such an agreement, which fails to file the notice with a local agency formation commission required by this section on or before July 1, 2017, shall not thereafter, and until those filings are completed, issue any bonds or incur indebtedness of any kind.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

O

JOINT POWERS AGREEMENT

THIS AGREEMENT, made and entered into this 20 day of March, 1979, by and between the County of Marin, a political subdivision of the State of California, hereinafter referred to as "County," and the City of Novato, a duly constituted City within the County of Marin, hereinafter referred to as "City."

W I T N E S S E T H :

WHEREAS, the parties hereto are duly constituted public agencies and possess the common power to regulate and control animals within their jurisdiction; and

WHEREAS, it is mutually advantageous to each party hereto to contract for the cooperation of the parties with the intent of establishing basic and mutually agreeable levels of service, reducing costs, improving services, and providing public benefits;

NOW, THEREFORE, in consideration of the mutual promises and agreements hereinafter stated and the performance thereof, the parties do hereby agree as follows:

1. All prior agreements between the parties relating to animal control services in Marin County are declared terminated.
2. The County hereby agrees to provide animal control services in accordance with the performance standards hereinafter referred to with City. Said services shall be rendered by employees of the Marin County Humane Society, with whom the County may contract for said purpose.
3. County shall provide animal control services which shall be financed from fees and other revenues directly related to the animal control services and program.
4. County will maintain the same level of animal control services provided during 1977-78, as stated below. County may also in its sole discretion provide funding from County sources other than animal control revenues to maintain the level of animal control services provided during 1977-78.

County shall maintain during the term of this agreement the same ratio of animal control services provided during 1977-78, which was: eleven (11) animal control officers for a population of 226,000 (one (1) A.C.O./20,545 persons).

County shall to the extent possible set and meet the following goals and/or performance standards:

License and keep licensed 75% of all dogs in Marin County.

Set license fees at a level to maintain a self-supporting animal control program.

Establish patrol schedules that insure central business districts, and neighborhood parks in each city are adequately patrolled.

Establish emergency response standards for live animals to insure response time is held to an absolute minimum.

Prior to any reduction in the above service level, County shall provide City with 45 days' prior notice and written justification as to the reasons for same.

5. County agrees to establish and maintain a door-to-door canvassing and licensing enforcement service, which shall be conducted throughout the urban area no less than every two years, to assure that the maximum number of animals subject to license are, in fact, licensed.

6. County, through the Board of Supervisors, has the sole discretion to establish all fees related to the animal control program throughout the County and within City. County, in determining fees, may hold a Public Hearing regarding same. If a Public Hearing is held, all local newspapers shall be noticed 10 days in advance as to the date, time and place of the hearing and City shall receive the same prior notice. City shall be formally notified in writing as soon as possible after any increase is made.

7. County, through the Board of Supervisors, has the authority to advise the judiciary as to fines and forfeitures related to violations of the animal control ordinances through the County and with City. County may hold a Public Hearing regarding changes in such fines and forfeitures. If a Public Hearing is held, all local newspapers shall be noticed 10 days in advance as to the date, time and place of the hearing and City shall receive the same prior notice. City shall be formally notified in writing as soon as possible after any increase is made.

8. County will be solely responsible for the sale of licenses and the collection of license fees throughout the County and within the City.

9. In consideration of the rendition of the aforesaid services provided by County, City agrees that all revenues derived from licensing of dogs and other animals within the boundaries of City, and all revenues which would accrue to City pursuant to the provisions of Penal Code section 1463 in connection with fines imposed for the violation of any provisions of a City animal control ordinance, shall be paid to County.

10. County agrees to prosecute through the District Attorney, all County and City animal control violations under the terms of this Agreement and in accordance with all applicable ordinances in a prompt and diligent manner.

11. City agrees to adopt and maintain in full force and effect, including the amount of fees provided, an ordinance identical with the provision of the Marin County Animal Control Ordinance set forth in Title 8, Chapter 8.04, 8.08 and 8.12 of the Marin County Code. City also agrees to enact amendments to its ordinance identical to the amendments to the Animal Control Ordinance adopted by the Board of Supervisors within 120 days after request to do so by County. The County Administrator,

acting on behalf of the County, may use discretion and need not request City to adopt amendments which do not apply to City.

12. If, during the term of any renewal hereof, City modifies in any manner, or fails to amend, its animal control ordinance thereby changing all or any part of the conditions of this agreement, County shall have the right to terminate this agreement upon the rendition of 30 days' written notice. In such case, any fees or fines collected during the term shall be prorated between City and County on the basis of the percentage of the term of this agreement which lapsed at the time of termination.

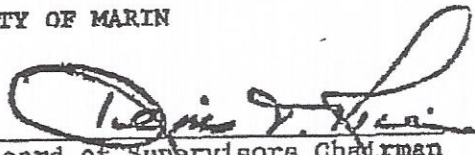
13. For the purpose of this agreement, all officers of the County and/or the Humane Society engaged in performing any services hereunder, within the boundaries of any City, shall be deemed to be peace officers for the purpose of animal control enforcement of the City for any other purpose.

14. This agreement shall be in effect from the date of execution to June 30, 1979, and shall be considered automatically extended for each year thereafter, effective July 1 of that year, unless notice is delivered by either party of nonrenewal at least 120 days in advance of the expiration date. Within 60 days following the first year of this agreement, the County Administrator and City Managers shall submit a written report to the Board of Supervisors and all City Councils indicating how well the intent of this agreement has been met. Thereafter, a similar report or response may be made as needed.

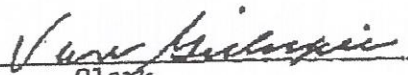
IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written.

COUNTY OF MARIN

By

  
Board of Supervisors Chairman

ATTEST:

  
Clerk

CITY OF NOVATO

By

  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

Novato

AMENDMENT TO AGREEMENT

#1111A

THIS AMENDMENT TO AGREEMENT, made and entered into this 4th day of December, 1990, by and between the COUNTY OF MARIN, a political subdivision of the State of California, hereinafter referred to as "County", and the City/Town of Novato, a duly constituted municipality within the County of Marin, hereinafter referred to as "City".

WITNESSETH:

WHEREAS, County and City are parties to a joint powers agreement regarding animal control services, and

WHEREAS, both parties wish to amend said agreement.

NOW, THEREFORE, paragraphs #3, 4, 5, 8, and 14 of said agreement shall be changed to read as follows:

3. County shall provide animal control services, the costs of which shall include (1) the cost of the County's contract with the Humane Society, (2) the cost of the veterinarian who acts as County veterinarian, (3) the cost of building rental for the pound facility, and (4) cost of the licensing program, which shall be financed as follows:

In the fiscal year 1990-91, the cities shall contribute, collectively, a total of \$600,000 to be divided among jurisdictions on the basis of a mutually agreeable formula.

In the fiscal year 1991-92, the cities shall contribute, collectively, a total of \$700,000 to be divided among jurisdictions on the basis of a mutually agreement formula.

In the fiscal year 1992-93, and each year thereafter, the County and the cities will contribute to the net cost of the animal control program as follows:

County	30%
Cities	70%

4. County shall maintain the level of animal control services provided below:

County shall maintain, during the term of this agreement, sufficient animal control officers to provide at least one officer on duty twenty-four hours, seven days a week.

County shall, to the extent possible, set and meet the following goals and/or performance standards:

License and keep licensed 75% of all dogs in Marin County.

Set license and other fees at a level to maintain at least the current level of offset to the program (20% of the gross program cost).

Establish patrol schedules that insure central business districts and neighborhood parks in each city are adequately patrolled.

Establish emergency response standards for live animals to insure response time is held to an absolute minimum.

Prior to any reduction in the above service level, County shall provide City with 45 days notice and written justification as to the reasons for same.

5. County agrees to establish and maintain licensing enforcement service to assure that the maximum number of animals subject to license are, in fact, licensed.

8. County will be solely responsible for the sale of licenses and the collection of license fees throughout the County and within City, except as the City may choose to participate in the sale of licenses.

14. This agreement shall be in effect from the date of execution to June 30, 1995, and shall be considered automatically extended for each year thereafter, effective July 1 of that year, unless notice is delivered by either party of non-renewal at least 120 days in advance of the expiration date. Within 60 days following the first year of this agreement, the County Administrator and City Managers shall submit a written report to the Board of Supervisors and all City Councils indicating how well the intent of this agreement has been met. Thereafter, a similar report or response may be made as needed."

To all other intents and purposes, said agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representative to execute the within amendment the day and year first above written.

COUNTY OF MARIN

By Bob Pennigiere  
Chairman of the Board of Supervisors

ATTEST:

Vickie J. Day  
Clerk

CITY/TOWN OF Novato

By Mary J. Moore  
Mayor

ATTEST:

Shirley Grammes  
Clerk

AGMT/22



Central Marin Sanitation Agency

**JOINT POWERS AGREEMENT**  
(AS AMENDED)

June, 2012

CENTRAL MARIN SANITATION AGENCY  
**JOINT EXERCISE OF POWERS AGREEMENT**  
**(as amended)**

This Agreement, dated October 15, 1979, is by and between SANITARY DISTRICT NO. 1 of MARIN COUNTY, SAN RAFAEL SANITATION DISTRICT, SANITARY DISTRICT NO. 2 of MARIN COUNTY, and the CITY OF LARKSPUR.

RECITALS

WHEREAS, the wastewater treatment facilities of agencies discharging sewage wastes into the San Pablo/San Francisco Bays are in need of substantial modification and improvement requiring an expenditure of public funds; and

WHEREAS, an extensive study has been made of the Central Marin area sewage treatment needs; said study has recommended the construction of a new regional plant at the site known as CM-5; and

WHEREAS, the signators to this Agreement are the public agencies having the responsibility for sewage treatment in the Central Marin area; and

WHEREAS, each of the parties hereto has power to acquire, construct and operate sewage collection, interceptor and outfall lines and plants and facilities for the treatment and disposal of sewage, and the agencies propose by this Agreement to exercise said power jointly for the purpose of providing for the more efficient treatment and disposal of the sewage produced in each agency, all to the economic and financial advantage of each agency and otherwise for the benefit of each agency and each of the agencies is willing to plan with the other agencies for future sewage treatment and disposal facilities which will protect all of the agencies; and

WHEREAS, the Agency is to be formed for the purpose of planning, administering, and coordinating sewage treatment and disposal services throughout the Agency area; and

WHEREAS, SANITARY DISTRICT NO. 1 of MARIN COUNTY by Resolution No. 676 of the SANITARY DISTRICT NO. 1 governing board has voluntarily joined the Agency; and

WHEREAS, SAN RAFAEL SANITATION DISTRICT by Resolution No. 487 of the SAN RAFAEL SANITATION DISTRICT governing board has voluntarily joined the Agency; and

WHEREAS, SANITARY DISTRICT NO. 2 of MARIN COUNTY by Resolution No. 6-79 of the SANITARY DISTRICT NO. 2 governing board has voluntarily joined the Agency; and

WHEREAS, CITY OF LARKSPUR by Resolution No. 57/79 of the CITY OF LARKSPUR governing board has voluntarily joined the Agency; and

WHEREAS, SANITARY DISTRICT NO. 1 of MARIN COUNTY, SAN RAFAEL SANITATION DISTRICT, SANITARY DISTRICT NO. 2 of MARIN COUNTY and CITY OF LARKSPUR own and operate certain sewerage works, part of which may be used in an integrated system works throughout the Agency; and

WHEREAS, the Agency will be responsible for compliance with established standards of the State and/or Federal government for wastewater discharge requirements; and

WHEREAS, the discharge of this responsibility requires the centralization of authority to fix standards and to plan, administer and coordinate operation of an integrated sewerage system, either directly or through contractual relationships with other government entities; and

WHEREAS, it is in the interest of the Members to enter into this Agreement relating to the construction, ownership, maintenance and operation of sewerage facilities and other matters relating thereto:

NOW, THEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS:

Section 1. Definition of Terms

Wherever the following terms are used in this Agreement they shall have the following meaning unless otherwise specifically indicated by the context in which they appear:

1. "ACT" means the provisions of Chapter 5 of Division 7 of Title 1 of the Government Code (commencing with Section 6500) pertaining to joint powers agreements.
2. "AGENCY" means the Central Marin Sanitation Agency.
3. "DISTRICT NO. 1" means SANITARY DISTRICT NO. 1 of MARIN COUNTY, a municipal or public corporation, a party to this Agreement.
4. "SAN RAFAEL" means SAN RAFAEL SANITATION DISTRICT, a municipal or public corporation, a party to this Agreement.
5. "DISTRICT NO. 2" means SANITARY DISTRICT NO. 2 of MARIN COUNTY, a municipal or public corporation, a party to this Agreement.
6. "LARKSPUR" means CITY OF LARKSPUR, a municipal or public corporation, a party to this Agreement.
7. "CM-5" means ALTERNATIVE CM-5 for CENTRAL MARIN SANITATION AGENCIES as described in the EASTERN MARIN/SOUTHERN SONOMA WASTEWATER FACILITIES PLAN ADDENDUM, July 1979.

8. "STEP 2" means, as described in Federal and State guidelines, the design phase of the regional facilities.
9. "STEP 3" means, as described in Federal and State guidelines, the construction phase of the regional facilities.
10. "COMMISSION" means the governing board of Central Marin Sanitation Agency.
11. "JOINT FACILITIES" means those sewerage facilities used or capable of being used by two or more Members.
12. "LAW" means the Joint Exercise of Powers Law, Section 6500 et seq. of the Government Code of the State of California.
13. "MEMBER" means any party to this Agreement.
14. "OPERATION AND MAINTENANCE" means the regular performance of work required to assure continuous functioning of the sewerage system and corrective measures taken to repair facilities to keep them in operating condition.
15. "ORDER" means the duly adopted Resolutions and Orders of the Agency.
16. "REGIONAL CHARGE" means a charge by the Agency to the Members based on sewage flow and strength. The revenue from such charges to be used by the Agency to pay for the cost associated with the treatment and disposal of sewage, including but not limited to acquisition of facilities, construction expenses and operational and administrative costs.
17. "SEWER SERVICE CHARGE" means a charge to property owner or occupant of designated premises for the use of the sanitary sewerage system.
18. "CONNECTION CHARGE" means a one-time charge to a property owner for connection to the sanitary sewerage system for the first time or for construction of additional improvements which will add to the quantity or strength of sewage flow.
19. "DWELLING UNIT" means one unit as measured or estimated by the amount of sewage generated by a single-family residence or equivalent, relating to the flow and strength as determined by the Agency.
20. "SOLE USE FACILITIES" means those wastewater facilities owned, used, operated and/or maintained by a single Member.
21. "STANDARDS" means the terms and conditions of use of the Agency facilities as specified by the Agency.

## Section 2. Creation of Agency

There is hereby created a public agency to be known as the "Central Marin Sanitation Agency", herein called Agency. The Agency is formed by this Agreement pursuant to the provisions of Article 1, Chapter 5, Division 7, Title 1 of the Government Code of the State of California relating to the joint exercise of powers common to public agencies. For the purposes of this Agreement, the Agency is a public agency separate from the parties hereto.

## Section 3. Purpose

The purpose of this Agreement is to create an agency which will plan, acquire, construct, maintain and operate facilities, for either joint or sole use, for the collection, treatment, reclamation and disposal of sewage and other wastewater for the benefit of lands and inhabitants within the collective boundaries of the Members.

Member by signature to this Agreement authorizes the Agency to design, construct, operate and maintain the project known as CM-5 as described in Eastern Marin/Southern Sonoma Wastewater Facilities Plan Addendum, July 1979.

## Section 4. Term and Effect

\*\*\*\*\*  
This Agreement shall become effective when all of the eligible Members shall have executed this Agreement and shall continue in force and effect until terminated by an Agreement pursuant to Section 22 or until January 1, 2036, whichever is earlier. However this Agreement may be renewed, modified or terminated by mutual agreement. The existing 1960 Agreement between Sanitary District No. 1 and Sanitary District No. 2 and the existing Agreement between Sanitary District No. 1 and the City of Larkspur are hereby rescinded, such rescission to take effect at the time that the Regional Treatment Plant is fully operative, provided, however, that paragraph 3(c) of the Agreement between Sanitary District No. 1 and the City of Larkspur shall remain in effect.

## Section 5. Powers

- A. The Agency shall have the power and authorization to plan, acquire, construct, maintain and operate facilities for either joint or sole use, for collection, treatment, reclamation and disposal of sanitary sewage and similar wastewaters for the benefit of lands and inhabitants within its boundaries. The Members will relinquish to, and the Agency will assume for the benefit of the Members, responsibility for all functions pertaining to the treatment, reclamation and disposal of sewage and similar wastewater. The Agency may enter into contracts to perform any or all of these functions.
- B. The Agency is hereby authorized, in its own name, to do all acts necessary for the exercise of said power for said purposes, including but not limited to any or all of the following: to make and enter contracts; apply for and accept grants, advances and contributions; to employ agents and employees; to acquire, construct, manage,

maintain and operate any buildings, works or improvements; to acquire, hold or dispose of property; to sue and be sued in its own name, to incur debts, liabilities, or obligations; to issue bonds, notes, warrants, and other evidences of indebtedness to finance costs and expenses incidental to the projects of the Agency; and to exercise jointly the common powers of the parties hereto set forth above. No such debts, liability, or obligation of the Agency shall constitute a debt, liability or obligation of any Member. The Agency has no power to levy or cause to be levied ad valorem property taxes. The Agency has the power of eminent domain.

C. The Agency is hereby authorized in its own name, to accept Federal and State grants on behalf of the Members for improvements necessary to the sole use facilities of Members, excluding Marin Bay Plant, as described in the Eastern Marin/Southern Sonoma Wastewater Facilities Plan Addendum, July 1979. The Agency may plan, acquire and construct said sole use facilities but it will be each and every Member's responsibility to maintain and operate said sole use facilities belonging to that Member.

\*\*\*\* D. The powers are subject to the restrictions upon the manner of exercising the powers of the Sanitary District Act of 1923, Division 6, of the Health and Safety Code of the State of California, as amended. The Agency specifically excepts Health and Safety Code Section 6487 from its restrictions so that CMSA may make its own provisions regarding payment of warrants. Specifically, these provisions are contained in Section 5.F. of this Joint Powers Agreement.

\* E. The Agency shall have the power to carry out a pretreatment program in accordance with Parts 307(b) and (c) and 402(b)(8) of the Federal Government's Clean Water Act (October 18, 1972) and Part 403 of the Federal Government's General Pretreatment Regulations for Existing and New Sources of Pollution.

\*\*\*\* F. Pursuant to Government Code Sections 6505.5 and 6505.6, the CMSA is authorized to appoint an employee of the Agency (CMSA) to act as treasurer and auditor for CMSA and such employee is authorized to sign checks and warrants from the CMSA account for any sums due from CMSA. This authority includes the signing of payroll checks, signing checks for other bills of CMSA and all sums payable on outstanding bonds and coupons of CMSA. All checks and warrants signed by the treasurer and auditor shall be approved by the CMSA Board. All CMSA checks (except checks from the petty cash fund) shall be signed by two individuals. CMSA may appoint an employee to sign checks with the treasurer. All individuals who sign checks shall be bonded.

The employee appointed by CMSA as treasurer and auditor is subject to the powers and restrictions contained in Government Code Sections 6500 et seq. CMSA reserves the right to withdraw the appointment of such employee as treasurer and auditor.

## Section 6. Governing Body of the Agency

The Agency shall be governed by the Central Marin Sanitation Agency Commission. The Commission shall, on behalf of the Agency, adopt a budget annually, both for capital outlay and maintenance and operation; make all contracts for the Agency; establish rates and charges; grant easements, licenses or permits for the use of the property of the Agency; approve demands for payment by the Agency; designate an administrator; contract for services as necessary; and take such other actions as are necessary or convenient to carry out the purpose and intent of this Agreement.

## Section 7. Commission Membership and Officers

- A. The Commission shall consist of six commissioners, two appointed by the governing board of District No. 1, two appointed by the governing board of San Rafael, one appointed by the governing board of District No. 2, and one appointed by the City Council of Larkspur.
- B. Each commissioner may be an elected official of the governing body of the City or District he represents or may be such other resident of the City or District as selected by the Member. A commissioner shall serve in such a manner and for such term as each Member may determine, and may be removed at the pleasure of the Member appointing such person. The Commission shall annually choose commissioners to serve as Chairman and Vice-Chairman. The commissioners shall annually choose a Secretary who shall be a commissioner. Each Member shall determine its method of selection of the person representing the City or District. An elected official or resident of the City or District may be designated by the Member to serve as an alternate to any commissioner.
- C. The Commission may appoint and employ an Administrator who shall perform such duties as may be imposed by the Commission and who shall report to the Commission in accordance with such rules and regulations as the Commission may adopt.
- D. The Chairman shall sign all contracts on behalf of the Agency and perform such other duties as may be imposed by the Commission. The Commission may delegate to the Administrator the power to sign contracts on behalf of the Agency after approval by the Commission. The Vice-Chairman shall act in the absence of the Chairman. The Secretary shall countersign all contracts on behalf of the Agency; perform such other duties as may be imposed by the Commission; and keep minutes of all meetings and cause a copy of the minutes to be forwarded to each of the commissioners and each of the Members.
- E. The Commission shall appoint a Treasurer. Said power of appointment may be vested with the Administrator by action of the Commission. The Treasurer shall have the duties and obligations set forth in Section 6505.5 of the Government Code of the State of California.

- \* F. Pursuant to Government Code Section 53952, the CMSA Board may, by resolution, establish a revolving fund in an amount not to exceed \$1,000 to be used to make change and pay small bills directly. Such resolution shall (1) state the purposes for which the fund may be expended; (2) designate the officer of CMSA who shall have authority to make disbursements and account for receipts and disbursements; (3) state the necessity for the fund; and (4) designate the maximum amount of the fund.
  - 1. The Board shall require the filing of a bond by the officer for whose use the fund is created for an amount not less than the amount of itself. Such bond shall be executed by the officer as principal and by an admitted surety insurer.
  - 2. The above designated officer shall keep receipts for all expenditures over \$1.00.
  
- \*\*\* G. The CMSA Board may, by resolution, establish a payroll revolving fund. Such resolution shall (1) state the purpose for which the fund may be expended; (2) designate the officer of CMSA who will serve as auditor and treasurer; (3) designate the auditor/treasurer as the officer who shall have the authority to sign payroll disbursement; (4) state the necessity for the fund; and (5) designate the maximum amount of the fund.

Section 8. Commission Voting

Each commissioner shall be empowered to cast one vote on each measure. Four commissioners shall constitute a quorum. Four affirmative votes are required for passage of any measure, except that any of the following measures shall require the affirmative vote of five commissioners for passage:

- (a) approving the withdrawal of any Member.
- (b) approving the dissolution of the Agency.

Section 9. Duties of the Commission

- A. The duties of the Commission shall be:
  - (a) to make all policy decisions and exercise all the powers of the Agency.
  - (b) to submit full and regular reports to the Members,
  - (c) to adopt from time to time such rules and regulations for the conduct of its affairs as may be required.
  
- B. Agency shall have the power to compensate commissioners in accordance with the provisions of the Sanitary District Act of 1923, as amended.



## Section 10. Meetings of the Commission

- A. Regular meetings of the Commission shall be held at such times and places as shall be established by the Commission by resolution.
- B. All meetings of the Commission including regular, adjourned regular and special meetings shall be called, noticed, held and conducted in accordance with the provisions of the Ralph M. Brown Act, Section 54950 through 54960 of the Government Code of the State of California, and other applicable provisions of law.

## Section 11. Accountability of Funds, Reports and Audits

There shall be strict accountability of all funds and a report of all receipts and disbursements of the Agency. The Commission shall cause annual audits of the accounts and records of the Agency to be prepared. The fiscal year of the Agency shall end at midnight on June 30, of each year. The Agency shall establish and maintain all necessary funds and accounts which shall be open to inspection at all reasonable times by each of the Members and the general public.

## Section 12. Bonding Persons Having Access to Property

- A. Officer(s) or person(s) who have charge of, handle or have access to any property of the Agency, may be required to file an official bond with the Agency in such a manner as may be established by the Commission. Should an existing bond of any said officer(s) or person(s) be extended to cover the obligation provided herein, said bond shall be the official bond of said officer(s) or person(s) required to be posted herein. The premium on any such bond or bonds shall be an appropriate expense of the Agency. Any payment to the Treasurer required in the operation of the Agency shall be an appropriate charge against the Agency.
- B. The Administrator shall have the responsibility of any and all property of the Agency and shall review and recommend approval or denial of all claims and demands for the disbursement of Agency funds prior to submittal of said claims and demands to the Commission for approval.

## Section 13. Bonds

- A. The Agency shall have power and authority to issue and sell revenue bonds in accordance with the following:
  - (a) Article 2, Chapter 5, Division 7, Title 1 of the Government Code, commencing with Section 6540.
  - (b) Chapter 6, Division 2, Title 5 of the Government Code, commencing with Section 54300; and

- (c) Chapter 5, Part 3, Division 5 of the Health and Safety Code, commencing with Section 4950.
  - (d) Such other relevant provisions of law as may now or hereafter be applicable.
- B. For purposes of referendum and vote on an Agency-wide basis, the boundaries of the Agency shall be the consolidated boundaries of its Members. Under applicable law, the Agency may form improvement districts in which event the boundaries thereof shall be determinative with respect to referendum and voting. Bond elections shall be conducted pursuant to the Uniform District Election Law and applicable provisions of the Elections Code.
  - C. The Agency shall have and exercise all powers conferred on "local agencies" by the provisions of the law with respect to such revenue bonds.
  - D. Revenues required to provide moneys for bond interest and redemption of other bond funds in connection with revenue bonds issued by the Agency shall be derived from sewer connection and service charges levied throughout the benefiting service area and shall be based on dwelling unit or equivalent as hereinabove defined and determined. The amount of such charges shall be determined by the Agency.

#### Section 14. Operating Fund

- \* A. An operating fund shall be established and maintained which shall be used to pay all administrative and incidental expenses incurred by the Agency, together with all costs of maintenance and operation arising from the operation of Joint Facilities. By resolution, the operating fund may be utilized prior to completion of joint sewerage facilities to allow the necessary administrative, financial and management information systems to be in place and functioning upon the operation of said facilities. Revenues for the operating fund shall be derived from Regional Charges periodically charged to each Member by the Agency, which Regional Charges the Members hereby agree to pay. The periodic Regional Charge for each Member will be determined by the Agency and shall be based upon the relative volume and quality of wastewater generated by each Member. Volume will be determined based upon continuous measuring to measure total volume generated during the period. Quality will be determined by periodic monitoring and considered in determining Member Charges if deemed appropriate by the Commission. At the option of the Commission, contributions from Members may be based on dwelling units.
- B. Each Member, in turn, shall be responsible for deriving the revenue necessary to pay its Regional Charges to the Agency.
- C. Each single-family dwelling shall be assigned one dwelling unit. All other structures, or portions thereof used for purposes other than as single-family dwellings, shall be assigned a number of such units, as determined by the Agency based upon:

- (1) water meter readings and/or use of water from nonmetered sources;
- (2) visual inspection to determine the relative extent to which water may be used for purposes which do not produce discharge into wastewater facilities;
- (3) the chemical and/or other composition of the wastewater produced;
- (4) the peaking and ebbing cycle of the wastewater flows; and
- (5) any requirements imposed by the Federal and State governments or agencies thereof.

The Commission shall establish the formula for computation for determination of what constitutes a dwelling unit.

\* (deletion)

- \* D. Sewer connection and service charges may be collected either by a Member or the Agency by contract with the Member.
- \* E. The Commission may periodically direct the Members to reassess the number of dwelling units.

#### Section 15. Construction and Land Acquisition Fund

- \* A. A construction fund shall be established and maintained which shall be used to pay costs associated with design and construction and administrative expenses resulting from the construction of sewerage works by the Agency for the Members. Revenues for the construction fund shall be derived from payments by the members in accordance with the Members' shares of the total capital costs associated with project Alternative CM-5. The estimated cost share assignments to the Members are as shown in Exhibit "A", Tables 1 through 8. By signature to this contract Members are committed to pay their local shares of the cost of the project CM-5.
- B. At the time of submittal of a Final Revenue Program to the State Water Resources Control Board (80% construction completion) of a revised cost of construction, final contributions from Members shall reflect these actual capital cost allocations.
- C. Agency shall reimburse District No. 1 for any and all expenses incurred by District No. 1 beyond its proportionate share pertaining to the acquisition of the North Point Site. These expenses shall include all direct costs of this acquisition and development of CM-5 for the regional plant and shall include, but not be limited to, legal fees, engineering fees and appraisal fees.

## Section 16. Ownership of Properties

With respect to the ownership of sewerage facilities and compensation therefore, the Members and Agency agree that:

### 1. Sewerage Works Other Than Treatment Facilities

\*\*\*\*\*

Upon the effective date of this Agreement the Members will grant to the Agency the use of all sewerage works, if any, as described in Exhibit "B" insofar as necessary for the operation of Joint Facilities. Each member will retain ownership and responsibility for operation and maintenance of all its sewerage works so listed. The Agency will operate and maintain the 54" Ross Valley force main upstream from the treatment plant to the junction with the San Quentin force main. Exhibit "B", as amended by Amendment No. 1 of the Joint Powers Agreement, dated July 21, 1982, and as amended by this Agreement, is attached hereto and incorporated herein by reference.

### 2. Sewerage Facilities Financed by Agency Funds

The Agency shall own entirely all facilities financed by Agency funds. This shall not include Sole Use Facilities funded by State or Federal grants paid by the Agency.

### 3. Sole Use Facilities

Members shall retain ownership of and operate and maintain their respective Sole Use Facilities including wastewater collector systems, provided, however, that the Agency and any Member may, by agreement, provide for operation and maintenance of that Member's Sole Use Facilities, all or in part, by the Agency. Any such agreement must provide that all costs associated with the operation and maintenance of such Sole Use Facilities by the Agency shall be charged to and paid by the Member.

### 4. Capital Reserve Funds

Excess capital funds, if any, from annual capital replacement (as per Federal Regulations) requirements, or from other sources are the property of the Agency and, after approval by the Commission, may be used for capital improvements of facilities operated by the Agency. Capital reserve funds shall be invested and interest earnings therefrom may be placed in the operating fund to reduce annual charges.

### 5. Operations, Administration and Maintenance Surplus Funds

Excess administration, operation and maintenance funds of Agency, if any, from whatever source, are the property of the Agency. After provisions, if any, for a reasonable working reserve, the Commission may allocate all or a share of such funds to reduce the amounts required for the following year's budget.

## 6. Employees

It shall be the policy of the Agency to attempt to employ, as employees of the Agency, such of those employees of the Member entities whose primary responsibility is the operation and maintenance of treatment facilities.

## Section 17. Functional Responsibilities

With respect to the administration, operation and maintenance of sewerage facilities within the Member boundaries and the performance of functions related thereto, the Members and Agency agree as follows:

1. The Member will be responsible for review of permit applications, collection and accounting for permit fees, inspection of connections and all record-keeping attendant thereto, and retain all fees associated therewith. The Agency may perform these functions directly by contract with Members.
2. The Agency will assume full responsibility for the operation and maintenance of CM-5 and other sewerage facilities specified in this Agreement.
3. The Member will have total responsibility for its collector sewer system.
4. The Member will be responsible for all billing and collection of sewer connection and service charges and associated record-keeping, accounting, and delinquency follow-up.
5. It is the responsibility of Members to assure that sewage generated from their Sole Use Facilities will not exceed one part per million sulfides. In the event that this standard is exceeded, the responsible Member shall pay the additional cost which results from the correction of this condition to the Agency.

## Section 18.

### A. Agency Indemnification

Agency shall indemnify, defend and hold Members harmless from any claims or liability arising out of or relating to the functioning of Agency pursuant to this Agreement. Agency shall maintain liability insurance in sufficient amounts as determined by the Commission for personal injuries, and property damage naming Members as additional insureds.

### B. Member Indemnification

Members individually shall indemnify, defend and hold Agency and other Members harmless from any liability arising out of or relating to the individual Member's

actions pursuant to this Agreement. Members shall maintain liability insurance in sufficient amounts as determined by the Commission for personal injuries, and property damage naming Agency as additional insured.

#### Section 19. Records and Accounts

The Agency shall cause to be kept accurate and correct books of account, showing in detail the costs and expenses of any new construction, extra construction or reconstruction and the maintenance and operation of the Joint Facilities and Sole Use Facilities, if any, and all financial transactions of the Members relating to the Joint and Sole Use Facilities, which books of account shall correctly show any receipts and also any costs, expenses or charges to be paid by all or any of the Members hereunder. Said books of account shall be open to inspection at all times by any representative of any of the Members, or by any accountant or other person authorized by any Member to inspect said books of account. The Commission shall, in accordance with Section 6505 of the Law, cause the books of account and other financial records of the Agency to be audited annually by an independent certified public accountant. All records shall be kept in accordance with accepted good accounting practice.

#### Section 20. Amendments

This Agreement may be amended only by Agreement approved and executed by all of the parties thereto.

#### Section 21. Settlement of Disputes

If a dispute arises as to the construction, interpretation or implementation of any provision of this Agreement, the issues in dispute or matter requiring action shall be submitted to binding arbitration. For such purpose, an agreed arbitrator shall be selected by all Commissioners, or in the absence of agreement, the Commission by majority vote shall select an arbitrator and the commissioner or commissioners in dissent shall select an arbitrator. The two arbitrators so selected shall select a third arbitrator. The arbitrator or three arbitrators acting as a panel shall proceed to arbitrate the matter in accordance with the provisions of Title 9 of Part 3 of the Code of Civil Procedure.

#### Section 22. Withdrawal or Dissolution

Upon vote of the Commission a Member may withdraw from the Agency. With a Member's withdrawal or upon dissolution of the Agency, there shall be partial or complete distribution of assets and discharge of liabilities as follows:

- (a) Withdrawal: Upon withdrawal of any Member from the Agency, the withdrawing Member shall receive its proportionate share of the assets of the Agency and shall contribute its proportionate share as it comes due toward discharge of any liabilities incurred by the Agency as the same appear on the books of the Agency.

- (b) Dissolution: Upon dissolution of the Agency, each Member shall receive its proportionate share of the assets of the Agency and shall contribute its proportionate share as it comes due toward discharge of any liabilities incurred by the Agency as the same appear on the books of the Agency.

The distribution of assets may be made in kind or assets may be sold and the proceeds thereof distributed to a Member at the time of withdrawal or to all Members at the time of dissolution provided that all facilities and rights in facilities assigned or transferred by any Member to the Agency shall be reconveyed to said Member free and clear of all encumbrances and liens of any kind.

Upon withdrawal of a Member from the Agency or upon dissolution of the Agency, the responsibility of the Member or Members to contribute to the discharge of enforceable liabilities incurred by the Agency shall be limited to the proportion that the contributions made by each Member bears to the total contributions made by all to the Agency from the effective date of this Agreement to the date of withdrawal or dissolution.

#### Section 23. Miscellaneous

The section headings herein are for convenience only and are not to be construed as modifying or governing the language in the sections referred to.

This Agreement is made in the State of California and under its Constitution and laws, and it is to be so construed.

To preserve a reasonable degree of flexibility, many parts of this Agreement are stated in general terms. It is understood that the Commission may from time to time adopt and implement rules and regulations to further define the rights and obligations of the Members and of the Agency to carry out the purposes of this Agreement.

#### Section 24. Partial Invalidity

If any one or more of the terms, provisions, promises, covenants, or conditions of this Agreement shall to any extent be adjudged invalid, unenforceable, void, or voidable for any reason whatsoever by a court of competent jurisdiction, each and all of the remaining terms, provisions, promises, covenants, and conditions of this Agreement shall not be valid and enforceable to the fullest extent permitted by law.

#### Section 25. Successors

This Agreement shall be binding upon and shall insure to the benefit of the parties and the successors of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and attested by their proper officers thereunto duly authorized and their official seals to be hereto affixed, as of the day and year first above written.

\*\* Section 26. Personnel

A. Authority to Hire and Dismiss Employees:

1. The Board of Commissioners shall be the appointing authority for the General Manager. The General Manager shall serve at the pleasure of the Board. The Board of Commissioners shall be the appointing authority for management personnel designated by the Board and those persons shall serve at the Board's pleasure.
2. The General Manager is hereby empowered to hire all non-management personnel subject to the requirements of the Personnel Rules and Regulations.
3. The General Manager shall have the power to reprimand, suspend, reduce in compensation or dismiss any non-management personnel subject to such employee's right of appeal to the Board. All management personnel serve at the pleasure of the Board of Commissioners and, thus, are at will employees.

B. Review of Employee Performance

1. The Board of Commissioner shall annually review the performance of the General Manager and all upper management personnel directly responsible to the Board.
2. The General Manager shall review the performance of all other management employees annually and make a written evaluation for the employee's personnel file.
3. Employees will be annually evaluated in writing by their respective supervisor(s) with approval of such review by the General Manager. Such evaluation will be placed in the employee's personnel file.

C. Personnel Rules and Regulations

The Board of Commissioners shall have the authority to adopt personnel rules and regulations and make amendments thereto by a majority vote of the Board.

D. Administration of Employer-Employee Relations

The Board of Commissioners shall have the authority to adopt a procedure for the administration of employer-employee relations and make amendments thereto by a majority vote of the Board.



E. Grievance Procedure

The Board of Commissioners shall have the authority to adopt a grievance procedure for its employees and may make amendments thereto by a majority vote.

F. Procedure for Disciplinary Action

The Board of Commissioners shall have the authority to adopt a procedure for disciplinary action which shall serve to review the action of the General Manager. The Board shall have the right to make amendments thereto by a majority vote of the Board.

Original Signed By:

SANITARY DISTRICT NO. 1: President  
Secretary (attest)  
Attorney (approved as to form)

SAN RAFAEL SANITATION DISTRICT: President  
Secretary (attest)  
Attorney (approved as to form)

SANITARY DISTRICT NO. 2: President  
Secretary (attest)  
Attorney (approved as to form)

CITY OF LARKSPUR: Mayor  
City Clerk (attest)  
Attorney (approved as to form)

**REPRINTED WITH AMENDMENTS**

Key: *	=	Amendment No. One	7/21/82
**	=	Amendment No. Two	6/16/84
***	=	Amendment No. Three	9/11/84
****	=	Amendment No. Four	11/17/87
*****	=	Amendment No. Five	3/06/90
*****	=	Amendment No. Six	9/12/06

Exhibit "A"

TABLE 1  
CENTRAL MARIN WASTEWATER MANAGEMENT PROGRAM  
ESTIMATED PROJECT COST

Facility	Total Estimated Project Cost (1)	Estimated Grant Participation	Estimated Local Funding Needs
Central Marin treatment plant	\$ 58,710.00	\$ 46,570,000	\$ 12,140,000 (2)
Plant Outfall	15,800,000	13,430,000	2,370,000
San Rafael Force Main	3,400,000	2,890,000	510,000
Force Main to Tunnel	2,400,000	2,040,000	360,000
Catalina Pump Station	315,000	265,000	50,000
No. Francisco Pump Station	60,000	50,000	10,000
So. Francisco Pump Station	500,000	425,000	75,000
San Quentin Force Main	600,000	510,000	90,000
Tunnel to Plant	3,700,000	2,975,000	725,000
Land Acquisition for Bay Outfall & Transport	300,000	- 0 -	300,000
Greenbrae Pump Station	3,000,000	2,550,000	450,000
Kentfield Pump Station	300,000	255,000	45,000
San Quentin Pump Station	1,500,000	1,275,000	225,000
	\$ 90,585,000	\$ 73,235,000	\$ 17,350,000

(1) For information only, estimated local cost from CMSA's  
Approved 1982-83 Budget

(2) Includes Land Acquisition Cost, Site Improvements  
and Contingency

Exhibit "A"

TABLE 2  
CENTRAL MARIN WASTEWATER MANAGEMENT PROGRAM  
ESTIMATED LOCAL AGENCY SHARE OF TREATMENT PLANT COST

Facility	Treatment Plant Parameter Allocations				Total Local Cost	100%	
	Flow <sup>2</sup> % of Cost	BOD <sup>2</sup> % of Cost	SS <sup>2</sup> % of Cost	Total Local Cost			
Central Marin Treatment Plant (Incl. land)	57.1%	18.0%	24.9%	\$6,930,000	\$2,185,000	\$3,025,000	\$12,140,000
Local Agency Share of Param.	Flow	BOD	SS	Total Agency Plant Cost (1)	Weighted % of STP		
	% of Cost	% of BOD	% of SS				
San Rafael SD	38.6%	40.7%	45.1%	\$2,675,000	\$890,000	\$1,365,000	\$4,930,000
SD #1	37.4	34.1	34.3	2,590,000	745,000	1,035,000	4,370,000
SD #2	9.9	9.0	9.1	685,000	195,000	275,000	1,155,000
Larkspur (incl. Murray Park)	6.4	6.0	5.9	445,000	130,000	180,000	755,000
San Quentin Prison	7.7	10.2	5.6	535,000	225,000	170,000	930,000
Totals	100.0%	100.0%	100.0%	\$6,930,000	\$2,185,000	\$3,025,000	\$12,140,000(3)

Exhibit "A" 2 of 8

(1) For information only, estimated local cost from CMSA's Approved 1982-83 Budget

(2) Based upon data from Eastern Marin Southern Sonoma Wastewater Facilities Plan Addendum of July 1979.

(3) Includes Land Acquisition Costs, Site Improvements & Contingency

Exhibit "A"

TABLE 3  
CENTRAL MARIN WASTEWATER MANAGEMENT PROGRAM  
SUMMARY OF ESTIMATED LOCAL COST SHARES

Local Agency Cost Shares

Facility	Total Local Cost (1)	Cost Allocation Basis	San Rafael SD		SD No. 1		SD No. 2		Larkspur	San Quentin Prison		Total
			%	SD	%	SD	%	SD		%	SD	
Central Marin Treatment Plant	\$ 12,140,000	Flow, BOD, SS	40.5 %		36.0 %		9.6 %		6.3 %		7.6 %	100.0 %
Plant Outfall	2,370,000	Flow	38.6		37.4		9.9		6.4		7.7	100.0
San Rafael Force Main	510,000	Use	100.0		--		--		--		--	100.0
Force Main to Tunnel	360,000	Flow & Use	--		69.7		18.4		11.9		--	100.0
Catalina Pump Station	50,000	Use	100.0		--		--		--		--	100.0
No. San Francisco Pump Station	10,000	Use	100.0		--		--		--		--	100.0
So. San Francisco Pump Stations	75,000	Use	100.0		--		--		--		--	100.0
San Quentin Force Main	90,000	Use	--		--		--		--		--	100.0
Tunnel to Plant	725,000	Flow & Use	--		60.9		--		10.4		100.0	100.0
San Quentin Pump Station	225,000	Use	--		--		--		--		100.0	100.0
Greenbrae Pump Station	450,000	Use	--		100.0		--		--		--	100.0
Kentfield Pump Station	45,000	Use	--		100.0		--		--		--	100.0
	<u>\$ 17,050,000</u>											
Land Acquisition Costs for outfall, tunnel and transport	300,000											
	<u>\$ 17,350,000</u>											

(1) For information only, estimated local cost from CMSA's Approved 1982-83 Budget

(2) Includes Land Acquisition Cost, site improvements and contingency

Exhibit "A" Page 3 of 8

Exhibit "A"

TABLE 4  
CENTRAL MARIN WASTEWATER MANAGEMENT PROGRAM  
SAN RAFAEL SANITATION DISTRICT LOCAL COST SHARE

Facility	Total Project Cost	SRSD Cost Share Percent*	SRSD Cost (1)
Central Marin Treatment Plant	\$12,140,000	40.5 %	\$4,865,000
Plant outfall	2,370,000	38.6	915,000
SRSD force main	510,000	100.0	510,000
Catalina pump station	50,000	100.0	50,000
No. Francisco pump station	10,000	100.0	10,000
So. Francisco pump station	75,000	100.0	75,000
Land Acquisition for outfall & transport	300,000		75,000
	<u>\$15,455,000</u>		<u>\$6,500,000</u>

\*Refer to Table 2 for summary

(1) For information only, estimated local cost from CMSA's Approved 1982-83 Budget.

Exhibit "A" 4 of 8

Exhibit "A"

TABLE 5  
CENTRAL MARIN WASTEWATER MANAGEMENT  
SANITARY DISTRICT NO. 1 - ROSS VALLEY  
ESTIMATED LOCAL COST SHARE

Facility	Total Local Cost (1)	SD No. 1 Cost Share Percent*	SD No. 1 Cost (1)
Central Marin Treatment Plant	\$12,140,000	36.0%	\$4,400,000
Plant outfall	2,370,000	37.4	885,000
Force main to tunnel	360,000	69.7	250,000
Tunnel to plant	725,000	60.9	440,000
Kentfield pump station	45,000	100.0	45,000
Greenbrae pump station	450,000	100.0	450,000
Land Acquisition Costs for outfall & transport	300,000		135,000
	<u>\$16,390,000</u>		<u>\$6,605,000</u>

\*Refer to Table 2 for summary

Exhibit "A" 5 of 8  
(1) For information only, estimated local cost from CMSA's  
Approved 1982-83 Budget

Exhibit "A"

TABLE 6  
 CENTRAL MARIN WASTEWATER MANAGEMENT PROGRAM  
 SANITARY DISTRICT NO. 2 - CORTE MADERA  
 ESTIMATED LOCAL COST SHARE

Facility	Total Local Cost (1)	SD No. 2 Cost Share Percent*	SD No. 2 Cost (1)
Central Marin Treatment Plant	\$12,140,000	9.6%	\$ 1,160,000
Plant outfall	2,370,000	9.9	235,000
Force main to tunnel	360,000	18.4	65,000
Tunnel to plant	725,000	16.1	115,000
Land Acquisition Costs for outfall, tunnel & transport	300,000		35,000
	<u>\$15,895,000</u>		<u>\$ 1,610,000</u>

\*Refer to Table 2 for summary

Exhibit "A" 6 of 8

(1) For information only, estimated local cost from CMSA's  
 Approved 1982-83 Budget

Exhibit "A"

TABLE 7  
CENTRAL MARIN WASTEWATER MANAGEMENT PROGRAM  
CITY OF LARKSPUR  
ESTIMATED LOCAL COST SHARE

Facility	Total Local Cost (1)	Larkspur Cost Share Percent*	Larkspur Cost(1)
Central Marin Treatment Plant	\$12,140,000	6.3%	\$ 765,000
Plant outfall	2,370,000	6.4	150,000
Force main to tunnel	360,000	11.9	45,000
Tunnel to plant	725,000	10.4	75,000
Land Acquisition Costs for outfall, tunnel & transport	300,000		25,000
	<u>\$15,895,000</u>		<u>\$1,060,000</u>

\*Refer to Table 2 for summary

Exhibit "A" 7 of 8

(1) For information only, estimated local cost from CMSA's  
Approved 1982-83 Budget



Exhibit "A"

TABLE 8  
CENTRAL MARIN WASTEWATER MANAGEMENT PROGRAM  
SAN QUENTIN STATE PRISON  
ESTIMATED LOCAL COST SHARE

Facility	Total Local Cost (1)	San Quentin Prison Cost Share Percent*	San Quentin Prison Cost (1)
Central Marin Treatment Plant	\$12,140,000	7.6%	\$ 955,000
Plant outfall	2,370,000	7.7	185,000
Tunnel to plant	725,000	12.6	90,000
San Quentin force main	90,000	100.0	90,000
San Quentin pump station	225,000	100.0	225,000
Land Acquisition Costs for outfall, tunnel and transport system	300,000		30,000
	\$15,850,000		\$1,575,000

\*Refer to Table 2 for summary

Exhibit "A" 8 of 8

(1) For information only, estimated local cost from CMSA's Approved 1982-83 Budget

\*\*\*\*\*

## Exhibit "B"

## Description of Sole Use Facilities

To be Owned and Maintained by the Member Agencies  
 Except San Rafael Sanitation District IA-1 and  
 Ross Valley Force Main IIA-1

Sole Use Facilities

No.	Description	Member Owner (Maint. Responsibility)
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SAN RAFAEL FORCE MAINS

IA-1	45" Force Main serving San Rafael from the Central Marin Treatment Plant upstream to the junction with the 10" Force Main to the South Francisco Pump Station (IG)	San Rafael S.D. (CMSA)
IA-2	45" Force Main serving San Rafael from the junction with the 10" Force Main to the South Francisco Pumping Station (IG) upstream to the junction with the 36" Force Main (IB)	San Rafael S.D. (SRSD)
IB	36" Force main serving San Rafael from the junction with the 42" Force Main (IA-2) upstream to the junction with the 27" Force Main from the North Francisco Pumping Station (IE)	San Rafael S.D. (SRSD)
IC	12" Force Main from Force Main IB to the Simms Street Pumping Station (No. 10)	San Rafael S.D. (SRSD)
ID	12" Force Main from Force Main IB to the West Railroad Pumping Station (No. 12)	San Rafael S.D. (SRSD)
IE	27" Force Main from Force Main IB to the North Francisco Pumping Station (No. 7)	San Rafael S.D. (SRSD)
IF	10" Force Main from Force Main IB to the Catalina (Cayes) Pumping Station (No. 13)	San Rafael S.D. (SRSD)
IG	10" Force Main from Force Main IA-1 to the South Francisco Pumping Station (No. 11)	San Rafael S.D. (SRSD)

Exhibit B to JPA  
 (as amended)

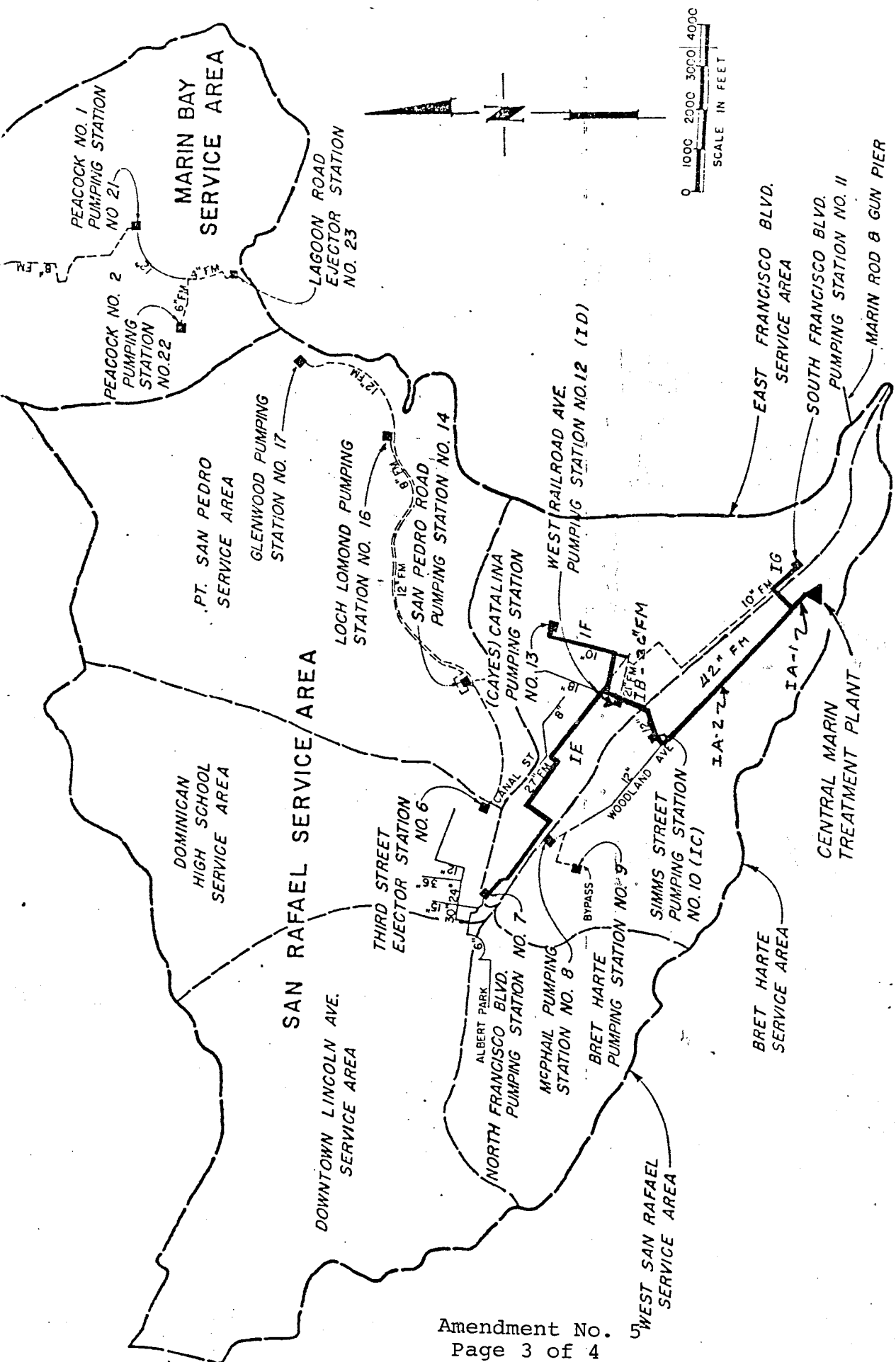
ROSS VALLEY FORCE MAINS

IIA-1	54" Force Main serving the Ross Valley from the Central Marin Treatment Plant upstream to the junction with the Force Main serving San Quentin Force Main (Force Main IIF)	Ross Valley (SD #1) Corte Madera (SD #2) Larkspur (CMSA)
IIA-2	54" Force Main from Force Main 11A-1 upstream to the junction with the Force Main to Corte Madera (Force Main IIC-1) to Greenbrae Force Main IID-1	Ross Valley (SD #1) Corte Madera (SD #2) Larkspur (SD #1)
IIB	10" Force Main from Force Main IIA-2 to Pumping Station No. B	Ross Valley (SD #1) (SD #1)
IIC-1	20" Force Main from Force Main IIA-1 upstream to the Paradise Pumping Station	Corte Madera (SD #2) (SD #2)
IIC-2	6" Force Main from Force Main IIC-1 upstream to the Fifer Pumping Station	Corte Madera (SD #2) (SD #2)
IIC-3	4" Force Main from Force Main IIC-1 upstream to the Trailer Court Pumping Station	Corte Madera (SD #2) (SD #2)
IID-1a	30" Force Main from the junction of Force Main IIA-2 and Force Main IIC-1 upstream to the Greenbrae Pumping Station	Ross Valley (SD #1) (SD #1)
IID-1b	42" Force Main from the junction of Force Main IIA-2 and Force Main IIC-1 upstream to the junction with the 30" Force Main IID-2 and the 18" Force Main II-D	Ross Valley (SD #1) Larkspur (SD #1)
IID-2	36" Force Main from the junction with Force Main IID-1 to the Kentfield Pumping Station (No. 12)	Ross Valley (SD #1) (SD #1)
IIE	18" Force Main from the connection with Force Main IID-1 upstream to the Larkspur Pumping Station	Larkspur (Larkspur)
IIF	16" Force Main from the connection with Force Main IIA-1 upstream to the San Quentin Prison Pumping Station	Ross Valley (SD #1) (SD #1)

Attachment B to JPA  
(as amended)

SAN RAFAEL SANITATION DISTRICT

FIGURE 1



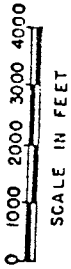
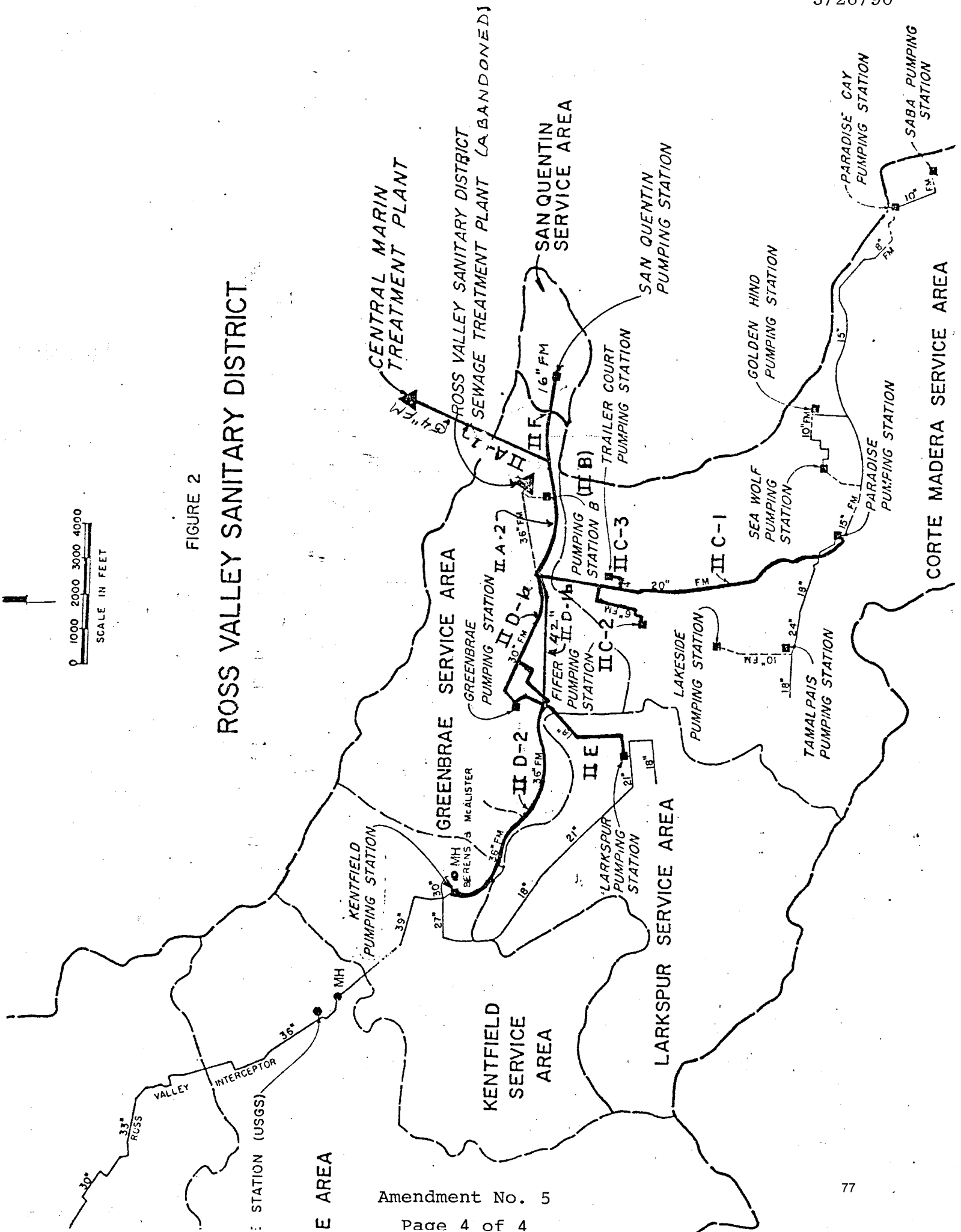


FIGURE 2

# ROSS VALLEY SANITARY DISTRICT



REVISED HAZARDOUS AND SOLID WASTE  
JOINT POWERS AGREEMENT  
COUNTY OF MARIN

This Agreement is entered into this 1st day of July, 1996 pursuant to the provisions of Title 1, Division 7, Chapter 5, Article 1 (Section 6500 et seq.) of the California Government Code relating to the joint exercise of powers among the following parties: The County of Marin (hereafter referred to as the "County"), the Cities of Bevedere, Larkspur, Mill Valley, Novato, San Rafael, and Sausalito, and the Towns of Corte Madera, Fairfax, Ross, San Anselmo, and Tiburon (hereafter collectively referred to as the "Cities and Towns"), which are all within the County of Marin.

PREAMBLE

The principle objectives of the agencies signatory to this Agreement are as follows:

A. Scope of the Agreement. The principle responsibilities of the new Authority, established by this Agreement, are to meet the goals of the Source Reduction and Recycling Element mandated by State Public Resources Code Sections 40900 to 43000 and the adoption and implementation of the Household Hazardous Waste Element required by Sections 25135 to 25135.8 of the Health and Safety Code.

Responsibilities for programs in the Certified Unified Program Agency (CUPA), which include the Hazardous Materials Business Plan Program, Risk Management and Prevention Plan Program, Aboveground Storage Tank Program, Underground Storage Tank Program, the Hazardous Waste Generator Program and the Tiered Permit On-Site Treatment Program, are to be managed as provided for by state law. The City of San Rafael will continue to administer its own CUPA programs. The County will administer these programs for the remaining Cities and Towns.

Operation of a household hazardous waste collection program is also mandated by state law. The County, the Cities and Towns will establish a local program that is available to their residents.

B. Limiting Membership in the Authority. Membership in the Authority will be limited to the County, the Cities and Towns. The districts included under the previous agreement are not signatories to this agreement and will not serve in any governing role. Representatives of the districts would continue to be included on the AB 939 Local Task Force.

C. Governing Structure. The day-to-day administration of the Authority will be vested with an Executive Committee responsible to the Board of Directors for the administration and management of Authority affairs. The Executive Committee will be comprised of the Chair and Vice Chair of the governing Board plus three Board members from the County, the City of San Rafael and the City of Novato.

The Board of Directors shall be comprised of one representative for each member agency. The Board member may be a member of the agency's City/Town Council or Board of Supervisors or the agency's staff.

A majority of the members of the Board of Directors will constitute a quorum for purposes of conducting business, and a majority of a quorum will be authorized to act on behalf of the Authority.

D. AB 939 Local Task Force. The Board will establish and be advised by an AB 939 Local Task Force, whose composition, duties and authority are specified in Public Resources Code Section 40950. The Task Force will include at least two representatives of waste haulers, one representative of an environmental organization, two representatives of special districts involved in the regulation and disposal of waste, and five public representatives appointed by the member agencies serving on the Executive Committee established in this Agreement.

If a conflict between this preamble and the specifications contained in Article 1 through Article 17 is presented, it is the intent of this Agreement that the Articles are to be considered determinative.

## ARTICLE 1: FACTS AND DECLARATIONS

### Solid Waste Management

WHEREAS, Sections 40900 to 43000 of the State Public Resources Code requires the County and each of its Cities to prepare, adopt, and implement source reduction and recycling elements and requires the County to prepare a county-wide siting element and a county integrated waste management plan; and

WHEREAS, the County, Cities, and Towns believe it would be to their mutual advantage and the public benefit to coordinate their power and authority to implement integrated waste management programs which meet the waste management requirements of State law; and

### Hazardous Waste Management

WHEREAS, Government Code Section 66780.8 and Health and Safety Code Section 25135 through 25135.8 establishes a planning process and requirements for the preparation, adoption, amendment, administration, and enforcement of County hazardous waste management plans; and

### Existing Solid Waste Management System

WHEREAS, an effective system of solid waste collection, recycling, diversion and disposal currently exists within the county involving \_\_\_\_\_ waste haulers.

Role of Districts

WHEREAS, the Sanitary Districts of Almonte, Alto, Homestead Valley, Las Gallinas, Novato, and Ross Valley, and the Community Service Districts of Marin City and Tamalpais, and the Bolinas Community Public Utility District, and the Strawberry Recreation District and the Stinson Beach County Water District (hereafter collectively referred to as the "Districts") play a role in the regulation of the existing solid waste management system and will continue to exercise responsibilities in the effort to fully comply with State solid waste diversion goals; and

WHEREAS, the County, Cities and Towns acting through this Agreement intend to strengthen the existing solid waste management system in the operation and development of future waste management activities; and

Joint Planning and Implementation

WHEREAS, the County, Cities and Towns believe that many of the programs and facilities described in the above mentioned elements and plans will be both long-term and most cost-effectively provided on a multi-jurisdictional or county-wide basis; and

WHEREAS, the County, Cities and Towns believe that a separate, special purpose agency responsible for, and capable of, preparation, adoption, revision, amendment, administration, and enforcement of the Marin County Integrated Waste Management Plan and, the Marin County Hazardous Waste Management Plan (hereafter referred to as the "Plans"), and planning, financing, implementing, managing, and maintaining of the related programs would be most cost-effective on a County-wide basis; and

WHEREAS, the Joint Exercise of Powers Act (Government Code Section 6500 et seq.) provides for joint action by two or more public agencies, and Public Resources Code section 41823 authorizes a city or county or agency formed under a joint exercise of powers agreement for the purpose of preparing and implementing source reduction and recycling elements on a county-wide integrated waste management plan; and

WHEREAS, it is the intent of the contracting agencies to utilize these statutory authorizations in this Agreement; and



Public Involvement

WHEREAS, the County, Cities and Towns intend to encourage ongoing community involvement in the development and implementation of future solid and hazardous waste activities by utilizing an AB 939 Task Force, advisory committees, community meetings, and other similar mechanisms to obtain public participation in these activities; and

Legislation and Markets

WHEREAS, the County, Cities and Towns intend to actively promote markets for recycled materials and advocate legislation which furthers the reduce, reuse, recycle hierarchy; and

Promoting Cost Effective Programs

WHEREAS, in the planning and implementation of countywide programs, the County, Cities and Towns intend to give particular attention to the cost-effectiveness of programs; and

Sharing Of Costs In An Equitable Manner

WHEREAS, it is the intent of the County, Cities and Towns that costs for planning and implementing solid and hazardous waste programs will be based on a fair and equitable allocation system that considers previous investments of each member, the relative benefits to each member and the actual cost of service; and

NOW, THEREFORE, the Agencies agree as follows:

ARTICLE 2: DEFINITIONS

Certain words as used in this Agreement shall be defined as follows:

- A. **"Agencies"** shall mean the County, Cities and Towns.
- B. **"Agreement"** shall mean this agreement that establishes the County of Marin Hazardous and Solid Waste Joint Powers Authority.
- C. **"Authority"** shall mean the County of Marin Hazardous and Solid Waste Joint Powers Authority.
- D. **"Board"** shall mean the governing body of the County of Marin Hazardous and Solid Waste Joint Powers Authority.

- E. "County" shall mean the County of Marin.
- F. "Cities" shall mean the cities of Belvedere, Larkspur, Mill Valley, Novato, San Rafael, and Sausalito.
- G. "Towns" shall mean the Towns of Corte Madera, Fairfax, Ross, San Anselmo, and Tiburon.
- H. "Executive Committee" shall mean the committee composed of the Chair and Vice-Chair of the Governing Board plus three additional members of the Governing Board as appointed by the Governing Board.
- I. "Hazardous Waste Facility" shall mean a facility which includes all contiguous land and structures used for the handling, treating, recycling, storing or disposing of hazardous wastes.
- J. "Members" shall mean the County, Cities or Towns which are signatories to this Agreement.
- K. "Quorum" shall mean a majority of the Board Members.

### ARTICLE 3: PURPOSE

#### 3.1 Purpose of Agreement

The purpose of this Agreement is to establish a public entity separate from the County and each of the Cities and Towns. This public entity is to be known as the County of Marin Hazardous and Solid Waste Joint Powers Authority (hereafter referred to as the "Authority").

#### 3.2 Purpose of Authority

The purpose of the Authority shall be to comply with Sections 40900 to 43000 of the Public Resources Code, Section 66780.8 of the Government Code and Health and Safety Code Sections 25135 through 25135.8.

- a. Prepare, adopt, revise, amend, administer and enforce hazardous waste and solid waste plans.
- b. Plan, finance, implement, manage and/or monitor multi-jurisdictional or county-wide programs and facilities related to the plans.
- c. And other new requirements imposed on the member agencies by future acts of the State or Federal Government as agreed by the member agencies.

### 3.3 Member Programs

It is recognized that members, such as the City of San Rafael, operate required programs outside the scope of this Agreement, such as administering a hazardous materials and an underground storage tank program and other programs covered by the Certified Unified Program Agency (CUPA).

## ARTICLE 4: CREATION OF MARIN COUNTY WASTE MANAGEMENT AUTHORITY

### 4.1 Creation of Authority

There is hereby created by the County, Cities and Towns of Marin the Marin County Hazardous and Solid Waste Management Authority to exercise in the manner set forth in this Agreement the powers common to each of the Agencies.

### 4.2 Separate Entity

The Authority shall be a public entity separate from the Agencies. Pursuant to Government Code Section 6503.5, notice of the Agreement shall be filed with the Secretary of State within 30 days of this Agreement's effective date. Pursuant to Government code Section 6508.1 the debts, liabilities and obligations of the Authority shall not constitute the debts, liabilities or obligations of any parties to the Agreement.

## ARTICLE 5: POWERS OF THE AUTHORITY

### 5.1 General Powers

The Authority shall have any and all powers authorized by law to the parties and may:

- a. Prepare, adopt, revise, amend, administer and enforce the provisions of the Plans;
- b. Evaluate and recommend programs designed to achieve compliance with AB 939 in a cost effective manner;
- c. Implement those programs for member agencies that choose to participate under section 6.2 of this Agreement;
- d. Advise the members on issues related to regional hazardous and solid waste facilities and programs;
- e. Advocate the interests of the members related to regional hazardous and solid waste facilities and programs with local, state and federal officials;
- f. Plan for regional hazardous and solid waste facilities and programs;
- g. Develop regional hazardous and solid waste programs;

- h. Develop markets for the reuse of recyclable materials;
- i. Contract for the operation of regional hazardous and solid waste facilities and programs;
- j. Regulate rates of regional hazardous and solid waste facilities and programs;
- k. Advise on matters of hazardous and solid waste rates and charges.

Nothing in this Agreement shall be construed to authorize franchise of solid waste collection.

## 5.2 Specific Powers

In carrying out its general powers granted pursuant to the statutes noted in Section 5.1, the Authority is hereby authorized to perform all acts necessary for the exercise of said powers which may include but are not limited to the following:

- a. Adopt ordinances and resolutions,
- b. Monitor performance,
- c. Make and enter into contracts,
- d. Apply for and accept grants, advances, and contributions,
- e. Employ or contract for the services of agents, employees, consultants and such other persons or firms as it deems necessary,
- f. Conduct studies,
- g. Acquire, hold or dispose of property,
- h. Sue and be sued in its own name,
- i. Appoint and retain legal counsel as necessary to fulfill its powers, duties and responsibilities under this Agreement
- j. Incur debts, liabilities or obligations subject to limitations herein set forth,
- k. Levy and collect fees and charges, including administrative and operating costs, as provided in this Agreement or by law, against all entities to which the Agreement or law applies,
- l. To adopt, as authorized by law, ordinances or resolutions necessary to carry out the purposes of this Agreement,
- m. Issue bonds, subject to the provisions and limitations of the Government Code of the State of California,
- n. Adopt annually, by July 1 of each fiscal year, an annual workplan and corresponding budget setting forth all administrative, operational and capital expenses for the Authority, and
- o. Implement the programs authorized in Article 6, and
- p. Indemnify the member agencies pursuant to Article 10.

### 5.3 By-Laws

The Board may adopt from time to time such policies, procedures, by-laws, rules or regulations for the conduct of its affairs as may be required.

## ARTICLE 6: PROGRAMS OF THE AUTHORITY

### 6.1 Basic Programs of the Authority

It is agreed that the following functions will form the basic minimum programs to be undertaken by the Authority on behalf of all of the member agencies.

- a. Administration. Administrative functions of the Authority as related to this section.
- b. Planning. Preparation, amendment, administration and monitoring of the county-wide portions of the AB939 plans. This includes: the Source Reduction and Recycling Element, the Household Hazardous Waste Element, the Solid Waste Facility Siting Element, the Non-Disposal Facility Element and the Countywide Integrated Waste Management Plan.
- c. Monitoring and Reporting. Comply with the requirements of the various identified statutes to maintain and report on efforts to meet the waste diversion goals of State law.
- d. Compliance Review. Develop, evaluate and recommend various programs designed to bring about compliance with AB 939 requirements for member agencies that choose to participate under section 6.2.
- e. Legislation. Track legislation pertaining to hazardous and solid waste issues and recommend position statements to the Board of Directors.

### 6.2 Agency Election to Participate in Authority Programs

Except for the basic programs listed in Section 6.1 above, member agencies may, by formal action of their governing boards, choose whether or not they wish to participate in and fund programs to be developed by the Authority.

### 6.3 Contract with County and/or Others

The Authority intends to contract with the County and others to perform the programs as listed in Section 3.2, "Purpose of Authority" and the "Basic Programs" of the Authority listed in Section 6.1. of this Agreement.

## ARTICLE 7: ORGANIZATION OF AUTHORITY

### 7.1 Members

- a. The County, Cities and Towns may enter into this Agreement by July 1, 1996.
- b. The County, and any City or Town may be considered for membership in the Authority after July 1, 1996, by presenting an adopted resolution to the Board which includes a request to become a member of the Authority and Board and upon a majority affirmative vote of a quorum of the Board accepting the County, City or Town and upon payment of any charges and upon satisfaction of any conditions established by the Board as a prerequisite for membership.

### 7.2 Board

- a. The Authority shall be governed by the "Board" which shall exercise all powers and authority on behalf of the Authority.
- b. The Board shall consist of one member of the governing body or the chief administrative officer of the County and each of the Cities and Towns which are party to this Agreement. Upon execution of this Agreement, the governing body of the County and each of the Cities and Towns shall appoint its member of the Board and another member to serve as an alternate to the Board, to serve in the absence of the regular member. Each member and alternate shall serve at the pleasure of the governing body of the appointing agency. Any change in appointment of a member or alternate shall be by action of the governing body of the appointing agency.
- c. A majority of the members of the Board shall constitute a quorum for the transaction of business. The Authority shall act upon majority vote of those in attendance, each member having one vote, of the members of the Board.
- d. The Board shall elect by majority vote, from its members, a Chair and Vice Chair. The Chair shall represent the Authority and execute any contracts and other documents when required by the Rules of Procedure and/or By-Laws. The Vice-Chair shall serve in the absence of the Chair.

### 7.3 Executive Committee

- a. The Executive Committee shall be responsible to the Board for the administration and management of Authority affairs, for the provision of assistance and advice to the Board.
- b. The Executive Committee shall be composed of the Chair and Vice-Chair plus three other members of the Governing Board elected by the Board. Three of the

committee members must be from the County, San Rafael, and Novato. One representative shall be selected by the Southern Marin cities of Sausalito, Tiburon, Belvedere and Mill Valley. One representative shall be selected by the Ross Valley cities of Ross, San Anselmo, Fairfax, Larkspur and Corte Madera.

- c. Three members of the Executive Committee shall constitute a quorum for the transaction of business. No action shall be taken by the Executive Committee except upon a majority affirmative vote of the quorum (each member having one vote) of the members of the Executive Committee.
- d. Members shall serve two-year terms and may be reappointed.

#### 7.4 Additional Committees

- a. The member agencies shall establish an AB 939 Local Task Force whose composition, duties and authority are described in Public Resource Code Section 40950. The Task Force so established shall be advisory to the Governing Board established under this Agreement.
- b. The AB 939 Local Task Force shall include at least two representatives of waste haulers, one representative of an environmental organization, two representatives of special districts involved in the regulation and disposal of waste, and five public representatives appointed by the member agencies serving on the Executive Committee established under this Agreement.
- c. In addition to the Executive Committee and an AB 939 Local Task Force, the Board may from time to time establish additional committees to carry out Authority purposes, and appoint committee members from the Board, the legislative bodies or administration of member agencies, Authority staff, and/or staff of the member agencies. The Board may also establish and appoint members to citizen's advisory committees as deemed appropriate.
- d. To the extent practical, the Board shall appoint members to committees in such a manner as to encourage the broadest possible participation of the member agencies.

### ARTICLE 8: MEETINGS AND REPORTS

#### 8.1 Board Meetings

- a. The Board shall hold at least one (1) regular meeting each year as determined by the by-laws.
- b. Special meetings of the Board may be called in accordance with the provision of Section 54956 of the California

- c. All meetings of the Board shall be held subject to the provisions of the Ralph M. Brown Act (Sections 54950 et. seq. of the California Government Code), and other applicable laws of the State of California requiring notice be given of meetings of public bodies.
- d. Minutes of all Board meetings will be kept and shall, as soon as possible after each meeting, be forwarded to each member and alternate member of the Board.
- e. The Chair of the Board shall cause correspondence to be prepared and delivered as directed by the Board.
- f. The public agency with whom the Authority contracts with to provide services shall be the keeper of the official records of the Authority.

## 8.2 Executive Committee Meetings

- a. The Executive Committee shall hold at least one (1) meeting each quarter .
- b. Special meetings of the Executive Committee may be called by the Chair, or by a majority of the members of the Executive Committee or at the direction of the Board.
- c. Minutes of all Executive Committee meetings will be kept and shall, as soon as possible after each meeting, be forwarded to members of the committee and to each member and alternate member of the Board.

## 8.3 Other Committee Meetings

- a. Other Committee's shall hold meetings as may be called by the Committee Chair, or a majority of the members.
- b. Minutes of all meetings will be kept and forwarded to members of the committee and to each member and alternate of the Board.

## 8.4 Progress Reports

At least annually, a report on the progress toward achieving the diversion goals of state law shall be prepared and distributed to members of the Governing Board.

# ARTICLE 9: FUNDING

## 9:1 Authority Budget

The Board shall adopt an annual budget for the Authority's activities within ninety (90) days of the effective date of this Agreement and by June 1 of each succeeding year. Public funds may not be disbursed by the Authority without adoption of the approved budget and all receipts and disbursements shall be in strict accordance with the approved budget. The budget shall identify



the programs of the Authority and allocate funds by program. The budget and accounting system shall account for direct and overhead costs by program. The Board shall allocate these costs for each program with the adoption of the annual budget.

## 9.2 Funding of the Authority

The Authority has the need and legal authority to levy fees and charges for programs, services and permits. The Authority is authorized to levy fees for only those programs identified in Section 6.1, Basic Programs of the Authority, and Section 6.2, Agency Election to Participate in Authority Programs. The funding for programs identified in Section 6.1 should be as specified in Section 9.2.B. The Authority is also authorized to levy fees and charges for administrative activities, permits and programs with independent funding.

- a. The Basic Programs of the Authority defined in Section 6.1 shall be funded as follows and adjusted annually as may be needed to fund the Basic Programs.
  - i. A fee shall be charged directly to every franchised solid waste hauler in Marin County. The fee shall be based on a rate per ton of solid waste collected and disposed based on the 1994 disposed tonnages listed on Exhibit A attached to this Agreement. Exhibit A shall be amended within ninety (90) days after a member agency approves a new franchise and a fee shall be established in a manner determined by the Executive Committee. The base year will be adjusted every two years starting in July 1, 1998 based on the most recent state certified tonnages. The fee is to be paid in two equal payments due July 30 and January 30 of each year.
  - ii. A fee shall be charged at all permitted landfills in Marin County to all non-franchised haulers. The fee shall be based on a rate per ton for all tons of waste disposed at the landfill. The landfills shall forward these fees collected on a monthly basis.
- b. The Authority is authorized to establish additional programs as defined in Section 6.2 with the approval of the Board of Directors and the individual Authority members participating in any such additional programs. The funding mechanism for any additional programs shall be developed as a component of every additional program and must have approval by the Board of Directors and each member agency participating in any additional program. All costs including overhead or administration of any additional program shall not be charged to the Basic Programs.
- c. The Authority may charge fees to the extent allowed by law for administrative services rendered to the public or any member agencies such as, but not limited to, copying, processing fees, legal costs, preparation of reports, etc. The Authority

may also charge to the extent allowed below for programs intended to be fully cost covering, such as permit fees, applications, EIRs, educational materials, such as decals and pamphlets, monitoring of any programs, permits or application approvals. All fees under this Section shall be approved by the Board of Directors in conjunction with the annual adoption of this Authority's budget.

### 9.3 Duties of Treasurer

- a. The Board shall appoint a Treasurer from among the senior management staff of the member agencies. The Treasurer shall be either the County Auditor/Controller, or the Treasurer Tax Collector or the Finance Director of one of the members.
- b. The Treasurer shall serve as the depository and have custody of all Authority funds and establish and maintain such books, records, funds, and accounts as may be required by reasonable accounting practice, Government Code section 6505.-The books and records of the Authority shall be open to inspection at all reasonable times to the County, Cities, and Towns and their representatives.
- c. The Treasurer, within ninety (90) days after the close of each fiscal year (which shall be from July 1 to June 30), shall give a complete written report of all financial activities for such fiscal year to the County, Cities, and Towns.
- d. The Treasurer shall prepare such financial reports as may be directed by the Board or Executive Committee.
- e. The Treasurer shall cause an independent annual audit of the accounts and records to be conducted by a certified public accountant in compliance with the requirements of section 6505 of the Government Code and generally accepted auditing standards.

### 9.4 Debts and Liabilities

No debt, liability, or obligation of the Authority shall constitute a debt, liability, or obligation of any Agency and each party's obligation hereunder is expressly limited only to the appropriation and contribution of such funds as may be levied pursuant to this Agreement or as the parties hereto may agree.

### 9.5 Disposition of Authority Funds Upon Termination

- a. In the event of termination of the Authority where there is a successor public entity which will carry on the activities of the Authority and assume its obligations, Authority funds, including any interest earned on deposits, remaining upon

termination of the Authority and after payment of all obligations shall be transferred to the successor public entity.

- b. If there is no successor public entity which would carry on any of the activities of the Authority or assume any of its obligations, Authority funds, including any interest earned on deposits, remaining upon termination of the Authority and after payment of all obligations, shall be provided in proportion to the contribution of each agency's ratepayers contributed during the term of this Agreement. Any such Authority funds received in this manner shall be used to defray the Agency's cost of hazardous and solid waste management programs or facilities.
- c. If there is a successor public agency which would undertake some of the functions of the Authority and assume some of its obligations, Authority funds, including any interest earned on deposits, remaining upon termination of the Authority and after payment of all obligations, shall be allocated by the Board between the successor public entity and member agencies.
- d. In the event the Authority is terminated under circumstances falling with (b) or (c) above, all decisions of the Board with regard to determinations of amounts to be transferred to member agencies or any successor shall be final.

#### 9.6 Financial Liability of Member Agencies

In the event of a default by the Authority, the member agencies shall be liable for the Authority's debts in a proportion equal to the contribution of each agency's ratepayers to the funding of the Authority.

### ARTICLE 10: INDEMNIFICATION

The Authority shall acquire such insurance protection as is necessary to protect the interest of the Authority, the County, Cities, Towns and the public. The Authority created by this Agreement shall assume the defense of and indemnify and save harmless the County, Cities, Towns and each of their respective officers, agents and employees, from all claims, losses, damages, costs, injury and liability of every kind, nature and description directly or indirectly arising from the performance of any of the activities of the Authority or the activities undertaken pursuant to this Agreement.

ARTICLE 11: EFFECTIVE DATE

This Agreement shall become effective when two-thirds (2/3) of the Cities, Towns and the County execute the Agreement, but not before July 1, 1996.

ARTICLE 12: TERMINATION

This Agreement may be terminated by the Board upon notice of withdrawal being received from a majority of the member agencies. Upon termination, payment of the obligations and division of the property of the Authority shall be conducted pursuant to Section 9.5 of Article 9 of this Agreement.

ARTICLE 13: AMENDMENTS

This Agreement may be amended only upon the two-thirds (2/3) affirmative vote of the Board.

ARTICLE 14: WITHDRAWAL

Any City, Town, or the County may withdraw from this Agreement effective July 1st of any year upon ninety (90) days, prior to the end of the fiscal year, written notice to the Authority. Upon withdrawal, a City, Town, or the County retains its financial obligations for current contracts executed to fulfill this Agreement, assumes responsibility for its obligations under AB 939, and assumes that responsibility at its own expense.

ARTICLE 15: SEVERABILITY

If any provision of this Agreement or its application to any person or circumstances is held invalid, the remainder of this Agreement and the application of the provision to other persons or circumstances shall not be affected.

ARTICLE 16: NOTICES

All notices to Agencies shall be deemed to have been given when mailed to the governing body of each agency.

ARTICLE 17: AGREEMENT COMPLETE

The foregoing constitutes the full and complete Agreement of the parties. There are no oral understandings or agreements not set forth in writing herein.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their proper officers thereunder duly authorized and effective as of the date of execution of all parties hereto.

COUNTY OF MARIN

Date 04-09-96

By:

Hansel Zimm Jr.

CHAIRMAN

CITY OF BELVEDERE

Date 5.22.96

By:

Steph P. Johnson

CITY OF LARKSPUR

Date May 15, 1996

By:

Samuel B. Burt

CITY OF MILL VALLEY

Date May 22, 1996

By:

John C. ...

CITY OF NOVATO

Date 4/23/96

By:

Pat Ellund, Mayor Pro Tem

CITY OF SAN RAFAEL

Date 5/22/96

By:

A. J. ...

CITY OF SAUSALITO

Date 6/6/96

By:

William ...

TOWN OF CORTE MADERA

Date 5/7/96

By:

Norman M. Richardson

TOWN OF FAIRFAX

Date 5/22/96

By:

Angela ...

TOWN OF ROSS

Date 5/13/96

By:

Kelley ...

TOWN OF SAN ANSELMO

Date 5-23-96

By:

Beta ...

TOWN OF TIBURON

Date 4/8/96

By:

Nancy ...

**EXHIBIT A.**  
**1994 DISPOSAL**

Franchised Haulers	1994 DISPOSAL( tons)			TOTAL TONS
	Garbage & Debris	Self-Haul	Commercial	
Bay Cities	11,193	N/A	N/A	11,193
Fairfax	4,158	N/A	N/A	4,158
Marin Sanitary	53,007	N/A	N/A	53,007
Mill Valley Refuse	28,074	N/A	N/A	28,074
Novato Disposal	33,272	N/A	N/A	33,272
San Anselmo	7,271	N/A	N/A	7,271
Shoreline	6,742	N/A	N/A	6,742
Tam CSD	2,321	N/A	N/A	2,321
<b>Total Franchised Hauler</b>	<b>146,038</b>	<b>N/A</b>	<b>N/A</b>	<b>146,038</b>
<b>Facilities</b>				
<b>Landfills</b>				
Nest Marin		1,755	3,879	5,634
Redwood		7,747	15,220	22,967
<b>Total Landfills</b>		<b>9,502</b>	<b>19,099</b>	<b>28,601</b>
MISS Transfer Station			3,722	3,722
Marin Resource Recovery		18,582	6,214	24,796
<b>TOTALS</b>	<b>146,038</b>	<b>28,084</b>	<b>25,313</b>	<b>203,157</b>

# DEPARTMENT OF PUBLIC WORKS

P. O. Box 4186, San Rafael, CA 94913-4186 • 415/499-6528 • FAX 415/499-3799 • TTY 415/473-3232

COUNTY OF MARIN  
www.co.marin.ca.us/pw

ADMINISTRATION  
499-6528

ACCOUNTING  
499-7877 • FAX 507-2899

AIRPORT  
451-A AIRPORT ROAD  
NOVATO, CA 94945  
897-1754 • FAX 897-1264

BUILDING MAINTENANCE  
499-6576 • FAX 499-3250

CAPITAL PROJECTS  
499-7877 • FAX 499-3724

COMMUNICATION  
MAINTENANCE  
499-7313 • FAX 499-3738

DISABILITY ACCESS  
499-6528  
CALIFORNIA RELAY SERVICE 711

ENGINEERING & SURVEY  
499-7877 • FAX 499-3724

FLOOD CONTROL DISTRICT  
499-6528

COUNTY GARAGE  
499-7380 • FAX 499-7190

LAND DEVELOPMENT  
499-6549

PRINTING  
499-6377 • FAX 499-6617

PURCHASING  
499-6371

REAL ESTATE  
499-6578 • FAX 446-7373

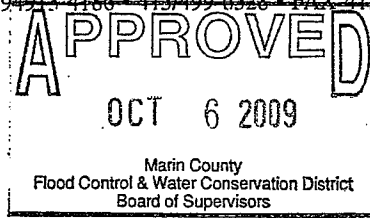
ROAD MAINTENANCE  
499-7388 • FAX 499-3656

STORMWATER PROGRAM  
499-6528

TRANSPORTATION  
PLANNING & TRAFFIC  
OPERATIONS  
499-6528

WASTE MANAGEMENT  
499-6647 • FAX 446-7373

ALL AREA CODES ARE 415



Farhad Mansourian, RCE  
Director

October 6, 2009

Board of Supervisors  
Marin County Flood Control and Water Conservation District  
3501 Civic Center Drive  
San Rafael, California 94903

**SUBJECT:** Revised Joint Exercise of Powers Agreement (JEPA) with MCSTOPPP

Dear Board Members:

**RECOMMENDATION:** Approve the revised Joint Exercise of Powers Agreement (JEPA) between the Marin County Flood Control and Water Conservation District and MCSTOPPP member agencies.

**SUMMARY:** The Marin County Stormwater Pollution Prevention Program (MCSTOPPP) provides collective stormwater management services to all cities and the County and was historically budgeted and administered through the Marin Streetlight JPA. The Marin Streetlight JPA is now known as the Marin General Services Authority (MGSA). In 2005, a Joint Exercise of Powers Agreement (JEPA) was adopted between the Marin County Flood Control and Water Conservation District (District), the County and Marin's municipalities to shift governance of MCSTOPPP to the District's Board of Supervisors. The JEPA format was selected because it was what the municipalities agreed to use for management of *MarinMap*.

The proposed revisions to the JEPA agreement, before you today, clarify the role of the District's Board of Supervisors as MCSTOPPP's governing body. The Marin General Services Authority continues to serve as an advisory body to MCSTOPPP for review of the budget and other program elements.

The roles of the Countywide and Local Programs are described in the MCSTOPPP stormwater management plan (Action Plan), attached as Exhibit A to this Agreement. The plan can be viewed at [www.mcstoppp.org](http://www.mcstoppp.org). Currently, the County and all the municipalities are covered under a State of California Phase II stormwater permit.

**FISCAL IMPACT:** Flood Control District costs to administer MCSTOPPP are fully funded by MCSTOPPP revenue.

<b>REVIEWED BY:</b>	<input type="checkbox"/>	Auditor Controller	<input checked="" type="checkbox"/>	N/A
	<input checked="" type="checkbox"/>	County Counsel	<input type="checkbox"/>	N/A
	<input type="checkbox"/>	Human Resources	<input checked="" type="checkbox"/>	N/A

Respectfully submitted,



Tracy J. Clay  
Principal Civil Engineer

Attachment, Revised Joint Exercise of Powers Agreement (JEPA) Relating to the Marin County Stormwater Pollution Prevention Program

c: Paul Berlant, Marin General Services Authority  
Marin Managers  
MCSTOPPP Staff

FAP



**JOINT EXERCISE OF POWERS AGREEMENT**

**Relating to the**

**MARIN COUNTY STORMWATER  
POLLUTION PREVENTION PROGRAM**

**MARIN COUNTY STORMWATER POLLUTION PREVENTION PROGRAM  
JOINT EXERCISE OF POWERS AGREEMENT**

This Joint Exercise of Powers Agreement is dated as of October 6, 2009, and is made by and among the Marin County Flood Control and Water Conservation District, the County of Marin, the Cities of Belvedere, Mill Valley, Novato, San Rafael and Sausalito, the Towns of Corte Madera, Fairfax, Larkspur, Ross, San Anselmo, Tiburon, and such other Local Agencies within the County of Marin as may hereafter become signatories hereto (the "Member Agencies").

**RECITALS**

- A. The Joint Powers Act provides that public agencies by agreement may jointly exercise any power common to them.
- B. The parties hereto are "public agencies" within the meaning of that term under Section 6502 of the Joint Powers Act and possess in common the power to develop and maintain mapping and other informational data to meet the informational needs of the public and each of the Member Agencies.
- C. The parties desire to enter into this Agreement in furtherance of the Joint Powers Act.

NOW, THEREFORE, the parties hereto agree as follows:

**ARTICLE I  
DEFINITIONS**

Section 1.01. Definitions. As used herein, the following terms shall have the meaning ascribed thereto, unless the context requires otherwise.

"Agreement" means this Joint Exercise of Powers Agreement.

"Board of Supervisors" means Board of Supervisors of the Marin County Flood Control and Water Conservation District.

"District" means the Marin County Flood Control and Water Conservation District

"Joint Powers Act" means Chapter 5 of Division 7 of Title 1 of the Government Code of the State, as amended from time to time.

"Local Agency" has the meaning set forth in Section 53600 of the Government Code of the State, as amended from time to time.

“Member Agency” means each of the original signatories to this Agreement and any Local Agency, which hereafter becomes a signatory to this Agreement pursuant to Section 6.12.

“MCSTOPPP” means the Marin County Stormwater Pollution Prevention Program.

“State” means the State of California.

“Steering Committee” means the committee established pursuant to Section 5.01.

## ARTICLE II THE MCSTOPPP PROJECT

Section 2.01. Purpose of Agreement. The purpose of this Agreement is to develop, implement and administer a stormwater pollution control program to reduce the discharge of pollutants in stormwater to the maximum extent practicable per the requirements of the General Permit for the Discharge of Stormwater from Small MS4s (WQ Order No. 2003-0005-DWQ) and subsequent permits.

Section 2.02. Program Structure. Countywide Program activities are conducted for the benefit of all MCSTOPPP agencies. In addition to participating in Countywide Program planning activities, each MCSTOPPP agency must also implement a Local Program. The roles of the Countywide Program and Local Programs for each task are described in the MCSTOPPP stormwater management plan (Action Plan), attached as Exhibit A to this Agreement. Local Programs must also implement performance standards described in Appendix A of the action plan. The Action Plan may be amended from time to time in response to permitting requirements.

### Section 2.03. Program Activity

(a) **Caring for Our Creeks and Waterways**

This activity describes watershed surveys, assessments, and monitoring to identify impacts to water quality and habitat, integral to MCSTOPPP’s watershed approach. This activity also contains two important elements of Federally mandated municipal stormwater programs: activities to prevent pollutant discharge from municipal maintenance activities, and activities to effectively eliminate non-stormwater discharges.

(b) **Building and Renewing**

This activity describes good site planning and development review practices to ensure new projects are designed with watershed protection in mind. This activity also describes control to minimize erosion and

sedimentation from construction activities. An important element of this activity is continuing education for municipal staff, contractors, and engineers.

(c) Educating Ourselves at Work

This activity describes how MCSTOPPP controls pollutant discharges from business activities through inspection and outreach. Continuing education for municipal staff, business owners, and their customers is also an important element in this activity

(d) Educating Ourselves at Home and School

This activity describes general public education and information dissemination, as well as targeted education efforts to residential neighborhoods and schools.

(e) Protecting Our Future

This activity describes how MCSTOPPP will work with the regulatory community to obtain coverage under a municipal stormwater permit and influence other regulatory programs, such as Total Maximum Daily Load (TMDL) development and allocation.

### ARTICLE III ADMINISTRATION OF THE AGREEMENT

Section 3.01. Marin County Flood Control and Water Conservation District (District) to Administer Agreement. The District shall administer this Agreement, and shall exercise in the manner herein provided the powers common to the Member Agencies and necessary to the accomplishment of the purposes of this Agreement, subject to the restrictions set forth in Section 3.02.

Section 3.02. Restrictions on Exercise of Powers. Such powers shall be exercised in the manner provided in the Joint Powers Act and shall be subject (in accordance with Section 6509 of the Joint Powers Act) to the restrictions upon the manner of exercising such powers that are imposed upon the District in the exercise of similar powers.

Section 3.03 Specific Services. The Marin County Flood Control and Water Conservation District will oversee the implementation of the MCSTOPPP Program in accordance with Article II. The District has the authority to submit an annual report and 5-year stormwater management plans to the California Regional Water Quality Control Board on behalf of the member agencies.

Section 3.04. Compensation. In consideration for the services to be performed by

Marin County Flood Control and Water Conservation District an annual fee will be paid by each Member Agency to the District upon approval of this Agreement and on or before July 1 of each year thereafter while this Agreement is in effect. The fee shall be paid within 60 days of billing unless alternate arrangements are submitted to and authorized in writing by MCSTOPPP. The annual fee is in addition to any permit fees levied by the State.

The annual fee shall be based on the annual cost of the program as approved by the Board of Supervisors and allocated to member agencies in accordance with a land and population pro rata as described below:

$$\text{County Share} = \frac{\text{Population within Marin County (unincorporated areas)}}{\text{Total population within Marin Co.}}$$

$$\text{Each Cities Share} = (1.00 - \text{County Share}) \frac{0.5 (\text{Area})}{\Sigma \text{City areas}} + \frac{0.5 (\text{Population})}{\Sigma \text{City population}}$$

#### **ARTICLE IV MEMBERSHIP**

Section 4.01. Benefits of Membership. By participating in the MCSTOPPP Project, a Member Agency receives the following benefits; MCSTOPPP provides assistance with implementation of the technical and regulatory aspects of the National Pollutant Discharge Eliminations System (NPDES) Phase II stormwater program. MCSTOPPP assists municipalities with the implementation of their local program tasks.

Section 4.02. Obligations of Member Agencies. Membership in the MCSTOPPP Project obligates Member Agencies to: Share costs of the Countywide Program through annual contributions as calculated in Section 3.04 .

Section 4.03. Member Qualifications. Member Agencies shall be limited to Local Agencies located within Marin County.

Section 4.04. Indemnification.

- (a) Each Member Agency shall be solely liable for the negligent acts or omissions of its officers, representatives, agents or employees occurring in the performance of this Agreement. If any Member Agency becomes liable for damages, attorneys fees or any other costs or liabilities caused by its officers, representatives, agents or employees, it shall pay such damages, fees or costs without contribution by the other Member Agencies.

**ARTICLE V**  
**GOVERNING STRUCTURE**

Section 5.01. The Marin General Services Authority. The Marin General Services Authority shall be advisory to Board of Supervisors on the MCSTOPPP program.

Section 5.02. Powers of the Marin General Services Authority.

- (a) The Marin General Services Authority or its successor shall make recommendations to the Board of Supervisors on the annual MCSTOPPP stormwater management plan (Action Plan).
- (b) The Marin General Services Authority or its successor shall recommend to the Board of Supervisors an annual budget no later than May 15 of each year.

**ARTICLE VI  
MISCELLANEOUS**

Section 6.01. Funding.

The Marin General Services Authority shall recommend an annual budget for adoption by the Board of Supervisors no later than May 15 of each succeeding year. MCSTOPPP funds shall be maintained in a trust account and these funds shall not be interspersed with other funds held by the Treasurer.

- (a) Funds may not be disbursed by the District on behalf of the MCSTOPPP project without adoption of the approved budget, and all receipts and disbursements shall be in strict accordance with the approved budget. The budget shall identify the programs of the MCSTOPPP project and allocate funds by program. The budget and accounting system shall account for direct and overhead costs by program. The Marin General Services Authority shall recommend and the Board of Supervisors shall allocate these costs for each program with the adoption of the annual budget.

Section 6.02. Treasurer. The Auditor-Controller of the County shall serve as the Treasurer for the MCSTOPPP project.

The Treasurer shall serve as the depository, have custody of all funds and establish and maintain such books, records, funds and accounts as may be required by reasonable accounting practices, and in compliance with California Government Code Section 6505. The books and records pertaining to the MCSTOPPP project shall be open to inspection at all reasonable times to the Member Agencies and the public.

The Treasurer shall prepare such financial reports as may be requested by the Marin General Services Authority and/or as directed by the Board of Supervisors.

The Treasurer shall cause an independent annual audit of the accounts and records by a certified public accountant, in compliance with the requirements of Section 6505 of the California Government Code and generally accepted auditing standards.

MCSTOPPP funds shall be maintained in a trust account and these funds shall not be interspersed with other funds held by the Treasurer.

Section 6.03. Debts and Liabilities. Except as otherwise provided by Section 6.05(c), no debt, liability or obligation of the MCSTOPPP project shall constitute a debt, liability or obligation of any Member Agency, and each Member Agency's obligation hereunder is expressly limited only to the appropriation and contribution of such funds as may be levied hereunder for services among the Member Agencies, or on a fee-for-service basis, or as the parties hereto may otherwise agree.

Section 6.04. Effective Date. This Agreement shall become effective when it has been executed by seven (7) Member Agencies.

Section 6.05. Termination. This Agreement may be terminated as follows:

- (a) By the Board of Supervisors upon thirty day written notice to the member agencies
- (b) By a majority of the Member agencies upon thirty day written notice to the Member agencies.
- (c) Upon termination, payment of the obligations and division of property of MCSTOPPP shall be made pursuant to Section 6.06

Section 6.06. Disposition of authority Funds Upon Termination.

- (a) In the event of termination of the MCSTOPPP project as organized and managed under this Agreement, all funds remaining after payment of all obligations of the MCSTOPPP project shall be transferred to any successor organization or agency designated by the Board of Supervisors to carry out the activities and operations of the MCSTOPPP project.
- (b) If there is no successor entity designated by the Board of Supervisors to carry on the activities of the MCSTOPPP project, or assume its obligations, all funds remaining after payment of all obligations shall be distributed to the Member Agencies in proportion to their contribution as approved by the Board of Supervisors after receiving the recommendation of the Marin General Services Authority.
- (c) If a successor organization or agency undertakes some of the functions of the MCSTOPPP project, and assumes some of its obligations, all funds remaining after payment of all obligations shall be allocated by the Board of Supervisors between the successor organization or agency and Member Agencies after receiving the recommendation of the Marin General Services Authority.
- (d) If the MCSTOPPP project is terminated due to circumstances falling within paragraph (b) or (c) above, the decisions of the Board of Supervisors shall be final.

Section 6.07. Amendments. This Agreement may be amended only upon the recommendation of a two-thirds affirmative vote of the Marin General Services Authority and subsequent approval by a majority of the Board of Supervisors.

Section 6.08. Withdrawal.



- (a) Any Member Agency may withdraw from the MCSTOPPP project effective July 1 of any year upon ninety (90) days written notice to the District.
- (b) If a Member Agency withdraws, its financial obligation shall be limited to its share of costs and liabilities incurred by the MCSTOPPP project prior to the date its written notice of withdrawal is effective as provided by Section 6.03.

Section 6.9. Default by Member Agency. Failure to adhere to the requirements of this Agreement may result in termination of Member Agency status effective July 1 of any year, upon ninety (90) days prior written notice to the defaulting Member Agency by MCSTOPPP, with subsequent approval by the Board of Supervisors.

Section 6.10. Disputes and Arbitration.

- (a) The Member Agencies agree that any dispute which arises between or among them involving the interpretation or application of this Agreement, or the rights and remedies of the Member Agencies, which cannot be resolved through discussion shall be subject to mandatory binding arbitration pursuant to California Code of Civil Procedure Section 1280, and shall not be subject to judicial determination except as expressly provided by law.
- (b) If a Member Agency wishes to submit a dispute to arbitration, it shall serve a demand for arbitration, setting forth the issues to be arbitrated and the general contentions of the Member Agency on the other Member Agencies. All demands for arbitration shall be served within one year of the event giving rise to the dispute.
- (c) The Member Agencies may mutually agree upon an arbitrator. If the Member Agencies cannot agree upon an arbitrator, the Member Agency demanding arbitration shall request a list of arbitrators with prior experience in similar disputes from the San Francisco Office of the American Arbitration Association. Each Member Agency (commencing in alphabetical order) shall alternately strike a name from the list until only one name remains.

Section 6.11. Additional Member Agencies. In addition to the original signatories to this Agreement, any Local Agency within Marin County may become a Member Agency. The addition of any new Member Agency shall become effective upon the execution on behalf of such Local Agency of a counterpart of this Agreement and the delivery of such executed counterpart to the District.

Section 6.12. Notices. Any notice, request, or other communication under this Agreement shall be given by first class mail or personal delivery to the party entitled

thereto, or by facsimile transmission or other form of telecommunication. Unless otherwise provided herein, notice shall be effective either: (i) upon transmission by facsimile transmission or other form of telecommunication, provided a telephonic communication of such transmission is provided; (ii) forty-eight (48) hours after deposit in the United States mail, postage prepaid; or (iii) in the case of personal delivery to any person, upon actual receipt.

Section 6.13. Section Headings. All section headings in this Agreement are for convenience of reference only and are not to be construed as modifying or governing the language in the section referred to or to define or limit the scope of any provision of this Agreement.

Section 6.14. Law Governing. This Agreement is made in the State of California under the constitution and laws of the State, and is to be so construed.

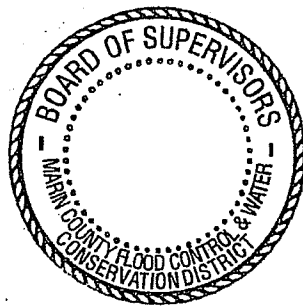
Section 6.15. Severability. Should any portion of this Agreement be held by any court of competent jurisdiction to be invalid, unenforceable, void or voidable for any reason whatsoever, the validity and enforceability of the remaining portions shall not be affected thereby.


Section 6.16. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

Section 6.17. Successors. This Agreement shall be binding upon and shall inure to the benefit of the successors of the respective Member Agencies.

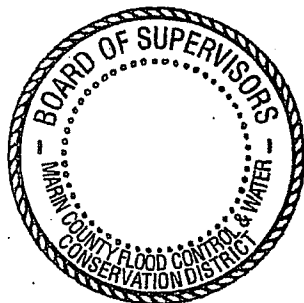
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and attested by their proper officers thereunto duly authorized on the respective dates shown below.

Date: OCTOBER 6, 2009



By:   
President of the Board of Supervisors

MARIN COUNTY FLOOD CONTROL  
AND WATER CONSERVATION  
DISTRICT



County of Marin

By: 

President of the Board of Supervisors

CITY OF BELVEDERE

By: approved on June 8, 2009, signed original on file  
Mayor

CITY OF MILL VALLEY

By: approved on August 17, 2009, signed original on file  
Mayor

CITY OF NOVATO

By: approved on July 14, 2009, signed original on file  
Mayor

CITY OF SAN RAFAEL

By: approved on September 8, 2009, signed original on file  
Mayor

CITY OF SAUSALITO

By: approved on September 15, 2009, signed original on file  
Mayor

TOWN OF CORTE MADERA

By: approved on September 1, 2009, signed original on file  
Mayor

TOWN OF FAIRFAX

By: approved on July 1, 2009, signed original on file  
Mayor

TOWN OF LARKSPUR

By: approved on June 17, 2009, signed original on file

Mayor

TOWN OF ROSS

By: approved on July 9, 2009, signed original on file  
Mayor

TOWN OF SAN ANSELMO

By: approved on May 26, 2009, signed original on file  
Mayor

TOWN OF TIBURON

By: approved on July 15, 2009, signed original on file  
Mayor

**EXHIBIT A**


**MCSTOPPP ANNUAL ACTION PLAN**

County of Marin

By: \_\_\_\_\_

President of the Board of Supervisors

CITY OF BELVEDERE

By:  \_\_\_\_\_  
Mayor

CITY OF MILL VALLEY

By: \_\_\_\_\_  
Mayor

CITY OF NOVATO

By: \_\_\_\_\_  
Mayor

CITY OF SAN RAFAEL

By: \_\_\_\_\_  
Mayor

CITY OF SAUSALITO

By: \_\_\_\_\_  
Mayor

TOWN OF CORTE MADERA

By: \_\_\_\_\_  
Mayor

TOWN OF FAIRFAX

By: \_\_\_\_\_  
Mayor

TOWN OF LARKSPUR

By: \_\_\_\_\_  
Mayor

County of Marin

By: \_\_\_\_\_

President of the Board of Supervisors

CITY OF BELVEDERE

By: \_\_\_\_\_

Mayor

CITY OF MILL VALLEY

By:                     *ajb*                    

Mayor

CITY OF NOVATO

By: \_\_\_\_\_

Mayor

CITY OF SAN RAFAEL

By: \_\_\_\_\_

Mayor

CITY OF SAUSALITO

By: \_\_\_\_\_

Mayor

TOWN OF CORTE MADERA

By: \_\_\_\_\_

Mayor

TOWN OF FAIRFAX

By: \_\_\_\_\_

Mayor

TOWN OF LARKSPUR

By: \_\_\_\_\_

Mayor

County of Marin

By: \_\_\_\_\_

President of the Board of Supervisors

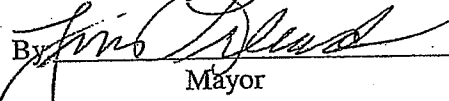
CITY OF BELVEDERE

By: \_\_\_\_\_  
Mayor

CITY OF MILL VALLEY

By: \_\_\_\_\_  
Mayor

CITY OF NOVATO

By:  \_\_\_\_\_  
Mayor

CITY OF SAN RAFAEL

By: \_\_\_\_\_  
Mayor

CITY OF SAUSALITO

By: \_\_\_\_\_  
Mayor

TOWN OF CORTE MADERA

By: \_\_\_\_\_  
Mayor

TOWN OF FAIRFAX

By: \_\_\_\_\_  
Mayor

TOWN OF LARKSPUR

By: \_\_\_\_\_  
Mayor



County of Marin

By: \_\_\_\_\_

President of the Board of Supervisors

CITY OF BELVEDERE

By: \_\_\_\_\_

Mayor

CITY OF MILL VALLEY

By: \_\_\_\_\_

Mayor

CITY OF NOVATO

By: \_\_\_\_\_

Mayor

CITY OF SAN RAFAEL

By: AMJ Bon

Mayor

CITY OF SAUSALITO

By: \_\_\_\_\_

Mayor

TOWN OF CORTE MADERA

By: \_\_\_\_\_

Mayor

TOWN OF FAIRFAX

By: \_\_\_\_\_

Mayor

TOWN OF LARKSPUR

By: \_\_\_\_\_

Mayor

County of Marin

By: \_\_\_\_\_

President of the Board of Supervisors

CITY OF BELVEDERE

By: \_\_\_\_\_

Mayor

CITY OF MILL VALLEY

By: \_\_\_\_\_

Mayor

CITY OF NOVATO

By: \_\_\_\_\_

Mayor

CITY OF SAN RAFAEL

By: \_\_\_\_\_

Mayor

CITY OF MAUSALITO

By: \_\_\_\_\_

Mayor

TOWN OF CORTE MADERA

By: \_\_\_\_\_

Mayor

TOWN OF FAIRFAX

By: \_\_\_\_\_

Mayor

TOWN OF LARKSPUR

By: \_\_\_\_\_

Mayor

County of Marin

By: \_\_\_\_\_

President of the Board of Supervisors

CITY OF BELVEDERE

By: \_\_\_\_\_

Mayor

CITY OF MILL VALLEY

By: \_\_\_\_\_

Mayor

CITY OF NOVATO

By: \_\_\_\_\_

Mayor

CITY OF SAN RAFAEL

By: \_\_\_\_\_

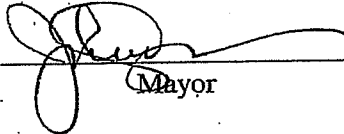
Mayor

CITY OF SAUSALITO

By: \_\_\_\_\_

Mayor

TOWN OF CORTE MADERA

By:  \_\_\_\_\_

Mayor

TOWN OF FAIRFAX

By: \_\_\_\_\_

Mayor

TOWN OF LARKSPUR

By: \_\_\_\_\_

Mayor

County of Marin

By: \_\_\_\_\_

President of the Board of Supervisors

CITY OF BELVEDERE

By: \_\_\_\_\_

Mayor

CITY OF MILL VALLEY

By: \_\_\_\_\_

Mayor

CITY OF NOVATO

By: \_\_\_\_\_

Mayor

CITY OF SAN RAFAEL

By: \_\_\_\_\_

Mayor

CITY OF SAUSALITO

By: \_\_\_\_\_

Mayor

TOWN OF CORTE MADERA

By: \_\_\_\_\_

Mayor

TOWN OF FAIRFAX

By: David Weisberg

Mayor

TOWN OF LARKSPUR

By: \_\_\_\_\_

Mayor

County of Marin

By: \_\_\_\_\_

President of the Board of Supervisors

CITY OF BELVEDERE

By: \_\_\_\_\_

Mayor

CITY OF MILL VALLEY

By: \_\_\_\_\_

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CITY OF NOVATO

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Mayor

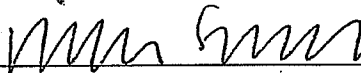
*City*

~~TOWN~~ OF LARKSPUR

By: *Donna Horn*

Mayor

TOWN OF ROSS

By:   
Mayor

TOWN OF SAN ANSELMO

By: \_\_\_\_\_  
Mayor


TOWN OF TIBURON

By: \_\_\_\_\_  
Mayor

TOWN OF ROSS

By: \_\_\_\_\_  
Mayor

TOWN OF SAN ANSELMO

By:  \_\_\_\_\_  
Mayor

TOWN OF TIBURON

By: \_\_\_\_\_  
Mayor

TOWN OF ROSS

By: \_\_\_\_\_  
Mayor

TOWN OF SAN ANSELMO

By: \_\_\_\_\_  
Mayor

TOWN OF TIBURON

By: *[Signature]*  
Mayor

*Approved by TOWN COUNCIL  
on July 15, 2009.*

*Attest: [Signature]  
Tiburon Town Clerk*



**A JOINT POWERS AGREEMENT  
CREATING  
THE MARIN GENERAL SERVICES AUTHORITY**

This Agreement is entered into this 1<sup>st</sup> day of **October** 2005, by and between the following local agencies: City of Belvedere, Town of Corte Madera, Town of Fairfax, City of Larkspur, City of Mill Valley, City of Novato, Town of Ross, Town of San Anselmo, City of San Rafael, City of Sausalito, Town of Tiburon, County of Marin, Bel Marin Keys Community Services District and Marinwood Community Services District pursuant to Sections 6500, et seq., of the California Government Code.

**RECITALS**

The local governments of Marin County find it effective and economic to collaborate in the provision of various municipal services and establish the Marin General Services Authority to administer, finance and govern those local government functions assigned, in the past, to the Marin Street Light Acquisition Joint Powers Authority, and those that may be added in the future.

For these and other reasons, the Cities, Towns and Special Districts within Marin County and the County of Marin itself have determined it is in the public interest to create the Marin General Services Authority, an entity separate from its Agencies, which will provide various municipal services to its Members.

NOW, THEREFORE, these Members agree as follows:

**ARTICLE 1: DEFINITIONS**

Certain words as used in this Agreement shall be defined as follows:

- A. "**Agencies**" shall mean the County, Cities and Towns and Special Districts within Marin County.
- B. "**Agreement**" shall mean this Agreement that establishes the Marin General Services Authority.
- C. "**Authority**" shall mean the Marin General Services Authority.
- D. "**Board**" shall mean the Board of Directors, which is the governing body of the Marin General Services Authority.
- E. "**County**" shall mean County of Marin.
- F. "**Cities**" shall mean the Cities of Belvedere, Larkspur, Mill Valley, Novato, San Rafael and Sausalito.

G. **"Joint Powers Authority Oversight Committee"** shall mean that committee created by Marin County Council of Mayors and Council Members (MCCMC) and its member agencies.

H. **"Towns"** shall mean Towns of Corte Madera, Fairfax, Ross, San Anselmo and Tiburon.

I. **"Special Districts"** shall mean governmental agencies created for single or limited purposes within the County of Marin.

J. **"Members"** shall mean the County, Special Districts, Cities or Towns, which are or become signatories to this Agreement.

K. **"Quorum"** shall mean a majority of the Board members.

## **ARTICLE 2: PURPOSE**

2.1 The purpose of this Agreement is to establish a public entity separate from the County, Cities, Towns and Special Districts. This public entity is to be known as the Marin General Services Authority.

The Authority will finance, implement and manage the various municipal services assigned to it. Those services are listed and included by reference in Exhibit A.

## **ARTICLE 3: TERM OF AGREEMENT**

3.1 This Agreement becomes effective upon a) the lawful adoption of this Agreement by seven Agencies by resolution and b) the adoption of an implementation resolution by the Board of Directors of the Marin Street Light Acquisition Joint Powers Authority. To become a Member, a local agency must execute this Agreement by September 1, 2005. It shall remain in effect until it is terminated pursuant to Article 19.

## **ARTICLE 4: RELATIONSHIP TO JOINT SERVICES AUTHORITY OVERSIGHT COMMITTEE**

4.1 The Joint Powers Authority Oversight Committee was established to oversee the operations of the JPA's and provide a forum to review and recommend policy issues affecting their joint efforts. The General Services Authority will raise significant policy issues and respond to inquiries from the Joint Powers Authority Oversight Committee for discussion by the Joint Powers Authority Oversight Committee, and the General Services Authority will report to the Joint Powers Authority Oversight Committee annually.

## ARTICLE 5: MEMBERS

5.1 The County, Cities, Towns and Special Districts who enter into this Agreement by September 1, 2005.

5.2 The County, any Special District and any City or Town may be considered for Membership in the Authority after the date the Authority is fully established, by presenting an adopted Resolution to the Board, which includes a request to become a Member of the Authority. That Resolution shall be in a form prescribed by the Board with no modifications.

5.3 The Board shall accept proposed Members upon a majority affirmative vote of the Board, upon payment of any Board determined fee and interest, and upon satisfaction of any conditions established by the Board as a prerequisite for Membership.

5.4 Member agencies may elect to participate in selected services of the Authority.

## ARTICLE 6: BOARD OF DIRECTORS

6.1 The Authority shall be governed by the Board, which shall exercise all powers and authority on behalf of Authority. The Authority shall provide Errors and Omissions Insurance for the Board.

6.2 A majority of the directors of the Board shall constitute a quorum for the transaction of business. The Authority shall act upon majority vote (each member having one vote) of the Board of Directors.

6.3 The Board shall elect by majority vote from its directors, a President and Vice President. The President shall represent the Authority and preside at Authority meetings. The Vice President shall serve in the absence of the President.

6.4 The Board shall be comprised of seven directors:

- a. The Marin County Administrator. (1)
- b. The City Managers of San Rafael and Novato. (2)
- c. Two City or Town Managers appointed by the Marin Managers Association. (2)
- d. Two Public Works Directors appointed by the Marin Public Works Association. (2)
- e. With the possible exception of the appointment of the County of Marin Public Works Director pursuant to paragraph 6.4.d. above, no member shall have more than one representative on the Board at any time.

**6.5** Alternate directors, to act in the absence of the appointed representative, shall be appointed as follows:

- a. The Marin County Administrator shall designate an alternate for himself or herself.
- b. The City Managers for San Rafael and Novato shall each designate an alternate for himself or herself.
- c. The Marin Managers Association shall appoint another City or Town Manager/Administrator to serve as the single alternate for the two directors.
- d. The Marin Public Works Association shall appoint another Public Works Director as the single alternate for its two directors.
- e. Written confirmations of these appointments shall be transmitted to the Authority.

**6.6** Agenda packets and minutes of the adjourned, regular and special meetings of the Board shall be kept by the Executive Officer and distributed to each member agency. Said minutes shall be adopted by the Board at its next meeting.

**6.7** Each member of the Board shall have one vote. An alternate appointed pursuant to paragraph 6.5 above, shall have only one vote in any situation. A majority of the members of the Board will constitute a quorum. For purposes of conducting business, a majority of the Board of Directors will be authorized to act on behalf of the Authority. The Board shall act by Motions duly adopted or Resolution when required by law.

**6.8** All directors shall comply with any economic or other reporting requirements under state or federal law. Upon formation of the Authority, the Board shall adopt a conflict of interest code pursuant to Government Code § 87300.

**6.9** The Board may adopt from time to time such policies, procedures, bylaws, rules or regulations for the conduct of its affairs as deemed necessary by the Board.

**6.10** The Board shall hold meetings as follows:

- a. The Board shall hold its regular meeting at 10:00 a.m. on the second Thursday of the odd numbered months.
- b. Special Meetings of the Board may be called in accordance with the provisions of Section 54956 of the California Government Code.
- c. All meetings of the Board shall be held subject to the provisions of the Ralph M. Brown Act (Sections 54950, et seq., of the California Government Code) and other applicable laws of the State of California requiring notice be given of meetings of public bodies.

d. The agency or individual with whom the Authority contracts to provide Executive Officer services shall be the custodian of the official records of the Authority.

**6.11** Other subcommittees of the Board shall hold meetings as follows:

a. Other committees shall hold meetings as may be called by the Committee Chair or a majority of the members.

b. Minutes of all meetings shall be kept and forwarded to members of the Committee and to each member and alternate member of the Board.

**ARTICLE 7: POWERS OF THE AUTHORITY**  
**EXERCISED BY THE BOARD OF DIRECTORS**

**7.1** The Authority shall have all of the necessary powers and authorities granted by law to provide the services authorized in Exhibit A, which may be amended from time-to-time pursuant to Article 13.

**7.2** The Authority may contract with private companies and public agencies to create, implement and operate the programs and services outlined in Exhibit A.

**7.3** The Authority may adopt budgets, determine fees and dues of Members, retain personnel, retain legal counsel, retain consultants and engineers, acquire grants, acquire, hold, lease and dispose of real and personal property, use the power of eminent domain, accept donations, sue and be sued, and possesses all other powers associated with the operation of a joint powers authority on behalf of the citizens, and public agencies within Marin County. No property, real or personal, shall be considered property of the Authority unless the Authority formally accepts it by Resolution. The Authority may exercise implied as well as these expressed powers.

**7.4** The Authority shall have the responsibility to keep Members informed of and advise the MCCMC Legislative Committee regarding pending legislation that would affect the operations of the Authority.

**7.5** The Authority shall defend, hold harmless and indemnify the Members of the Authority.

**7.6** The Authority may contract with a Member for services from a Member's employees.

**7.7** The Authority may exercise the powers permitted under Government Code § 6504 or any successor statute. Specifically, (a) contributions from the treasuries may be made for the purpose set forth in the Agreement, (b) payments of public funds may be made to defray the cost of such purpose, (c) advances of public funds may be made for the purpose set forth in the Agreement, such advances to be repaid as provided in the Agreement, or (d) personnel,

equipment or property of one or more of the Members to the Agreement may be used in lieu of other contributions or advances.

**7.8** The Authority shall determine how any Agency will become a Member subsequent to the date the Authority is fully established as provided for in Section 5.2. Specifically, the Board shall establish fees and any other conditions necessary for an Agency to become a Member. Such fees shall be calculated based upon all prior project expenditures in a manner consistent with the cost allocation of existing Members and any additional costs necessary to serve that new Member. Such a proposed new Member shall also pay interest at the rate of Bank of America prime rate, calculated on a quarterly basis, from the date this Authority is fully established, to its date of membership. The determination of the Board regarding fees and any other required conditions for new Members shall be within its sole discretion.

**7.9** The Authority shall determine the amounts each Member shall contribute to the funding of the Authority. The contribution is set forth in Article 8 of the Agreement.

**7.10** The Authority may do all things necessary and lawful to carry out the purpose of the Agreement.

**7.11** As is required by Government Code § 6509, one Member must be designated such that the power of the Authority is subject to the restrictions upon the manner of exercising power possessed by that Member. The County of Marin is designated the Government Code § 6509 agency. The Members agree that by this designation they agree not to interfere with any exercise of power by the Authority, be it general or specific, that would otherwise be lawful for the County to exercise. All powers and immunities possessed by the County are therefore possessed by the Authority.

**7.12** Agencies, which become Members of the Authority expressly agree to delegate all lawful power to the Authority to carry out those acts and projects of the Authority in which they participate.

**7.13** In addition to the powers discussed above, the Authority shall have the following additional powers but the exercise of these following powers shall only be permitted in the manner specified below:

- a. The Board possesses the following powers to be exercised as stated in Section 7.13 (b):
  1. The power of eminent domain
  2. The power to issue debt. Specifically, the authority can incur debt on its own under any law authorizing a joint powers authority to do so, including Government Code § 6540, et seq., and the Marks-Roos Local Bond Pooling Act of 1985, Government Code § 6584, et seq. The Authority can

use lease financing, certificates of participation, installment purchase certificates, short-term notes and any other suitable form of borrowing. The Authority may enter into an agreement with a Member regarding that Member incurring debt on behalf of the Agency.

3. The power, right and immunity to construct any facility in a member's jurisdiction without obtaining a permit of any nature from that member.

b. These powers and rights may only be exercised after a majority vote of the participating Members constituting a majority of the population of Marin County, as defined by the State Department of Finance, by resolution of each agency's governing board. Such action would be reviewed with the Joint Powers Authority Oversight Committee.

7.14 The Authority shall keep the Joint Powers Authority Oversight Committee informed of issues that may affect the duties of the JPA.

#### **ARTICLE 8: FUNDING OF THE AUTHORITY**

8.1 The Board shall adopt annual budgets for the Authority's activities within ninety (90) days of the effective date of this Agreement and by June 1 of each succeeding year. Public funds may not be disbursed by the Authority without adoption of the approved budget and all receipts and disbursements shall be in strict accordance with the approved budget. The budget shall identify the programs of the Authority and allocate funds by the program. The Board shall allocate these costs for each program with the adoption of the annual budgets.

8.2 Members shall contribute funds to the Authority. The contributions of Members shall be based on their participation in the duties specified in Exhibit A. All budget items shall be considered general unless identified as special in Exhibit B. The formula for contributions for general budget items is based on a combination of two pro rata factors designed to develop an equitable and proportional sharing. The formula uses two factors equally: assessed valuation of real property and population in an effort to develop a fair apportionment of costs.

To fund general budget items, each Member shall contribute a sum equal to:

$$\frac{(\underline{AVM})}{AVAM} (GB) (.5) + \frac{(\underline{PM})}{PAM} (GB) (.5) = C$$

AVAM                      PAM

AVM means the most current Assessed Valuation of Real Property of an individual Member as determined by the County Assessor;

AVAM means the most current Assessed Valuation of Real Property of All Members as determined by the County Assessor;

GB means general budget items;

PM means Population of Member;

PAM means Population of all Members;

C means Contribution of Member.

For the County, the variables shall be based on the unincorporated assessed value of real property and the population in the unincorporated area.

**8.3** Special Districts shall only be obligated for those programs related specifically to the administration and operation of street lighting facilities. Special budget items shall be funded by the participating Members as designated in Exhibit B.

**8.4** Members shall pay their contributions within thirty (30) days after a request for payment has been made by the Authority. The Authority shall have the ability to fund general and special budget items from fees charged for the use of Authority assets.

#### **ARTICLE 9: EXECUTIVE OFFICER**

**9.1** There will be an Executive Officer of the Authority who shall be responsible for the administration of the Authority. The Executive Officer shall be appointed by and may be removed for any reason by a majority vote of the Board. The Executive Officer shall be designated the Government Code § 6505.1 officer who shall file an official bond. The Executive Officer is hereby delegated the authority by the Board to enter into agreements or modifications to agreements in an amount not to exceed \$25,000.00. By Resolution the Board may delegate to the Executive Officer any other power not expressly prohibited by law.

**9.2** The Executive Officer shall cause an independent annual audit of the accounts and records to be conducted by a certified public accountant in compliance with the requirements of Section 6505 of the Government Code and generally accepted auditing standards.

**9.3** The Authority shall solicit competitive applications, including compensation for the services of executive officer every four years. The first application process will be within two years after ratification of the JPA.

#### **ARTICLE 10: TREASURER / CONTROLLER**

##### **10.1**

a. The Treasurer shall be the County Auditor/Controller who shall also function as Controller of the Authority.

b. The Treasurer shall serve as the depository and have custody of all Authority funds and establish and maintain such books, records, funds, and accounts as may be required by reasonable accounting practice. The books and records of the Authority shall be open to inspection at all reasonable times to the Members.



c. The Treasurer, within ninety (90) days after the close of each fiscal year (which shall be from July 1 to June 30), shall give a complete written report of all financial activities for such fiscal year to the Members.

d. The Treasurer shall prepare such financial reports as may be directed by the Board.

e. The Authority shall reimburse the Treasurer for all costs incurred in the fulfilment of these duties.

#### **ARTICLE 11: DEBTS AND LIABILITIES**

11.1 As permitted under Government Code § 6508.1, no debt, liability, or obligation of the Authority shall constitute a debt, liability, or obligation of any Agency and each Member's obligation hereunder is expressly limited only to the appropriation and contribution of such funds as may be levied pursuant to this Agreement.

#### **ARTICLE 12: INDEMNIFICATION**

12.1 The Authority shall acquire such insurance protection as is necessary to protect the interest of the Authority, the County, Special Districts, Cities, Towns and the public. The Authority created by this Agreement shall assume the defense of and indemnify and hold harmless the County, Special Districts, Cities, Towns and each of their respective officers, agents and employees, from all claims, losses, damages, costs, injury and liability of every kind, nature and description directly or indirectly arising from the performance of any of the activities of the Authority or the activities undertaken pursuant to this Agreement. Notwithstanding the foregoing language or that language contained in Article 7, § 6.6, the Authority shall not be obligated to defend, indemnify or hold harmless any member, its officers, agents, or employees from any and all claims, losses, damages, costs, injury and liability of every kind and nature when such claim arises from any effort of any nature by a member, either directly or indirectly, which hinders or prevents implementation of an act or project of the Authority.

#### **ARTICLE 13: AMENDMENTS**

13.1 This Agreement may be amended only upon the two-thirds (2/3) affirmative vote of all the Directors of the Board with such proposed amendment having been noticed Members thirty (30) days prior to the date of the meeting. Changes to Sections 7.13 and 5.4 must be approved by a majority of member agencies representing the majority of the population.

#### **ARTICLE 14: WITHDRAWAL**

14.1 Any City, Town, Special District or the County may withdraw from this Agreement effective July 1 of any year, by giving written notice to the Authority's Executive Officer ninety (90) days prior to that July 1. Upon withdrawal, a City, Town, Special District or the County retains its financial obligations for current contracts executed to fulfill this Agreement, and assumes that responsibility at its own expense. In the event a Member withdraws, the Authority will deed all assets within the Member's jurisdiction to the Member.

#### **ARTICLE 15: SEVERABILITY**

15.1 If any provision of this Agreement or its application to any person or circumstances is held invalid, the remainder of this Agreement and the application of the provision to other persons or circumstances shall not be affected.

#### **ARTICLE 16: NOTICES**

16.1 All notices to Members shall be deemed to have been given when mailed to the governing body of each Agency. The Board may provide for notice by e-mail or facsimile or some other reliable method by resolution. All notices to the Authority shall be delivered to its Executive Officer.

#### **ARTICLE 17: NO RIGHTS IN THIRD PARTIES**

17.1 All of the terms, conditions, rights and duties provided for in this Agreement are, and shall always be, solely for the benefit of the Members. It is the intent of the Members that no third party shall ever be the intended beneficiary of any performance, duty or right created or required pursuant to the terms and conditions of this Agreement.

#### **ARTICLE 18: MARIN STREETLIGHT ACQUISITION JPA**

18.1 The Marin Streetlight Acquisition Joint Powers Authority shall be disbanded upon the effective date of this Agreement as specified in Section 3.1 and all assets, fund balances, trust funds and/or cash shall become the assets of the Marin General Services Authority upon the effective date of this Agreement.

#### **ARTICLE 19: TERMINATION**

19.1 This Agreement may be terminated by the Board upon notice of withdrawal being received from a majority of the Members. Upon termination, payment of the obligations and division of the property of the Authority shall be as follows:

a. In the event of termination of the Authority where there is a successor public entity, which will carry on the activities of the Authority and assume its obligations, Authority funds, including any interest earned in deposits, remaining upon termination of the Authority and after payment of all obligations shall be transferred to the successor public entity.

b. If there is no successor public entity, which would carry on any of the activities of the Authority or assume any of its obligations, Authority funds, including any interest earned on deposits, remaining upon termination of the Authority and after payment of all obligations, shall be divided in proportion to the accumulated contributions of each agency.

c. If there is a successor public agency, which would undertake some of the functions of the Authority and assume some of its obligations, Authority funds, including any interest earned on deposits, remaining upon termination of the Authority and after payment of all obligations, shall be allocated by the Board between the successor public entity and Members.

d. In the event the Authority is terminated under circumstances falling with (b) or (c) above, all decisions of the Board with regard to determination of amounts to be transferred to Members or any successor shall be final.

**ARTICLE 20: AGREEMENT COMPLETE**

**20.1** The foregoing constitutes the full and complete Agreement of the parties. There are no oral understandings or agreements not set forth in writing herein. Any such agreements merge into this Agreement. This Agreement can only be amended pursuant to Article 13.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their proper duly authorized officers and it will be effective as of the date of execution of all the parties hereto. This Agreement may be executed in counterparts.

This Agreement was executed by the following agencies:

City of Belvedere: May 2, 2005

Town of Corte Madera: April 19, 2005

Town of Fairfax: May 4, 2005

City of Larkspur: April 20, 2005

City of Mill Valley: April 18, 2005

City of Novato: June 14, 2005

Town of Ross: May 12, 2005

Town of San Anselmo: April 26, 2005

City of San Rafael: April 4, 2005

City of Sausalito: May 3, 2005

Town of Tiburon: May 4, 2005

County of Marin: May 10, 2005

Bel Marin Keys CSD: April 25, 2005

Marinwood CSD: April 12, 2005

## **EXHIBIT A**

### DUTIES OF MARIN GENERAL SERVICES AUTHORITY

1. Own and insure the streetlights of member agencies that have been transferred to the Authority by the member agencies.
2. Advise the County of Marin on the non-point discharge pollution prevention system for Marin known as the Marin County Storm Water Pollution Prevention Program.
3. Govern and manage the Marin County taxicab regulation program.
4. Manage the abandoned vehicle abatement program.
5. Explore, investigate, advise, and assist member agencies on energy issues.
6. Lease access to agency owned streetlights.
7. Provide regional information management services, including PC support, networks and shared applications.
8. Manage the MarinMap Geographic Information System.

## **EXHIBIT B**

### FUNDING OF MARIN SPECIAL BUDGET ITEMS

1. Streetlights – Members shall pay the costs of this function in proportion to the number of streetlights owned by the Authority in each member’s jurisdiction.
2. Taxicab – Funded by fees set by the Authority.
3. Abandoned Vehicle Program – Funded by state imposed surcharge on vehicle registration.
4. Technology Services – Funded by user charges paid by participating agencies.
5. MarinMap – Funded by member fees, grants and special assessments on members. General Services Authority’s administration, accounting and legal costs will be reimbursed by the MarinMap budget.

*Hawkins*  
DELAFIELD & WOOD LLP

PHONE: 916-326-5200  
FAX: 916-326-5663

MERIDIAN PLAZA - 1415 L STREET  
SACRAMENTO, CA 95814  
WWW.HAWKINS.COM

NEW YORK  
WASHINGTON  
NEWARK  
HARTFORD  
LOS ANGELES  
SACRAMENTO  
SAN FRANCISCO  
PORTLAND  
ANN ARBOR

Writer's direct contact:  
Phone: 415-486-4219  
Fax: 415-397-1513  
E-mail: [babraham@hawkins.com](mailto:babraham@hawkins.com)

February 14, 2017

Via Federal Express

Marin LAFECO  
1401 Los Gamos Drive, Suite 220  
San Rafael, CA 94903

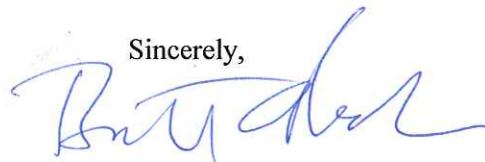
Re: Submittal of copy of Joint Exercise of Powers Agreement by and between Las Gallinas Valley Sanitary District and Sausalito-Marín City Sanitary District creating the Marin Public Financing Authority, dated January 24, 2017

To Whom it May Concern,

In accordance with California Government Code Section 56047.7, please find enclosed an executed copy of the above-named Joint Exercise of Powers Agreement. Using the enclosed Fedex envelope, please return the duplicate copy of this letter and attachment with a stamped date to confirm receipt (or with some other indication of proof of receipt).

Please contact me at [babraham@hawkins.com](mailto:babraham@hawkins.com) if you have any questions or need anything further.

Sincerely,



Brett Abraham

Attachment



*Hawkins*  
DELAFIELD & WOOD LLP

PHONE: 916-326-5200  
FAX: 916-326-5663

MERIDIAN PLAZA - 1415 L STREET  
SACRAMENTO, CA 95814  
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NEW YORK  
WASHINGTON  
NEWARK  
HARTFORD  
LOS ANGELES  
SACRAMENTO  
SAN FRANCISCO  
PORTLAND  
ANN ARBOR

Writer's direct contact:  
Phone: 415-486-4219  
Fax: 415-397-1513  
E-mail: babraham@hawkins.com

February 14, 2017

Via Federal Express

Marin LAFECO  
1401 Los Gamos Drive, Suite 220  
San Rafael, CA 94903

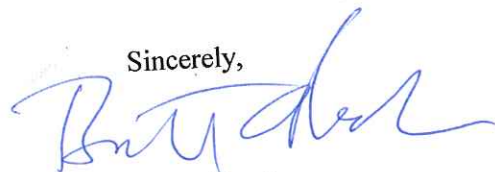
Re: Submittal of copy of Joint Exercise of Powers Agreement by and between Las Gallinas Valley Sanitary District and Sausalito-Marín City Sanitary District creating the Marin Public Financing Authority, dated January 24, 2017

To Whom it May Concern,

In accordance with California Government Code Section 56047.7, please find enclosed an executed copy of the above-named Joint Exercise of Powers Agreement. Using the enclosed Fedex envelope, please return the duplicate copy of this letter and attachment with a stamped date to confirm receipt (or with some other indication of proof of receipt).

Please contact me at babraham@hawkins.com if you have any questions or need anything further.

Sincerely,



Brett Abraham

Attachment

2776127.1 041261 CORR





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**JOINT EXERCISE OF POWERS AGREEMENT**

**by and between**

**LAS GALLINAS VALLEY SANITARY DISTRICT**

**and**

**SAUSALITO-MARIN CITY SANITARY DISTRICT**

**creating the**

**MARIN PUBLIC FINANCING AUTHORITY**

**January 24, 2017**

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## JOINT EXERCISE OF POWERS AGREEMENT

This **JOINT EXERCISE OF POWERS AGREEMENT**, dated January 24, 2017, by and between **LAS GALLINAS VALLEY SANITARY DISTRICT**, a sanitary district organized and existing under and by virtue of the laws of the State of California ("LGVSD"), and **SAUSALITO-MARIN CITY SANITARY DISTRICT**, a sanitary district organized and existing under and by virtue of the laws of the State of California ("SMCSD").

### DECLARATION OF PURPOSE

A. Chapter 5 of Division 7 of Title 1 of the California Government Code (the "JPA Act") authorizes LGVSD and SMCSD to create a joint exercise of powers entity which has the power to exercise any powers common to LGVSD and SMCSD and to exercise additional powers granted to such entity under the JPA Act. This Agreement creates a joint exercise of powers entity, which shall be known as the Marin Public Financing Authority (the "Authority") for the purposes and to exercise the powers described herein.

B. LGVSD and SMCSD are authorized to buy, sell, lease and use property and to incur indebtedness for public purposes pursuant to the laws of the State of California.

C. Article 4 of the JPA Act (known as the "Marks-Roos Local Bond Pooling Act of 1985") authorizes and empowers the Authority to issue bonds and to purchase bonds issued by, or to make loans to, LGVSD or SMCSD for financing public capital improvements, working capital, liability and other insurance needs, or projects whenever there are significant public benefits, as determined by LGVSD or SMCSD. The Marks-Roos Local Bond Pooling Act of 1985 further authorizes and empowers the Authority to sell bonds so issued or purchased to public or private purchasers at public or negotiated sale.

### TERMS OF AGREEMENT

Section 1. Definitions. Unless the context otherwise requires, the terms defined in this Section 1 shall for all purposes of this Agreement have the meanings herein specified.

"Agreement" shall mean this Joint Exercise of Powers Agreement, as it may be amended from time to time, creating the Authority.

"Authority" shall mean the Marin Public Financing Authority created by this Agreement.

"Board" or "Board of Directors" shall mean the governing board of the Authority.

"Bonds" shall mean bonds and any other evidence of indebtedness of the Authority authorized and issued pursuant to the JPA Act.

"By-Laws" shall mean the bylaws, rules and regulations of the Authority as provided in Section 4(c)(5) hereof.



“Indenture” shall mean each indenture, trust agreement or other such instrument pursuant to which Bonds are issued or other obligations are incurred.

“JPA Act” shall mean Articles 1, 2 and 4 of Chapter 5 of Division 7 of Title 1 of the California Government Code, as amended.

“LGVSD” shall mean the Las Gallinas Valley Sanitary District, a sanitary district organized and existing under the laws of the State.

“Member” or “Members” shall mean LGVSD and/or SMCSO, as appropriate.

“SMCSO” shall mean the Sausalito-Marín City Sanitary District, a sanitary district organized and existing under the laws of the State.

“State” shall mean the State of California.

Section 2. Purpose. This Agreement is made pursuant to the JPA Act for the purpose of assisting the financing and refinancing of public capital improvement projects of a Member by exercising the powers referred to in this agreement and shall benefit no other entity. Any Bonds issued by the Authority shall be solely for projects benefiting a Member.

Section 3. Term. This Agreement shall become effective as of the date hereof and shall continue in full force and effect until terminated by a supplemental agreement of the Members; *provided, however*, that in no event shall this Agreement terminate while any Bonds remain outstanding under the terms of any Indenture.

Section 4. The Authority.

(a) *Creation of the Authority.* There is hereby created pursuant to the JPA Act an authority and public entity to be known as the “Marín Public Financing Authority.” As provided in the JPA Act, the Authority shall be a public entity separate from the Members. The debts, liabilities and obligations of the Authority shall not constitute debts, liabilities or obligations of the Members.

Within 30 days after the effective date of this Agreement or any amendment hereto, the Authority will cause a notice of this Agreement or amendment to be prepared and filed with the office of the Secretary of State of the State in the manner set forth in sections 6503.5 of the JPA Act. Such notice shall also be filed with the office of the State Controller.

(b) *Governing Board.* The Authority shall be administered by the Board which shall consist of two members appointed by each Member. The By-Laws of the Authority may provide that such members of the Board may be elected directors, officers or employees of a Member. The term of office as a member of the Board shall terminate when the holder of the position at such Member ceases to hold such position and the successor to such position shall become a member of the Board, upon assuming such office.

Members of the Board shall not receive any compensation for serving as such, but shall be entitled to reimbursement for any expenses actually incurred in connection with serving as a



member if the Board determines that such expenses shall be reimbursed and there are unencumbered funds available for such purpose.

(c) *Meetings of Board.*

(1) *Time and Place.* The regular meetings of the Board shall be as provided in the By-Laws or a resolution of the Authority. The Authority shall hold an annual meeting.

(2) *Legal Notice.* All regular and special meetings of the Board shall be called, noticed, held and conducted subject to the provisions of the Ralph M. Brown Act (Chapter 9 of Part 1 of Division 2 of Title 5 of the California Government Code), or any successor legislation hereafter enacted.

(3) *Minutes.* The Secretary of the Authority shall cause minutes of all meetings of the Board to be kept and shall, as soon as practicable after each meeting, cause a copy of the minutes to be forwarded to each member of the Board and to the Members.

(4) *Quorum and Voting of the Board.* A majority of the members of the Board shall constitute a quorum for the transaction of business, except that less than a quorum may adjourn meetings from time to time. Any action or decision of the Authority shall be on motion duly approved by a majority of the members of the Board at a lawfully held meeting.

(5) *Bylaws.* The Board may adopt, from time to time, such bylaws, rules and regulations for the conduct of its meetings as are necessary for the purposes hereof (the "By-Laws").

(d) *Officers; Duties; Bonds.*

(1) The officers of the Authority shall be the President, Vice President, Secretary and Treasurer. The officers of the Authority shall be the persons specified in the By-Laws and shall have the powers vested in them pursuant to such By-Laws and such other powers as may be granted by the Board from time to time by resolution. The By-Laws of the Authority shall provide that such officers of the Authority may be elected directors, officers or employees of a Member.

(2) The Treasurer of the Authority is designated as the public officer or person who has charge of, handles, or has access to any property of the Authority.

(3) The services of the officers shall be without compensation by the Authority, the Members will provide such other administrative services as required by the Authority, and shall not receive economic remuneration from the Authority for the provision of such services.





(4) The Board shall have the power to appoint such other officers and employees as it may deem necessary and to retain independent counsel, consultants and accountants.

(5) All of the privileges and immunities from liability, exemptions from laws, ordinances and rules, all pension, relief, disability, worker's compensation and other benefits which apply to the activities of officers, agents or employees of the Members when performing their respective functions within the territorial limits of their respective Member, shall apply to them to the same degree and extent while engaged in the performance of any of their functions and duties extraterritorially under the provisions of this Agreement.

(6) None of the officers, agents or employees, if any, directly employed by the Authority shall be deemed, by reason of their employment by the Authority, to be employed by any Member or, by reason of their employment by the Authority, to be subject to any of the requirements of any Member.

(7) The Members hereby confirm their intent and agree that, as provided in the JPA Act, the debts, liabilities and obligations of the Authority shall not constitute debts, liabilities or obligations of the Members.

(8) The Authority or one of the Members shall cause all records regarding the Authority's formation, existence, operations, any Bonds issued by the Authority, obligations incurred by it and proceedings pertaining to its termination to be retained for at least 6 years following termination of the Authority or final payment of any Bonds issued by the Authority, whichever is later.

Section 5. Powers. The Authority shall have any and all powers that are common powers of the Members, and the powers separately conferred by law upon the Authority. All such powers, whether common to the Members or separately conferred by law upon the Authority, are specified as powers of the Authority except any such powers that are specifically prohibited to the Authority by applicable law. The Authority's exercise of its powers is subject to the restrictions upon the manner of exercising the powers of a sanitary district.

The Authority is hereby authorized, in its own name, to do all acts necessary or convenient for the exercise of its powers, including, but not limited to, any or all of the following: to sue and be sued; to make and enter into contracts; to employ agents, consultants, attorneys, accountants, and employees; to acquire, hold or dispose of property, whether real or personal, tangible or intangible, wherever located; to issue Bonds or otherwise incur debts, liabilities or obligations to the extent authorized by the JPA Act or any other applicable provision of law and to pledge any property or revenues or the rights thereto as security for such Bonds and other indebtedness.

Notwithstanding the foregoing, the Authority shall have any additional powers conferred under the JPA Act or under applicable law, insofar as such additional powers may be necessary to accomplish the purposes set forth in Section 2 hereof.



Section 6. Termination of Powers. The Authority shall continue to exercise the powers herein conferred upon it until the termination of this Agreement in accordance with Section 3 hereof.

Section 7. Fiscal Year. Unless and until changed by resolution of the Board, the fiscal year of the Authority shall be the period from July 1 of each year to and including the following June 30, except for the first fiscal year which shall be the period from the date of this Agreement to June 30, 2017.

Section 8. Disposition of Assets. Upon termination of this Agreement pursuant to Section 3 hereof, any surplus money in possession of the Authority or on deposit in any fund or account of the Authority shall be returned in proportion to any contributions made as required by section 6512 of the JPA Act. The Board is vested with all powers of the Authority for the purpose of concluding and dissolving the business affairs of the Authority. After rescission or termination of this Agreement pursuant to Section 3 hereof, all property of the Authority, both real and personal, shall be distributed to the Members, subject to Section 9 hereof.

Section 9. Contributions and Advances. Contributions or advances of public funds and of personnel, equipment or property may be made to the Authority by a Member for any of the purposes of this Agreement. Payment of public funds may be made to defray the cost of any such contribution. Any such advance made in respect of a revenue-producing facility shall be made subject to repayment, and shall be repaid, in the manner agreed upon by such Member and the Authority at the time of making such advance as provided by section 6512.1 of the JPA Act. It is mutually understood and agreed that no Member has any obligation to make advances or contributions to the Authority to provide for the costs and expenses of administration of the Authority, even though either may do so. The Members may allow the use of personnel, equipment or property in lieu of other contributions or advances to the Authority.

Section 10. Bonds.

(a) *Authority To Issue Bonds.* When authorized by the JPA Act or other applicable provisions of law and by resolution of the Board, the Authority may issue Bonds for the purpose of raising funds for the exercise of any of its powers or to otherwise carry out its purposes under this Agreement, under such terms and conditions as may be authorized by the Board.

(b) *Bonds Are Limited Obligations.* The Bonds, including the principal and any purchase price thereof, and the interest and premium, if any, thereon, shall be special obligations of the Authority payable solely from, and secured solely by, the revenues, funds and other assets pledged therefor under the applicable Indenture(s) and shall not constitute a charge against the general credit of the Authority. The Bonds shall not be secured by a legal or equitable pledge of, or lien or charge upon or security interest in, any property of the Authority or any of its income or receipts except the property, income and receipts pledged therefor under the applicable Indenture(s). The Bonds shall not constitute a debt, liability or obligation of the State or any public agency thereof, including the Members, other than the special obligation of the Authority as described above. Neither the faith and credit nor the taxing power of the State or any public agency thereof, including the Members, shall be pledged to the payment of the principal or purchase price of, or the premium, if any, or interest on the Bonds nor shall the State or any



public agency or instrumentality thereof, including the Members, in any manner be obligated to make any appropriation for such payment. The Authority has no taxing power.

No covenant or agreement contained in any Bond or Indenture shall be deemed to be a covenant or agreement of any director, officer, agent or employee of the Authority, in his or her individual capacity and no director or officer of the Authority executing a Bond shall be liable personally on such Bond or be subject to any personal liability or accountability by reason of the issuance of such Bond.

Section 11. Agreement not Exclusive. This Agreement shall not be exclusive and shall not be deemed to amend or alter the terms of any other agreements between the Members, except as the terms of this Agreement may conflict therewith, in which case the terms of this Agreement shall prevail.

Section 12. Accounts and Reports. All funds of the Authority shall be strictly accounted for in books of account and financial records maintained by the Authority, including a report of all receipts and disbursements. The Authority shall establish and maintain such funds and accounts as may be required by generally accepted accounting principles and by each Indenture for outstanding Bonds (to the extent such duties are not assigned to a trustee for owners of Bonds). The books and records of the Authority shall be open to inspection at all reasonable times by the Members and their representatives.

The Authority shall require that each Indenture provide that the trustee appointed thereunder shall establish suitable funds, furnish financial reports and provide suitable accounting procedures to carry out the provisions of such Indenture. Said trustee may be given such duties in said Indenture as may be desirable to carry out the requirements of this Section 12.

(a) Audits. The Treasurer of the Authority shall cause an independent audit to be made of the books of accounts and financial records of the Authority in compliance with the requirements of the JPA Act. Any costs of the audit, including contracts with, or employment of, certified public accountants or public accountants in making an audit pursuant to this Section 12, shall be borne by the Authority and shall be a charge against any unencumbered funds of the Authority available for that purpose.

(b) Audit Reports. The Treasurer of the Authority, as soon as practicable after the close of each Fiscal Year but in any event within the time necessary to comply with the requirements of the JPA Act shall file a report of the audit as required by the JPA Act and shall send a copy of such report to public entities and persons in accordance with the requirements of the JPA Act.

Section 13. Funds of the Authority; Costs and Expenses of the Authority. Subject to the provisions of each Indenture for outstanding Bonds providing for a trustee to receive, have custody of and disburse funds which constitute Authority funds, the Treasurer of the Authority shall receive, have the custody of and disburse Authority funds pursuant to accounting procedures approved by the Board and shall make the disbursements required by this Agreement or otherwise necessary to carry out the provisions and purposes of this Agreement.



Subject to Section 22, and unless otherwise determined by the Board, all costs and expenses of the Authority, including but not limited to fees of the Authority's accountants, financial advisors, or attorneys, shall be shared equally by all the Members of the Authority.

Section 14. Conflict of Interest Code. The Authority shall at all times be governed by any conflict of interest code adopted by and applicable to LGVSD.

Section 15. Breach. If default is made by a Member in any covenant contained in this Agreement, such default shall not excuse any Member from fulfilling its obligations under this Agreement and the Members shall continue to be liable for the payment of contributions and the performance of all conditions herein contained. The Members hereby declare that this Agreement is entered into for the benefit of the Authority created hereby and the Members hereby grant to the Authority the right to enforce by whatever lawful means the Authority deems appropriate all of the obligations of each of the Members. Each and all of the remedies given to the Authority hereunder or by any law now or hereafter enacted are cumulative and the exercise of one right or remedy shall not impair the right of the Authority to any or all other remedies.

Section 16. New Members and Withdrawal. New Members may join the Authority by an amendment to this Agreement providing for their membership in the Authority. No Member may withdraw from this Agreement prior to the end of the term of this Agreement determined in accordance with Section 3.

Section 17. Effectiveness. This Agreement shall become effective and be in full force and effect and a legal, valid and binding obligation of the Members when each party has executed a counterpart of this Agreement

Section 18. Severability. Should any part, term, or provision of this Agreement be decided by the courts to be illegal or in conflict with any law of the State, or otherwise be rendered unenforceable or ineffectual, the validity of the remaining parts, terms or provisions hereof shall not be affected thereby.

Section 19. Successors; Assignment. This Agreement shall be binding upon and shall inure to the benefit of the successors of the Members. Except to the extent expressly provided herein, neither party may assign any right or obligation hereunder without the consent of the other.

Section 20. Amendment of Agreement. This Agreement may be amended by supplemental agreement executed by the Members at any time; provided, however, that this Agreement may be terminated only in accordance with Section 3 hereof and, provided further, that such supplemental agreement shall be subject to any restrictions contained in any Bonds or documents related to any Bonds to which the Authority is a party.

Section 21. Form of Approvals. Whenever an approval is required in this Agreement, unless the context specifies otherwise, it shall be given, in the case of a Member, by resolution duly adopted by the board of directors of such Member, and, in the case of the Authority, by resolution duly adopted by the Board. Any consent or approval required under this Agreement shall not be unreasonably withheld.





Section 22. Indemnity. To the extent that liability is imposed or a claim is made on the Authority and/or one or more Members, for any reason whatsoever notwithstanding Section 4(a) hereof and the JPA Act, directly or indirectly arising out of a transaction undertaken by or for the benefit of a Member (the "Indemnifying Member") in connection with the activities of the Authority, the Indemnifying Member shall indemnify, defend and hold harmless the Authority and the other Member or Members (the "Indemnified Parties") and such officers, directors, employees, members and agents of such Indemnified Parties from and against any and all costs, expenses, losses, claims, damages and liabilities arising out of or in connection with the activities of the Authority. An Indemnified Party may elect to defend itself in any such action with counsel of its choice, the reasonable fees of such counsel to be paid by the Indemnifying Member. Notwithstanding the provisions of section 895.6 of the Government Code of the State, no Member shall have any right to contribution from other Members.

Section 23. Waiver of and Indemnity for Personal Liability. No member, officer or employee of the Authority or the Members shall be individually or personally liable for any claims, losses, damages, costs, injury and liability of any kind, nature or description arising from the actions of the Authority or the actions undertaken pursuant to this Agreement, and each Member shall defend such members, officers or employees that are appointed by such Member against any such claims, losses, damages, costs, injury and liability. Without limiting the generality of the foregoing, no member, officer or employee of the Authority or of any Member shall be personally liable on any Bonds or be subject to any personal liability or accountability by reason of the issuance of Bonds pursuant to the JPA Act and this Agreement. To the full extent permitted by law, each Member shall provide for indemnification of any person who is or was a member of the Board, or an officer, employee or other agent of the Authority that is appointed by such Member, and who was or is a party or is threatened to be made a party to a proceeding by reason of the fact that such person is or was such a member of the Board, or an officer, employee or other agent of the Authority, against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding, if such person acted in good faith and in the course and scope of his or her office, employment or agency. In the case of a criminal proceeding, each Member may provide for indemnification and defense of a member of the Board, or an officer, employee or other agent of the Authority that is appointed by such Member to the extent permitted by law. The foregoing indemnification by a Member in this Section 23 is intended to be reimbursed as appropriate by the indemnity of other Members provided under Section 22.

Section 24. Notices. Notices to a Member hereunder shall be sufficient if delivered to the General Manager of the Members.

Section 25. Miscellaneous.

(a) Section Headings. All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Agreement.

(b) Execution in Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.



(c) *Exercise of Duties and Actions.* Where reference is made to duties to be performed for the Authority by a public official or employee, such duties may be performed by that person's duly authorized deputy or assistant. Where reference is made to actions to be taken by a Member, such action may be exercised through the officers, staff or employees of a Member, in the manner provided by law.

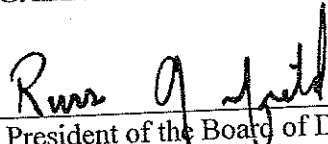
(d) *Governing Law.* This Agreement is made in the State, under the Constitution and laws of the State and is to be construed as a contract made and to be performed in the State.

(e) *Entire Agreement.* This Agreement is the complete and exclusive statement of the agreement among the Members with respect to the subject matter hereof, which supersedes and merges all prior proposals, understandings, and other agreements, whether oral, written, or implied in conduct, between the Members relating to the subject matter of this Agreement.

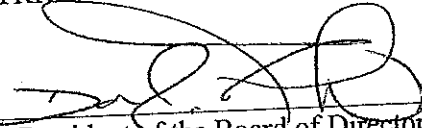


IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and attested by their proper officers thereunto duly authorized, as of the day and year first above written.

LAS GALLINAS SANITARY DISTRICT

By   
President of the Board of Directors.

SAUSALITO-MARIN CITY SANITARY DISTRICT

By   
President of the Board of Directors



**FIRST AMENDMENT TO AGREEMENT OF FORMATION  
MARIN TELECOMMUNICATIONS AGENCY**

This First Amendment to Agreement of Formation (“First Amendment”) is entered into as of June 5, 2013 (the “First Amendment Effective Date”), and is made by and among the County of Marin and the Cities of Belvedere, Larkspur, Mill Valley, Sausalito and San Rafael, and the Towns of Corte Madera, Fairfax, Ross, San Anselmo and Tiburon (collectively, the “Constituent Jurisdictions”), with reference to the following:

**RECITALS**

A. The Constituent Jurisdictions entered into that certain Agreement of Formation (the “Agreement”) in 1997 for the purpose of creating the Marin Telecommunications Agency, a joint powers authority existing pursuant to California Government Code 6500 *et seq.* (the “Agency”). All capitalized terms used herein without definition shall have the same meanings assigned to them in the Agreement.

B. Due to changes in state law affecting the operation of cable franchises, certain provisions of the Agreement relating to the distribution of franchise fees among Constituent Jurisdictions are either obsolete or cannot be implemented due to legal limitations on the Agency’s ability to obtain certain information about subscribers from providers.

C. The Constituent Jurisdictions have agreed to revise the provisions of the Agreement with respect to such distributions, all as provided more particularly below.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Constituent Jurisdictions agree as follows:

**AGREEMENT**

1. The Recitals above are hereby declared to be true and correct, and are hereby incorporated into this Amendment as if fully set forth below.

2. Section 6, Payments, is hereby deleted in its entirety and replaced by the following revised Section 6, Franchise Fee Payments to Constituent Jurisdictions:

(a) DIVCA State Franchises. The Constituent Jurisdictions acknowledge and agree that all franchise fees payable to local jurisdictions from franchises issued by the state pursuant to the Digital Infrastructure and Video Competition Act of 2006 (“DIVCA”) are being paid to the Agency. From the total amount of such fees paid to the Agency annually, the Agency shall deduct the amount of its annual operating budget and reserves, as set forth in the final budget approved by the Board of Directors pursuant to Section 2 above. The remaining amount shall be distributed to the Constituent Jurisdictions as the franchise fees are received by



the Agency each quarter in accordance with the franchise fee reports for each Constituent Jurisdiction received by the Agency from each video provider.

(b) Other Franchises. For any other franchises that the Agency is legally entitled to grant, franchise fees will be distributed among the Constituent Jurisdictions as may be determined by the Board of Directors in accordance with the procedure set forth in Section 2 for adopting the annual budget.

(c) Agency Statements Required. Each distribution shall be accompanied by a statement describing the amounts of all franchise fees received by the Agency for each Constituent Jurisdiction during the distribution period, the dates of receipt, and the amount of revenue required to fund the Agency Budget and reserves.

3. This First Amendment may be executed in any number of counterparts, each of which shall be deemed to be an original, but all together shall constitute but one and the same instrument.

Except as expressly modified by this First Amendment, all other terms and conditions of the Agreement remain in full force and effect.

*[Signatures appear on following pages.]*

CITY OF SAUSALITO, a municipal corporation

By: Herb Weiner  
Name: Herb Weiner, Mayor

ATTEST:  
[Signature]  
City Clerk

CITY OF SAN RAFAEL, a municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_, Mayor

ATTEST:  
\_\_\_\_\_  
City Clerk

TOWN OF CORTE MADERA, a municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_, Mayor

ATTEST:  
\_\_\_\_\_  
Town Clerk

TOWN OF FAIRFAX, a municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_, Mayor

ATTEST:  
\_\_\_\_\_  
Town Clerk


CITY OF SAUSALITO, a municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_, Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

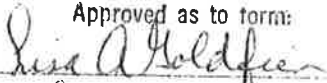
CITY OF SAN RAFAEL, a municipal corporation

By:   
Name: George Hampe, Mayor

ATTEST:

Esther C. Berne  
City Clerk

Approved as to form:

  
Asst. City Attorney

TOWN OF CORTE MADERA, a municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_, Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

TOWN OF FAIRFAX, a municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_, Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

CITY OF SAUSALITO, a municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_, Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

CITY OF SAN RAFAEL, a municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_, Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

TOWN OF CORTE MADERA, a municipal corporation

By: *Diane Furst*  
Name: Diane Furst, Mayor

ATTEST:

*Beth Benz*  
Deputy Town Clerk

TOWN OF FAIRFAX, a municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_, Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

CITY OF SAUSALITO, a municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_, Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

CITY OF SAN RAFAEL, a municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_, Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

TOWN OF CORTE MADERA, a municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_, Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

TOWN OF FAIRFAX, a municipal corporation

By:   
Name: John Reed, Mayor

ATTEST:

  
Deputy Town Clerk

IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the date first written above.

COUNTY OF MARIN

By: *Judy Arnold*  
Name: JUDY ARNOLD, Chairperson,  
Board of Supervisors

ATTEST:  
*Diane Patten*  
Assistant Clerk of the Board

CITY OF BELVEDERE, a municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_, Mayor

ATTEST:  
\_\_\_\_\_  
City Clerk

CITY OF LARKSPUR, a municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_, Mayor

ATTEST:  
\_\_\_\_\_  
City Clerk

CITY OF MILLVALLEY, a municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_, Mayor

ATTEST:  
\_\_\_\_\_  
City Clerk

*CA 22*

IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the date first written above.

COUNTY OF MARIN

By: \_\_\_\_\_  
Name: \_\_\_\_\_, Chairperson,  
Board of Supervisors

ATTEST:

\_\_\_\_\_  
County Counsel

CITY OF BELVEDERE, a municipal corporation

By:   
Name: SANDRA D. DONNELL, Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

CITY OF LARKSPUR, a municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_, Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

CITY OF MILLVALLEY, a municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_, Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the date first written above.

COUNTY OF MARIN

By: \_\_\_\_\_  
Name: \_\_\_\_\_, Chairperson,  
Board of Supervisors

ATTEST:

\_\_\_\_\_  
County Counsel

CITY OF BELVEDERE, a municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_, Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

CITY OF LARKSPUR, a municipal corporation

By:   
Name: DANIEL HILLMER, Mayor

ATTEST:

  
City Clerk

CITY OF MILLVALLEY, a municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_, Mayor

ATTEST:

\_\_\_\_\_  
City Clerk



IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the date first written above.

COUNTY OF MARIN

By: \_\_\_\_\_  
Name: \_\_\_\_\_, Chairperson,  
Board of Supervisors

ATTEST:

\_\_\_\_\_  
County Counsel

CITY OF BELVEDERE, a municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_, Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

CITY OF LARKSPUR, a municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_, Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

CITY OF MILLVALLEY, a municipal corporation

By: Andrew Borison  
Name: Andrew Borison, Mayor

ATTEST:

Kelsay Rogg  
City Clerk

TOWN OF ROSS, a municipal corporation

By: P. Rupert Russell  
Name: P. RUPERT RUSSELL, Mayor

ATTEST:

[Signature]  
Town Clerk

TOWN OF SAN ANSELMO, a municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_, Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

TOWN OF TIBURON, a municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_, Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

TOWN OF ROSS, a municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_, Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

TOWN OF SAN ANSELMO, a municipal corporation

By: Kay Coleman  
Name: Kay Coleman, Mayor

ATTEST:

James Hernd - For Barbara Chambers  
Town Clerk

TOWN OF TIBURON, a municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_, Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

TOWN OF ROSS, a municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_, Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

TOWN OF SAN ANSELMO, a municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_, Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

TOWN OF TIBURON, a municipal corporation

By: Emmett O'Donnell  
Name: Emmett O'Donnell, Mayor

ATTEST: M. Magliozzi  
Town Clerk

**APPROVED AS TO FORM**

Ann Danforth

ANN DANFORTH  
TOWN ATTORNEY  
TOWN OF TIBURON

**A JOINT POWERS AGREEMENT  
CREATING  
THE MARIN EMERGENCY RADIO AUTHORITY**

This Agreement is entered into this 28th day of February, 1998, by and between the following local agencies: \_\_\_\_\_ (See attached) pursuant to Sections 6500, et seq., of the California Government Code.

**RECITALS**

A variety of local agencies within Marin County have cooperated in the development and operation of a radio system for several decades throughout the County of Marin. Currently, these agencies find that their system is obsolete and not dependable. Moreover, replacement parts are difficult, if not impossible, to procure for the proper operation of the system. Additionally, the Federal Government has made certain mid-band radio frequencies available to the local agencies of Marin County for the operation of a public safety and emergency radio system.

For these and other reasons, local agencies within Marin County have determined it is in the public interest to create the Marin Emergency Radio Authority, an entity separate from its Member agencies, which will own and operate the Public Safety and Emergency Radio System.

NOW, THEREFORE, these Agencies agree as follows:

**ARTICLE 1: DEFINITIONS**

Certain words as used in this Agreement shall be defined as follows:

- A. "Agencies" shall mean the County, Special Districts, Cities and Towns within Marin County.
- B. "Agreement" shall mean this Agreement that establishes the Marin Emergency Radio Authority.
- C. "Authority" shall mean the Marin Emergency Radio Authority.
- D. "Board" shall mean the Board of Directors which is the governing body of the Marin Emergency Radio Authority.
- E. "County" shall mean County of Marin.
- F. "Cities" shall mean the Cities of Belvedere, Larkspur, Mill Valley, Novato, San Rafael and Sausalito.
- G. "Towns" shall mean Towns of Corte Madera, Fairfax, Ross, San Anselmo and Tiburon.
- H. "Executive Committee" shall mean the committee described in Section 7.3(b) of Article 7 of the Agreement.
- I. "Special Districts" shall mean governmental agencies created for single or limited purposes within the County of Marin.
- J. "Members" shall mean the County, Special Districts, Cities or Towns which are

signatories to this Agreement.

K. "Quorum" shall mean a majority of the Board members.

L. "Ross Valley Agencies" shall mean the Town of Corte Madera, the City of Larkspur, the Town of San Anselmo, the Town of Fairfax, the Town of Ross, Twin Cities Police Department, Ross Valley Fire Services and the College of Marin.

M. "Southern Marin Cities and Towns" shall mean the City of Mill Valley, the Town of Tiburon, the City of Belvedere and the City of Sausalito.

## **ARTICLE 2: PURPOSE**

2.1 The purpose of this Agreement is to establish a public entity separate from the County, Special Districts, Cities and Towns. This public entity is to be known as the Marin Emergency Radio Authority.

The Authority will plan, finance, implement, manage, own and operate a multi-jurisdictional and county-wide Public Safety and Emergency Radio System with the attendant facilities.

## **ARTICLE 3: TERM OF AGREEMENT**

3.1 This Agreement becomes effective on February 28, 1998. To become a Member, a local agency must execute this Agreement by February 28, 1998. It shall remain in effect until it is terminated pursuant to Article 11.

## **ARTICLE 4: BOARD OF DIRECTORS**

4.1 The Board shall be comprised of one representative from each Member. A Member may designate two alternative representatives to act for that Agency in the absence of the appointed representative.

4.2 Minutes of the adjourned, regular and special meetings of the Board shall be kept by the Executive Officer and said minutes shall be forwarded to each member of the Board within thirty days after each meeting. Each member of the Board shall have one vote. A majority of the members of the Board will constitute a quorum. For purposes of conducting business, a majority of the quorum will be authorized to act on behalf of the Authority.

## **ARTICLE 5: POWERS OF THE AUTHORITY EXERCISED BY THE BOARD OF DIRECTORS**

5.1 The Authority shall have all of the necessary powers and authorities granted by law to acquire the necessary hardware, software, FCC licenses and site locations in order to provide and operate a high quality public radio broadcast system.

5.2 The Authority may contract with private companies and public agencies to create, implement and operate the public safety and emergency radio system.

5.3 The Authority may adopt budgets, determine fees and dues of Members, retain personnel, retain legal counsel, retain consultants and engineers, acquire grants, acquire, hold, lease and dispose of real and personal property, use the power of eminent domain, accept donations, sue and be sued, and possesses all other powers associated with the operation of a joint powers authority on behalf of the citizens, property owners, and public agencies within

Marin County.

**5.4** The Authority may own radio frequencies.

**5.5** The Authority shall have the responsibility to keep Members informed of and advocate for or against pending legislation that would affect the operations of the Authority.

**5.6** The Authority may incur debt and issue bonds or any like instruments in order to efficiently provide the services enumerated herein in compliance with the pertinent sections of the Government Code of the State of California. Specifically, the Authority can incur debt on its own under any law authorizing a joint powers authority to do so, including Government Code Section 6540, et seq., and the Marks-Roos Local Bond Pooling Act of 1985, Government Code Section 6584, et seq. The Authority can use lease financing, certificates of participation, installment purchase certificates, short-term notes and any other suitable form of borrowing. The Authority may enter into an agreement with a Member regarding that Member incurring debt on behalf of the Agency.

**5.7** The Authority shall defend, hold harmless and indemnify the Members of the Authority.

**5.8** The Authority may contract with a Member for services from a Member's employees.

**5.9** The Authority may exercise the powers permitted under Government Code § 6504 or any successor statute. Specifically, (a) contributions from the treasuries may be made for the purpose set forth in the Agreement, (b) payments of public funds may be made to defray the cost of such purpose, (c) advances of public funds may be made for the purpose set forth in the Agreement, such advances to be repaid as provided in the Agreement, or (d) personnel, equipment or property of one or more of the Members to the Agreement may be used in lieu of other contributions or advances.

**5.10** The Authority shall determine how any Agency will become a Member subsequent to February 28, 1998. Specifically, the Board shall establish fees and any other conditions necessary for an Agency to become a Member. Such fees shall be calculated based upon all prior project expenditures in a manner consistent with the cost allocation of existing Members and any additional costs necessary to serve that new Member. Such a proposed new Member shall also pay interest at the rate of Bank of America prime rate, calculated on a quarterly basis, from February 28, 1998, to its date of membership. The determination of the Board regarding fees and any other required conditions for new Members shall be within its sole discretion.

**5.11** The Authority shall determine the amounts each Member shall contribute to the funding of the Authority. The initial contribution is set forth in Section 9.2 of Article 9 of the Agreement.

**5.12** The Authority may do all things necessary and lawful to carry out the purpose of the Agreement.

**5.13** As is required by Government Code Section 6509, one Member must be designated such that the power of the Authority is subject to the restrictions upon the manner of exercising power possessed by that Member. The County of Marin is designated the Government Code § 6509 agency.

**ARTICLE 6: BYLAWS**

The Board may adopt from time to time such policies, procedures, bylaws, rules or regulations for the conduct of its affairs as deemed necessary by the Board.

**ARTICLE 7: ORGANIZATION**

**7.1 Members.**

- a. The County, Special Districts, Cities and Towns who enter into this Agreement by February 28, 1998.
- b. The County, any Special District and any City or Town may be considered for Membership in the Authority after February 28, 1998, by presenting an adopted resolution to the Board which includes a request to become a Member of the Authority.
- c. The Board shall accept proposed Members upon a majority affirmative vote of the quorum, upon payment of any Board determined fee and interest, and upon satisfaction of any conditions established by the Board as a prerequisite for Membership.

**7.2 Board.**

- a. The Authority shall be governed by the Board which shall exercise all powers and authority on behalf of Authority.
- b. The Board shall consist of one member of the governing body or the chief administrative officer or a designee of the County, Special District, City or Town which are party to this Agreement. Upon execution of this Agreement, the governing body of the County, any Special District, City or Town shall appoint its member of the Board and another member or members to serve as an alternate to the Board, to serve in the absence of the regular member. Each member and alternate shall serve at the pleasure of the governing body of the appointing Agency. Any change in appointment of a member or alternate shall be by action of the governing body of the appointing Agency.
- c. A majority of the members of the Board shall constitute a quorum for the transaction of business. The Authority shall act upon majority vote of those in attendance, each member having one vote, of the members of the Board.
- d. The Board shall elect, by majority vote from its Members, a President and Vice President. The President shall represent the Authority and execute any contracts and other documents when required by the Rules of Procedure and/or Bylaws. The Vice President shall serve in the absence of the President.

**7.3 Executive Committee.**

- a. The Executive Committee shall be responsible to the Board for the following: the administration and management of Authority affairs; the provision of assistance and advice to the Board; entering into contracts with other agencies; adhering to the budget adopted by the Board, supervision of the Executive Officer of MERA; and nominating officers for the MERA Board (President and Vice President).
- b. The Executive Committee shall be comprised of Board members representing the following:
  - County of Marin - 2 (One member selected by the Board of Supervisors and one who shall be the Marin County Sheriff.)
  - City of San Rafael - 1



- City of Novato - 1
- Fire Districts - 2 (One seat shall be permanently filled by the Novato Fire Protection District and one "at large" seat selected by and from the remaining fire districts for a two-year term which may be extended to a maximum of two consecutive full terms.)
- Ross Valley Agencies - 1 (One member shall be selected by and from among the participating Ross Valley Agencies for a two year term which may be extended to a maximum of two consecutive full terms.)
- Southern Marin Cities and Towns - 1 (One member shall be selected by and from among the participating Southern Marin Cities and Towns for a two year term which may be extended to a maximum of two consecutive full terms.)
- Association Members - 3 (Three at large, non-voting, members representing the Marin County Fire Chiefs Association, the Marin County Police Chiefs Association and the Marin Public Works Association. Said members shall be fully recognized by the Executive Committee for the purpose of interaction and discussion. These members shall be appointed by their respective associations. Actual terms and whether these members should be from participating agencies shall be determined by the respective associations.)

c. Five "voting" members of the Executive Committee shall constitute a quorum for the transaction of business. No action shall be taken by the Executive Committee except upon a majority affirmative vote of the quorum.

d. There shall be a two-year term set for the members of the Executive Committee, with the exception for the Sheriff.

e. The Executive Committee shall have the authority to execute a change order to any existing MERA agreement with any person, entity or agency in an amount up to and including \$100,000.00.

#### **7.4 Executive Officer.**

There will be an Executive Officer of the Authority who shall be responsible for the administration of the Authority. The Executive Officer shall be appointed by and may be removed for any reason by a majority vote of the Board. The Executive Officer shall be designated the Government Code Section 6505.1 officer who shall file an official bond. The Executive Officer shall have the authority to execute a change order to any existing MERA agreement with any person, entity or agency in an amount up to and including \$5,000.00.

#### **7.5 Additional Committees.**

Ad hoc or standing committees may be formed by a majority vote of either the Executive Committee or of the Board of Directors.

## **ARTICLE 8: MEETINGS AND REPORTS**

### **8.1 Board Meetings.**

- a. The Board shall hold at least one (1) regular meeting each year as determined by the bylaws.
- b. Special Meetings of the Board may be called in accordance with the provisions of Section 54956 of the California Government Code.
- c. All meetings of the Board shall be held subject to the provisions of the Ralph M. Brown Act (Sections 54950, et seq., of the California Government Code) and other applicable laws of the State of California requiring notice be given of meetings of public bodies.
- d. Minutes of all Board meetings shall be kept and shall, as soon as possible, after each meeting, be forwarded to each member and alternate member of the Board within 30 days.
- e. The President of the Board shall cause correspondence to be prepared and delivered as directed by the Board.
- f. The public agency with whom the Authority contracts to provide services shall be the custodian of the official records of the Authority.

### **8.2 Executive Committee Meetings.**

- a. The Executive Committee shall hold at least one (1) meeting each quarter.
- b. Special meetings of the Executive Committee may be called in accordance with the provisions of Section 54956 of the California Government Code.
- c. All meetings of the Executive Committee shall be held subject to the provisions of the Ralph M. Brown Act (Sections 54950, et seq., of the California Government Code) and other applicable laws of the State of California requiring notice be given of meetings of public bodies.
- d. Minutes of all Executive Committee meetings shall be kept and shall, as soon as possible after each meeting, be forwarded to members of the Committee and to each member and alternate member of the Board within 30 days.

### **8.3 Other Committee Meetings.**

- a. Other committees shall hold meetings as may be called by the Committee Chair or a majority of the members.
- b. Minutes of all meetings shall be kept and forwarded to members of the Committee and to each member and alternate member of the Board.

### **8.4 Progress Reports.**

At least annually, a report on the activities and operations of the Joint Powers Authority which shall be provided to each of its Members. The report shall be completed prior to January 1 of each year.

## **ARTICLE 9: FUNDING**

### **9.1 Authority Budget.**

The Board shall adopt an annual budget for the Authority's activities within ninety (90) days of the effective date of this Agreement and by June 1 of each succeeding year.

Public funds may not be disbursed by the Authority without adoption of the approved budget and all receipts and disbursements shall be in strict accordance with the approved budget. The budget shall identify the programs of the Authority and allocate funds by the program. The budget and accounting system shall account for direct and overhead costs by program. The Board shall allocate these costs for each program with the adoption of the annual budget.

**9.2 Funding of the Authority.**

The monetary contribution of Members for the system backbone costs and annual operating costs shall be determined in accordance with the Lando formula which provides as follows:

**MERA Apportionment Formula (for distribution of backbone costs):**

- **Agency:** Each Member is identified by user type. The type corresponds to the Member's purpose, i.e., Police, Fire, Public Works, Transit, Land Management, Private Brigade, etc.
- **Coefficient:** A common number is applied to each user type depicting its approximate radio utilization compared to the other user types. The total user coefficients add up to 1 or 100%. The Coefficients are:

Police	=	.6
Fire	=	.25
Public Works	=	.1
Transit	=	.01
Land Management	=	.025
Private Brigade	=	.01
Unused	=	<u>.005</u>
TOTAL	=	1 or 100%

- **% of Population:** This ratio expresses the percentage of the Member's population to total county population.
- 
- **% of Area:** This ratio expresses the percentage of the Member's area to the total county area.
- 
- **C:** This is the Member's buy in cost (same for all members).
- 
- **Members' Determinant:** (((% Population x 2) + % area) x Coefficient) + .005. The sum of the factors represents 100% of all the participating agencies Members by their type.
- 
- **Apportioning Formula:** The Members' Determinant Factor divided by the sum of all Member factors equals the percentage to be applied to the total costs and determines the Member's cost.

**Apportionment Formula (for distribution of annual operating costs):** MERA Members' annual operating cost equals 5% of total annual operating cost divided equally by MERA Members plus members agency costs as determined from percentages as provided in the "MERA Apportionment Formula".

This Lando formula can only be changed by a 2/3 vote of all Members. Members shall pay their contributions within 30 days after a request for payment has been made by the Authority.

**9.3 Duties of Treasurer/Controller.**

a. The Board shall appoint a Treasurer from among the senior management staff of the Member Agencies. The Treasurer shall be either the County Auditor/Controller, the Treasurer Tax Collector or the Finance Director of one of the Members. This person shall also function as Controller of the Authority.

b. The Treasurer shall serve as the depository and have custody of all Authority funds and establish and maintain such books, records, funds, and accounts as may be required by reasonable accounting practice. Government Code Section 6505. The books and records of the Authority shall be open to inspection at all reasonable times to the Members.

c. The Treasurer, within ninety (90) days after the close of each fiscal year (which shall be from July 1 to June 30), shall give a complete written report of all financial activities for such fiscal year to the Members.

d. The Treasurer shall prepare such financial reports as may be directed by the Board or Executive Committee.

e. The Treasurer shall cause an independent annual audit of the accounts and records to be conducted by a certified public accountant in compliance with the requirements of Section 6505 of the Government Code and generally accepted accounting standards.

**9.4 Debts and Liabilities.**

As permitted under Government Code Section 6508.1, no debt, liability, or obligation of the Authority shall constitute a debt, liability, or obligation of any Agency and each Member's obligation hereunder is expressly limited only to the appropriation and contribution of such funds as may be levied pursuant to this Agreement or as the parties hereto may agree.

**9.5 Disposition of Authority Funds Upon Termination.**

a. In the event of termination of the Authority where there is a successor public entity which will carry on the activities of the Authority and assume its obligations, Authority funds, including any interest earned in deposits, remaining upon termination of the Authority and after payment of all obligations shall be transferred to the successor public entity.

b. If there is no successor public entity which would carry on any of the activities of the Authority or assume any of its obligations, Authority funds, including any interest earned on deposits, remaining upon termination of the Authority and after payment of all obligations, shall be divided in proportion to the contribution of each agency.

c. If there is a successor public agency which would undertake some of the

functions of the Authority and assume some of its obligations, Authority funds, including any interest earned on deposits, remaining upon termination of the Authority and after payment of all obligations, shall be allocated by the Board between the successor public entity and Members.

d. In the event the Authority is terminated under circumstances falling with (b) or (c) above, all decisions of the Board with regard to determination of amounts to be transferred to Members or any successor shall be final.

#### **ARTICLE 10: INDEMNIFICATION**

The Authority shall acquire such insurance protection as is necessary to protect the interest of the Authority, the County, Special Districts, Cities, Towns and the public. The Authority created by this Agreement shall assume the defense of and indemnify and save harmless the County, Special Districts, Cities, Towns and each of their respective officers, agents and employees, from all claims, losses, damages, costs, injury and liability of every kind, nature and description directly or indirectly arising from the performance of any of the activities of the Authority or the activities undertaken pursuant to this Agreement.

#### **ARTICLE 11: TERMINATION**

This Agreement may be terminated by the Board upon notice of withdrawal being received from a majority of the Member Agencies. Upon termination, payment of the obligations and division of the property of the Authority shall be conducted pursuant to Section 9.5 of Article 9 of this Agreement.

#### **ARTICLE 12: AMENDMENTS**

This Agreement may be amended only upon the two-thirds (2/3) affirmative vote of all the Members of the Board with such proposed amendment having been noticed to Members thirty (30) days prior to the date of the meeting.

#### **ARTICLE 13: WITHDRAWAL**

Any City, Town, Special District or the County may withdraw from this Agreement effective July 1 of any year, ninety (90) days prior to the end of the fiscal year, upon written notice to the Authority. Upon withdrawal, a City, Town, Special District or the County retains its financial obligations for current contracts executed to fulfill this Agreement, and assumes that responsibility at its own expense.

Notwithstanding the foregoing, a Member may withdraw immediately if it (a) decides to order no radios, (b) notices that decision to the Executive Officer within two business days, and (c) gives said notice prior to the Authority entering into a contract with a vendor for the initial purchase of radios. A Member may use this immediate withdrawal procedure only once under any circumstances.

#### **ARTICLE 14: SEVERABILITY**

If any provision of this Agreement or its application to any person or circumstances is held invalid, the remainder of this Agreement and the application of the

provision to other persons or circumstances shall not be affected.

**ARTICLE 15: NOTICES**

All notices to Agencies shall be deemed to have been given when mailed to the governing body of each Agency. The Board may provide for notice by e-mail or facsimile or some other reliable method by resolution. All notices to the Authority shall be delivered to its Executive Officer.

**ARTICLE 16: NO RIGHTS IN THIRD PARTIES**

All of the terms, conditions, rights and duties provided for in this Agreement are, and shall always be, solely for the benefit of the Members. It is the intent of the Members that no third party shall ever be the intended beneficiary of any performance, duty or right created or required pursuant to the terms and conditions of this Agreement.

**ARTICLE 17: AGREEMENT COMPLETE**

The foregoing constitutes the full and complete Agreement of the parties. There are no oral understandings or agreements not set forth in writing herein. Any such agreements merge into this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their proper officers thereunder duly authorized and effective as of the date of execution of all parties hereto. This Agreement may be executed in counterparts.

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

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Attachment to MERA JPA Agreement  
Revised 6/17/99

<b>Member Agency</b>
Alto-Richardson Bay Fire District
City of Belvedere
Bolinas Fire Protection District
Town of Corte Madera
Town of Fairfax
Inverness Public Utility District
Kentfield Fire Protection District
City of Larkspur
County of Marin
Marin Community College District
Marin County Transit District
Marin Municipal Water District
Marinwood Community Services District
City of Mill Valley
City of Novato
Novato Fire Protection District
Town of Ross
Ross Valley Fire Service
Town of San Anselmo
City of San Rafael
City of Sausalito
Stinson Beach Fire Protection District
Tamalpais Fire Protection District
Town of Tiburon
Tiburon Fire Protection District
Twin Cities Police Department

## **EXHIBIT A**

### **PROPOSED AMENDMENT TO JOINT POWERS AGREEMENT CREATING THE MARIN EMERGENCY RADIO AUTHORITY**

#### **AMENDMENT NO. 1**

**ARTICLE 10: INDEMNIFICATION** is modified such that the following is to be added at the end of the present ARTICLE 10:

“Notwithstanding the foregoing language or that language contained in Article 5, § 5.7, the Authority shall not be obligated to defend, indemnify or hold harmless any member, its officers, agents, or employees from any and all claims, losses, damages, costs, injury and liability of every kind and nature when such claim arises from any effort of any nature by a member, either directly or indirectly, to prevent the Authority from constructing any facility within the jurisdiction of the member.”

ADOPTED: 5-13-02 BOD



## **EXHIBIT B**

### **PROPOSED AMENDMENT TO JOINT POWERS AGREEMENT CREATING ARC MARIN EMERGENCY RADIO AUTHORITY**

#### **AMENDMENT NO. 2**

ARTICLE 9: FUNDING, § 9.2 Funding of the Authority is modified such that the following sentence is to be added at the end of the present ARTICLE 9, § 9.2: “In the event a member, either directly or indirectly, prevents the installation of an Authority facility within its jurisdiction, that member shall be liable for any additional direct or indirect costs, of any nature, incurred by the Authority in the installation of that facility.”

ADOPTED: 5-13-02 BOD

**AMENDMENT NO. 3 TO THE JOINT POWERS AGREEMENT CREATING THE  
MARIN EMERGENCY RADIO AUTHORITY**

Section 9.1 (Authority Budget) of Article 9 of the Joint Powers Agreement Creating the Marin Emergency Radio Authority is hereby amended to read:

“The board shall adopt an annual budget for the Authority’s activities within ninety (90) days of the effective date of this Agreement and by June 1 of each succeeding year. **Notwithstanding the provisions of Section 5.13 of this Agreement, the procedures applicable to the County of Marin for the adoption of a budget shall not apply to the Authority. The budget may be adopted at the same meeting that it is first presented to the board for consideration.** Public funds may not be disbursed by the Authority without adoption of the approved budget and all receipts and disbursements shall be in strict accordance with the approved budget. The budget shall identify the programs of the Authority and allocate funds by the program. The budget and accounting system shall account for direct and overhead costs by program. The Board shall allocate these costs for each program with the adoption of the annual budget.”

**The amended language is in bold.**

ADOPTED: 6-5-08 BOD

**AMENDMENT NO. 4 TO THE JOINT POWERS AGREEMENT  
CREATING THE MARIN EMERGENCY RADIO AUTHORITY**

Section 7.3(e) of Article 7 of the Joint Powers Agreement Creating the Marin Emergency Radio Authority is hereby amended to read:

“e. The Executive Committee shall have the authority to approve expenditures, including but not limited to contracts, contract amendments, purchase orders and change orders to existing contracts, in an amount not exceeding \$100,000 provided that such expenditures are consistent with the adopted annual budget. The Executive Committee shall inform the Board of any such expenditures at the next meeting of the Board.”

Section 7.4 (Executive Officer) of Article 7 of the Joint Powers Agreement Creating the Marin Emergency Radio Authority is hereby amended to read:

“There will be an Executive Officer of the Authority who shall be responsible for the administration of the Authority. The Executive Officer shall be appointed by and may be removed for any reason by a majority vote of the Board. The Executive Officer shall be designated the Government Code Section 6505.1 officer who shall file an official bond. The Executive Officer shall have the authority to approve expenditures, including but limited to contracts, contract amendments, purchase orders and change orders to existing contracts, in an amount not exceeding \$10,000 provided that such expenditures are consistent with the adopted annual budget. The Executive Officer shall inform the Executive Committee of any such expenditures at its next meeting.”

ADOPTED: 3-11-09 BOD

**AMENDMENT NO. 5 TO THE JOINT POWERS AGREEMENT CREATING THE  
MARIN EMERGENCY RADIO AUTHORITY**

1. The following is added to the end of the first paragraph of Section 2.1:

“The Authority is formed in accordance with, and shall be subject to, the Joint Exercise of Powers Act, Section 6500, *et seq.*, of the California Government Code.”

2. Section 1.H is deleted in its entirety and replaced by the following:

“‘Executive Board’ shall mean the body described in Section 7.3 of the Agreement.

In addition, any references to “Executive Committee” in the Agreement shall be deemed to refer to the Executive Board.

3. Section 7.3, Executive Committee, is deleted in its entirety and replaced by the following:

“7.3 Executive Board.

“a. The Executive Board shall be responsible for implementing the approved budget of the Authority and managing the work plan of the Authority within the budget approved by the Board of Directors. Individual Executive Board members shall report on Authority matters to, and consult regularly with, the entity or entities that they represent.

“b. The Executive Board shall be comprised of members representing the following:

County of Marin – 1 member, selected by the Board of Supervisors.

Marin County Sheriff – 1 member, who shall be the Marin County Sheriff or his or her designee.

City of San Rafael – 1 member, selected by the San Rafael City Council.

City of Novato – 1 member, selected by the Novato City Council.

Fire Services – 1 member selected by the fire chiefs of MERA Members.

Police Departments – 1 member selected by the police chiefs of MERA Members.

Ross Valley - 1 member selected by the City/Town Managers of the participating Ross Valley Cities and Towns (Corte Madera, Fairfax, Larkspur, Ross and San Anselmo).

Southern Marin Cities and Towns – 1 member selected by the City/Town Managers of the participating Southern Marin Cities and Towns (Belvedere, Mill Valley, Sausalito and Tiburon).

Special Districts – 1 member selected by the MERA Board of Directors members of the participating special districts that are not fire service or police departments (such as Inverness Public Utilities District, Marin Community College District, Marin County Transit District, Marin Municipal Water District and Marinwood Community Services District, along with other special districts that may become MERA Members in the future).

“c. Five members of the Executive Board shall constitute a quorum for the transaction of business. No action shall be taken by the Executive Board except upon a majority affirmative vote of the quorum.

“d. The members of the Executive Board, with the exception for the Sheriff, shall be appointed for two-year terms. Members shall be eligible for reappointment at the discretion of the appointing authority.

“e. The Executive Board shall have the authority to approve expenditures, including but not limited to contracts, contract amendments, purchase orders and change orders to existing contracts, provided that such expenditures are consistent with the adopted annual budget.

“f. The Executive Board shall select a Chairperson and may select a Vice Chairperson and other officers as it deems necessary.”

4. Section 8.1 b. is deleted in its entirety and replaced by the following:

“Special meetings of the Board may be called by the President or by written request of any three (3) Board Members, and shall be subject to the provisions of Section 54956 of the California Government Code.”

5. Section 8.2 b. is deleted in its entirety and replaced by the following:

“Special meetings of the Executive Board may be called by the Chairperson or by written request of any two (2) Executive Board Members, and shall be subject to the provisions of Section 54956 of the California Government Code.”

RESOLUTION NO. 97-137

**RESOLUTION OF THE MARIN COUNTY BOARD OF SUPERVISORS  
APPROVING AGREEMENT OF FORMATION OF MARIN  
TELECOMMUNICATION AGENCY**

**WHEREAS**, the County and a substantial majority of the Cities and Towns of the County of Marin are desirous of entering into a joint powers agreement of formation of a Marin Telecommunications Agency the provisions of which are attached hereto as **EXHIBIT "A"**; and

**WHEREAS**, the County is in the process of adopting a Telecommunication Ordinance in connection with approval of the Agreement.

**NOW, THEREFORE, BE IT RESOLVED** as follows:

1. The Agreement of the Formation of a Marin Telecommunications Agency is hereby approved but only upon completion of all conditions contained therein; and upon adoption by the County of Marin of the Marin Telecommunications Ordinance but also only upon completion of all of the conditions contained therein.

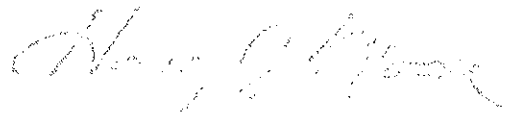
2. The President of the Board of Supervisors is authorized to execute the Agreement on behalf of the County of Marin but only in accordance with completion of all of the conditions set forth in paragraph 1. hereinabove.

**PASSED AND ADOPTED** at the regular meeting of the Board of Supervisors of the County of Marin held on this 16th day of December 1997 by the following vote:

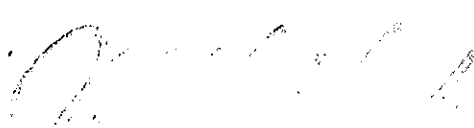
**AYES:** SUPERVISORS John Kress, Harold Brown, Jr., Steve Kinsey, Annette Rose,  
Harry Moore

**NOES:** -

**ABSENT:** -

  
\_\_\_\_\_  
Chairman, Board of Supervisors

**ATTEST:**

  
\_\_\_\_\_  
Clerk

AGREEMENT OF FORMATION  
MARIN TELECOMMUNICATIONS AGENCY

THIS AGREEMENT is made and entered into pursuant to the provisions of Section 6500 et seq. Of the Government Code of the State of California by and between the County of Marin (herein referred to as "County") and the Cities of Belvedere, Larkspur, Mill Valley, Novato, Sausalito and San Rafael, and the Towns of Corte Madera, Fairfax, Ross, San Anselmo and Tiburon, (the foregoing Cities and Towns are herein collectively referred to as "Municipalities" and the Constituent Jurisdictions are sometimes herein collectively referred to as the "Constituent Jurisdictions") who do hereby mutually agree as follows:

1. Establishment. There is hereby created an organization known and denominated as the MARIN TELECOMMUNICATIONS AGENCY, which shall be a public entity, separate and apart from the Constituent Jurisdictions. The Marin Telecommunications Agency (hereinafter referred to as "Agency") shall be governed by the terms of this Agreement, the terms of an ordinance enacted by each Jurisdiction which enters into this Agreement which is entitled "Telecommunications Ordinance", and is hereinafter referred to as the "Ordinance", and by such rules as are duly passed and adopted by the Board of Directors of the Agency.

Notwithstanding the provisions of the introductory paragraph of this Agreement, it is specifically contemplated that some of the Municipalities may not execute this Agreement and participate in the formation of and become members of the Agency. Therefore, the Agency shall be formed by, as members, the Constituent Jurisdictions, *provided that* all of such Constituent Jurisdictions do so.

2. Board of Directors. The Agency shall be governed by and the powers of the Agency vested in a Board of Directors, subject to its delegatory powers as set out in section 5.30270 of the Ordinance. The number of members of the Board of Directors, composition thereof, and tenure of Directors shall be prescribed by section 5.30220 of the Ordinance.

Meetings of the Board of Directors and of such advisory or other committees as the Board may appoint, shall be governed by the provisions of the Ralph N. Brown Act (Government Code Section 54950 et seq.). The Board of Directors shall establish a time and a place for its regular meetings, which shall be held not less frequently than every six (6) months.

A meeting composed of at least six (6) members of the Board shall constitute a quorum for the purpose of transacting business, and a majority of the quorum shall be necessary to approve any action of the Board *provided that notwithstanding the foregoing* the following actions shall require the approval of not less than six (6) members of the Board in recorded vote: (1) the

enactment of an ordinance, (2) the approval of a final budget, (3) the initiation of litigation (not including the authorization of defense brought against the Agency and the initiation of a cross-complaint), and (4) the creation or assumption of indebtedness.

No action taken by the Board of Directors shall be effective except by duly adopted motion receiving the votes of a majority of the Directors of the Board then present.

The Board of Directors shall annually elect its Chairperson.

The Clerk of the Board of Supervisors of the County shall serve as Secretary to the Board of Directors, unless the Board by resolution shall designate the Clerk of another Constituent Jurisdiction to so serve, shall be responsible for recordation of the official actions by the Board, and shall be the official custodian of all records of the Board of Directors.

3. Powers. The Board of Directors of the Agency shall be vested with the following powers:

To employ in the name of the Agency such staff as the Board of Directors deems appropriate. Such staff shall be appointed by and serve at the pleasure of the Board of Directors.

To make and enter into contracts in the name of the Agency as authorized by or in order to carry out the objects or purposes of this Agreement or the Ordinance, including, but not limited to, contracts with any Constituent Jurisdiction providing for provision by personnel of that Constituent Jurisdiction of services for the Agency and reimbursement of that Constituent Jurisdiction by the Agency of the costs thereof;

To acquire in the name of the Agency, take title to, hold and dispose of real and personal property;

To incur in the name of the Agency debts, liabilities and obligations, which shall not constitute debts, obligations or liabilities of any of the member agencies;

To accept in the name of the Agency grants, gifts and donations in the public interest to carry out the purposes and functions of the Agency; and

To exercise such other powers as are expressly conferred by the provisions of this Agreement or the Ordinance.

The Board of Directors shall also be authorized to sue in the name of the Agency. The Agency shall be subject to suit in its name.



4. Limitations. Pursuant to the provisions of Government Code Section 6509, the powers of the Agency are subject to the restrictions upon the manner of exercising such powers of one (1) of the designated member agencies. For such purposes, the County of Marin is hereby designated.

5. Budget. Prior to July 1st of each fiscal year, the Board of Directors shall adopt a final budget.

6. Payments.

(a) Existing Franchises. As to Franchises in existence prior to the Effective Date of the Ordinance which have been devolved upon the Agency pursuant to Sections 5.30.140 and 5.30.260 above, and which have not theretofore been renewed, extended or otherwise materially amended, the Franchise Fees derived therefrom shall, notwithstanding the assignment to the Agency, be paid to the Constituent Jurisdiction which was the franchisor prior to the Effective Date and the Constituent Jurisdiction shall thereupon be billed by the Agency for that Constituent Jurisdiction's allocable share of the Agency's budget for the applicable period. The Agency's budget shall be allocated among the Constituent Jurisdictions who are members of the Agency in the same proportion as the ratios which the total number of Subscribers in each of the Constituent Jurisdictions bear to the total number of Subscribers in the Constituent Jurisdictions which are then members of the Agency, as disclosed by reports as to numbers of Subscribers filed by said Cable Television Systems with the Agency. Such amounts billed to the Constituent Jurisdiction shall be due and payable within thirty (30) days of the billing date and shall be an enforceable contractual obligation of the Constituent Jurisdiction to the Agency.

(b) Agency Cable Franchises. As to Franchises for the provision of Cable Television Services by Cable Television Systems which were granted by the Agency or renewed, extended or otherwise materially amended by the Agency, the Net Franchise Fees (the total franchise fees received by the Agency less the Agency's budget for the applicable period and reasonable reserves) shall be paid to each of the Constituent Jurisdictions who are members of the Agency in the same proportion as the ratios which the total number of Subscribers in each of the Constituent Jurisdictions bear to the total number of Subscribers in the Constituent Jurisdictions who are members of the Agency, as disclosed by reports as to numbers of Subscribers filed by said Cable Television Systems with the Agency.

(c) Agency Non-Cable Franchises (All Constituent Jurisdictions) As to Franchises which were granted by the Agency or renewed, extended or otherwise materially amended by the Agency, the Net Franchise Fees (the total franchise fees received by the Agency less the Agency's budget for the applicable period and reasonable reserves) shall be paid to the Constituent Jurisdictions who are members of the Agency in the same proportion as the ratios which the population of the unincorporated area of the County and incorporated area of the Municipalities bear to the

total population of the Constituent Jurisdictions who are members of the Agency, as disclosed by the Federal Decennial Census for 1990 for the period ending June 30, 2001, the Federal Decennial Census for 2000 during the period commencing July 1, 2001 and ending June 30, 2011, the Federal Decennial Census for 2010 during the period commencing July 1, 2011 and ending June 30, 2021, the Federal Decennial Census for 2020 during any period after July 1, 2021.

(d) Agency Non-Cable Franchises (Less than All Constituent Jurisdictions) As to Franchises which were granted by the Agency and which substantially and directly affect less than all of the Constituent Jurisdictions, the Net Franchise Fees (the total franchise fees received by the Agency less the Agency's budget for the applicable period and reasonable reserves) shall be paid to the affected Constituent Jurisdictions who are members of the Agency in the same proportion as the ratios which the population of each affected Constituent Jurisdiction bears to the total population of the affected Constituent Jurisdictions who are members of the Agency, as disclosed by the Federal Decennial Census for 1990 for the period ending June 30, 2001, the Federal Decennial Census for 2000 during the period commencing July 1, 2001 and ending June 30, 2011, the Federal Decennial Census for 2010 during the period commencing July 1, 2011 and ending June 30, 2021, the Federal Decennial Census for 2020 during any period after July 1, 2021.

(e) Allocation of Agency Budget. For purposes of the foregoing calculations, the Agency's budget for the applicable period and reasonable reserves shall be allocated as between various types of Franchises in the relative proportions of the Franchise Fees derived therefrom.

Each distribution shall be accompanied by a statement by the Auditor of the Agency stating the amounts of all Franchise Fees received by the Agency for the distribution period, the dates of receipt, the amount of revenue required to finance the Agency Budget, and the population and/or subscriber ratios upon which apportionment of the distribution is being made.

7. Treasurer. The Treasurer of the County shall be the depository of funds of the Agency, and said Treasurer shall be the ex officio Treasurer of the Agency, unless the Board of Directors shall act by resolution to appoint the Treasurer of another Constituent Jurisdiction or, to the extent provided by law, a certified public accountant, to that position.

The Treasurer shall receive and have custody of and disburse Agency funds on the warrant of the Auditor and shall make disbursements authorized by this Agreement. The Treasurer shall invest Agency funds in accordance with the general law. All interest collected on Agency funds shall be accounted for and posted to the account of said funds.

The County (or other Constituent Jurisdiction as applicable) may determine reasonable charges to be made against the Agency for the services of the Treasur-

er, and the Agency shall include such costs in its annual budget.

8. Auditing. The Auditor of the County shall be the ex officio Auditor of the Agency, and shall draw warrants against the funds of the Agency when the demands are approved by the Executive Director or other designee of the Board, unless the Board of Directors shall act by resolution to appoint some other person, as allowed by law, to that position. At the close of each fiscal year, as provided in Government Code Section 6505, the Auditor shall make an audit. In the alternative, the Board of Directors may contract with a certified public accountant to make an audit of the accounts and reports of the Agency.

The Auditor shall establish and maintain such funds and accounts as are deemed necessary to account for and report on receipts and disbursements. The Agency shall keep such additional records and accounts which are deemed necessary to account for and report on sources of funds, expenditures, grants and programs as may be required by good accounting practices. The books and records of the Agency shall be open to inspection at all reasonable times by representatives of the member agencies.

The County (or other Constituent Jurisdiction as applicable) may determine reasonable charges to be made against the Agency for the services of the Auditor, and the Agency shall include such costs in its annual budget.

9. Term. Except as otherwise provided herein, this Agreement shall terminate and the Agency shall be deemed dissolved on December 31, 2027.

In the event that, at any time, the Board of Directors reasonably determines that it will no longer receive Franchise Fees under any Franchise then existing or reasonably expected to provide sufficient revenues to pay its costs of administration and yet make the required payments to the Constituent Jurisdictions, this Agreement shall be deemed terminated and the Agency shall be deemed dissolved on the date of that determination.

10. Disposition of Assets. Upon dissolution of the Agency, its assets shall be distributed to member agencies in the same proportion as distributions to member agencies have most recently been made pursuant to the provisions of Paragraph 6, above. Any real property owned by the Agency shall, in advance of dissolution, be conveyed by the Board of Directors to member agencies as tenants in common with proportional interests equal to the proportion of distributions most recently made pursuant to the provisions of said Paragraph 6.

11. Debts. The debts, liabilities and obligations of the Agency shall not constitute any debts, liabilities or obligations either jointly or severally of the County or the Municipalities.

12. Amendment. This Agreement may be amended by written contract approved

by and executed in behalf of the Governing Bodies of each member agency. No Franchisee shall be deemed to either expressly or impliedly be a party to this Agreement, a third party beneficiary thereof, or to have any interest which precludes amendment of the terms of this Agreement in any manner in which the Governing Bodies of the member agencies, in their discretion, may mutually agree.

13. Termination. Except as otherwise provided herein, this Agreement may only be terminated by the enactment of an ordinance in identical form by a majority of the of the Constituent Jurisdictions which are then members of the Agency specifying such termination, each such ordinance adopted within no more than ninety (90) days of each other. Upon such action, the Agency shall be deemed terminated and its assets disposed of pursuant to Paragraph 10 hereof.

14. Withdrawal. Any Constituent Jurisdiction may withdraw from membership in the Agency upon notice in writing to the Agency and the other members of the Agency by the enactment of an ordinance on or before May 1 of any year specifying that such withdrawal shall become effective not earlier than the end of the next successive fiscal year, *provided that* the withdrawal of any Constituent Jurisdictions from membership in the Agency (not resulting in the termination of the Agency pursuant to Paragraph 13 above) during the initial term of any Franchise issued pursuant to the provisions of this Chapter shall not operate to either divest the Franchisee of its authority to install or provide services through its Telecommunications Facilities within the area of the withdrawing Constituent Jurisdiction(s) or vest the withdrawing Constituent Jurisdiction with any administrative or other authority whatsoever respecting operations by the Franchisee under the Franchise. Notwithstanding the foregoing, a duly appointed member of the governing body of a withdrawing jurisdiction may continue to participate and vote in actions coming before the Agency after withdrawal which pertain solely and exclusively to a Franchise in which a Franchisee has installed and is providing services through at least a portion of its Telecommunications Facilities, which are located within the jurisdiction of the withdrawing jurisdiction (such a Franchise hereinafter an "Affecting Franchise"), *provided that* nothing in this sentence shall authorize the member appointed by the withdrawing jurisdiction to participate or vote in any matters pertaining to or having an effect upon more than a single Affecting Franchise. During such initial term, the Agency shall continue to administer the provisions of this Chapter for the benefit of the inhabitants of a Constituent Jurisdiction in the same manner as if the Constituent Jurisdiction had not withdrawn. In the event that a Constituent Jurisdiction should give timely notice of withdrawal and that withdrawal should become effective before a cable television franchise assigned to the Agency as a part of its initial entry shall have been renewed, extended or otherwise materially amended, the Agency shall reassign said franchise to the withdrawing entity, said entity shall resume administration of said franchise and the Franchise Fees derived therefrom shall continue to be paid to the Constituent Jurisdiction which was the franchisor prior to the Effective Date.

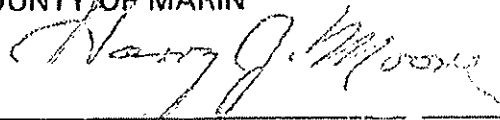
15. Reservation of Rights. The provisions of this Agreement shall not be so con-

strued as to in any manner restrict or impair the power or authority of the Constituent Jurisdictions to independently manage the sale, leasing, management, transfer and/or other disposition of Telecommunications Facilities owned by the Constituent Jurisdiction within their own jurisdictional boundaries. Nothing in the foregoing sentence shall be construed to obviate the necessity of a Franchise issued by the Agency in connection with the use of such Telecommunications Facilities,

16. Counterparts. This Agreement may be executed in counterpart.

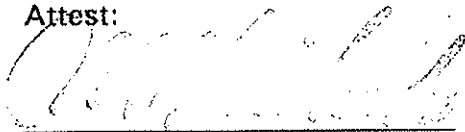
IN WITNESS HEREOF the parties have approved and executed this Agreement as follows.

COUNTY OF MARIN



Chairman, Board of Supervisors

Attest:



Clerk

Approved as to Form:

Allen A. Haim  
Chief Deputy County Counsel

ash2\admin\telecom.sgm

SIXTH AMENDMENT TO  
SEWERAGE AGENCY OF SOUTHERN MARIN  
JOINT EXERCISE OF POWERS AGREEMENT

THIS SIXTH AMENDMENT to Sewerage Agency of Southern Marin Joint Exercise of Powers Agreement, is dated for convenience as of July 1, 1987, and is by and between ALMONTE SANITARY DISTRICT, ALTO SANITARY DISTRICT, CITY OF MILL VALLEY, RICHARDSON BAY SANITARY DISTRICT, TAMALPAIS COMMUNITY SERVICES DISTRICT and HOMESTEAD VALLEY SANITARY DISTRICT.

R E C I T A L S

WHEREAS, the parties hereto have previously entered into an Agreement entitled, "SEWERAGE AGENCY OF SOUTHERN MARIN JOINT EXERCISE OF POWERS AGREEMENT," dated for convenience as of June 1, 1979, as subsequently amended; and

WHEREAS, the Agency and the Member Entities are, individually, empowered by law to procure and maintain in effect policies of insurance providing coverage for losses, indemnity and defense arising out of occurrences and events related to such risks as: claims for bodily injury, property damages, personal injuries, public officials errors and omissions, and other forms of liability; casualty losses to real and personal property; workers compensation; and, health and welfare benefits; and

WHEREAS, under the Act (specifically Section 6502 of the California Government Code) and also under Government Code § 990.8, two or more public entities may, by a joint exercise of powers agreement (such as the Agreement between the parties hereto), provide insurance for any purpose; and

WHEREAS, pursuant to Government Code §§ 990.4 and 990.8, such joint coverage may be provided by self-insurance, insurance in an insurer authorized to transact such business in this State, insurance secured in accordance with certain provisions of the California Insurance Code, or any combination of such methods; and

WHEREAS, the parties desire to further amend this Agreement to expressly authorize the Agency and the Member Entities, or any combination of any of them, to act jointly to secure insurance and/or self-insurance coverage,

NOW, THEREFORE, the parties hereto do hereby agree to amend said Agreement by amending Section 5 to read as follows:

"Section 5. Powers. The Agency shall have the power and authorization to plan, acquire, construct, maintain and operate facilities, for either joint or sole use, for the collection, treatment, reclamation and disposal of sewage and other wastewater for the benefit of lands and inhabitants within or without the boundaries of the Member Entities. The Member Entities will relinquish to, and the Agency will assume for the benefit of the Member Entities, responsibility for all functions pertaining to the treatment, reclamation and disposal of sewage and other wastewater. The Agency may enter into contracts to perform any or all of these functions.

The Agency is hereby authorized, in its own name, to do all acts necessary for the exercise of said power for said purposes, including but not limited to any or all of the following: to make and enter into contracts; apply for and accept grants, advances, and contributions; to employ agents, consultants and employees; to acquire, construct, manage, maintain and operate any buildings, works or improvements; to acquire, hold or dispose of property; to sue and be sued in its own name; to incur debts, liabilities, or obligations; to issue revenue bonds, notes, warrants, and other evidences of indebtedness to finance the costs and incidental expenses of the projects of the Agency; to exercise all powers conferred by the Act; and to exercise all other powers common to the Member Entities not herein specifically mentioned which may be necessary to carry out the purpose of this Agreement.

The Agency and/or any one or more of its Member Entities are further authorized to jointly participate in any program of insurance or self-insurance as to which participation by public agencies is authorized under California Law. Participation may take the form of a joint program involving only the the participation of parties to this Agreement, or the participating parties may join with other public agencies by means of an insurance or self-insurance pool, a joint exercise of powers agreement or any other similar arrangement which is permissible under California law. The expense of participation in such joint insurance or self-insurance programs shall be shared proportionately by the participants according to their respective responsibilities for the costs of premiums, deductibles, fees, retentions or other assessments of any kind, as well as any costs of administration and overhead. In determining a participant's proportionate financial responsibility for such costs, all relevant factors may be considered including the participant's loss history and the nature and extent of the risks to which the participant is exposed. No part of the costs of any such program shall be borne, directly or indirectly, by any party to this Agreement who is not a participant in that program. Notwithstanding the authorization provided for herein, no Member Entity shall be entitled as a matter of right to participate in any such program without the approval of the other participants. To that end, the right is reserved to the other participants in a program to exclude or discontinue the participation of any Member Entity in a program if, by a majority vote of all participants, it is determined that participation by a Member Entity would be disadvantageous to the other participants.

No debt, liability or obligation of the Agency shall constitute a debt, liability or obligation of any Member Entity.

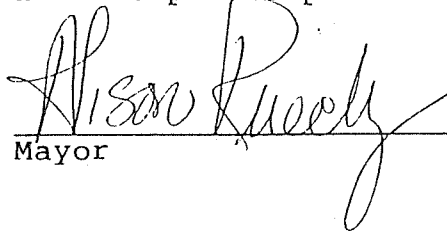
The Agency has no power to levy or cause to be levied ad valorem property taxes.

The powers are subject to the restrictions upon the manner of exercising the powers as provided in the Sanitary District Act of 1923, Division 6 of the Health and Safety Code of the State of California, as amended."

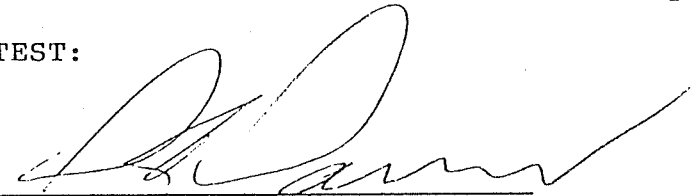


This Sixth Amendment shall become effective when all parties hereto shall have authorized execution thereof by their respective governing bodies.

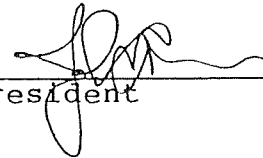
CITY OF MILL VALLEY,  
a Municipal Corporation

  
\_\_\_\_\_  
Mayor

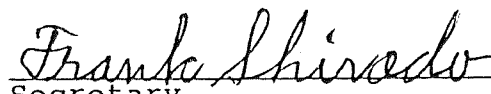
ATTEST:

  
\_\_\_\_\_  
City Clerk  
(SEAL)


ALMONTE SANITARY DISTRICT,  
a Public Corporation

  
\_\_\_\_\_  
President


COUNTERSIGN:

  
\_\_\_\_\_  
Secretary  
(SEAL)

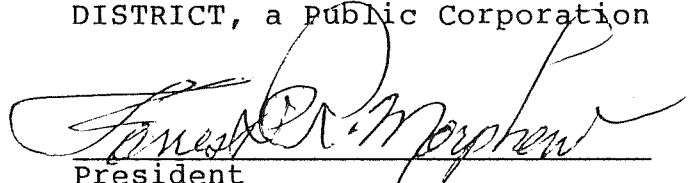
ALTO SANITARY DISTRICT,  
a Public Corporation

  
\_\_\_\_\_  
President


COUNTERSIGN:

  
\_\_\_\_\_  
Secretary (SEAL)

RICHARDSON BAY SANITARY  
DISTRICT, a Public Corporation

  
\_\_\_\_\_  
President

COUNTERSIGN:

  
\_\_\_\_\_  
Secretary (SEAL)

TAMALPAIS COMMUNITY SERVICES  
DISTRICT, a Public Corporation

Michael Bronk  
President

ATTEST:

John G. Mikkel  
Secretary (SEAL)

HOMESTEAD VALLEY SANITARY  
DISTRICT, a Public Corporation

Bertram L. Davis  
President

COUNTERSIGN:

Annance J. J. J.  
Secretary (SEAL)

SEWERAGE AGENCY OF SOUTHERN MARIN  
JOINT EXERCISE OF POWERS AGREEMENT

THIS AGREEMENT, dated for convenience as of June 1, 1979, by and between ALMONTE SANITARY DISTRICT, ALTO SANITARY DISTRICT, THE CITY OF MILL VALLEY, RICHARDSON BAY SANITARY DISTRICT and TAMALPAIS VALLEY COMMUNITY SERVICES DISTRICT.

R E C I T A L S

WHEREAS, as of June 20, 1973, the parties hereto entered into a Joint Exercise of Powers Agreement creating the Southern Marin Subregional Sewerage Agency for the purpose of preparing a plan and program necessary for meeting the wastewater treatment needs of the Southern Marin area;

WHEREAS, said purpose has been substantially accomplished and final approvals of the Eastern Marin Southern Sonoma Wastewater Facilities Plan and Associated Environmental Impact Report and Environmental Impact Statement are now pending;

WHEREAS, said plan provides for the construction and installation of wastewater collection, treatment, reclamation and disposal facilities to serve the Southern Marin area;

WHEREAS, it will be to the financial advantage of each of the parties hereto to provide 1) for the joint financing, ownership, operation and maintenance of certain of the wastewater facilities to be installed and constructed according to said Plan as finally approved; 2) for the joint operation and maintenance of certain of the wastewater facilities to be so installed and constructed and also of certain wastewater facilities already in place; and 3) for coordination in the operation, use and maintenance of those wastewater facilities which remain in the ownership of the respective parties hereto and which shall be operated and maintained by them; and

WHEREAS, the parties hereto possess the common power to collect, treat, reclaim and dispose of wastewater, to provide for solution of such problems which are of direct concern to the parties hereto in the performance of their constitutional and statutory functions, and to join associations and expend public funds for such purposes, including funds contributed by the parties or by any person or any subventions or grants which may be obtained from the federal and/or state governments;

NOW, THEREFORE, in consideration of the mutual terms, covenants and conditions herein contained, said parties, acting by and through their respective governing bodies, do hereby agree as follows:

Section 1. Definition of Terms.

"ACT" means the provisions of Chapter 5 of Division 7 of Title 1 of the Government Code (commencing with Section 6500) pertaining to joint powers agreements.

"AGENCY" means the Sewerage Agency of Southern Marin. Agency

"COMMISSION" means the governing board of the Sewerage Agency of Southern Marin.

"FINANCING PLAN" means the Financing Plan contained in the Eastern Marin Southern Sonoma Wastewater Facilities Plan, Volume II, Southern Marin Planning Unit, as finally approved.

"JOINT USE FACILITIES" means those wastewater facilities used or capable of being used by two or more Member Entities.

"MEMBER ENTITY" means any city or district party to this agreement.

"REGIONAL SEWER SERVICE CHARGE" means the periodic lump sum charge payable by each Member Entity to the Agency as hereinafter further defined.

"SOLE USE FACILITIES" means those wastewater facilities used by a single Member Entity.

"UNIFORM SEWER SERVICE CHARGE" means the sewer service charge established and levied by the Agency throughout its service area as hereinafter further defined.

Section 2. Creation of Agency. There is hereby created a public agency to be known as the "Sewerage Agency of Southern Marin". The Agency is formed by this Agreement pursuant to the provisions of Article 1, Chapter 5, Division 7, Title 1 of the Government Code of the State of California relating to the joint exercise of powers common to public agencies. For the purposes of this Agreement, the Agency is a separate public agency separate from the parties hereto and shall be the agency to administer or execute this Agreement.

Section 3. Purpose. The purpose of this Agreement is to create an agency which will plan, acquire, construct, maintain and operate facilities, for either joint or sole use, for the collection, treatment, reclamation and disposal of sewage and other wastewater for the benefit of lands and inhabitants within or without the collective boundaries of the Member Entities.

Section 4. Term and Effect. This Agreement shall become effective when all eligible Member Entities have approved and authorized execution of this Agreement by their respective governing bodies and shall continue in full force and effect until such time as all revenue bonds that may be issued by the Agency and the interest thereon shall have been paid in full or other provision for such payment shall have been made as set forth in the proceedings for the issuance thereof; provided, however, that the term of this Agreement may be extended by written agreement of the Member Entities.

This Agreement shall supersede and terminate all existing agreements between Member Entities providing for wastewater treatment and disposal by one Member Entity for another in joint use facilities to be operated and maintained by the Agency pursuant to

this Agreement. The termination date of such existing agreements shall be the date upon which the Agency commences the exercise of responsibility for operation and maintenance of such joint use facilities.

Section 5. Powers. The Agency shall have the power and authorization to plan, acquire, construct, maintain and operate facilities, for either joint or sole use, for the collection, treatment, reclamation and disposal of sewage and other wastewater for the benefit of lands and inhabitants within or without the boundaries of the Member Entities. The Member Entities will relinquish to, and the Agency will assume for the benefit of the Member Entities, responsibility for all functions pertaining to the treatment, reclamation and disposal of sewage and other wastewater. The Agency may enter into contracts to perform any or all of these functions.

The Agency is hereby authorized, in its own name, to do all acts necessary for the exercise of said power for said purposes, including but not limited to any or all of the following: to make and enter into contracts; apply for and accept grants, advances, and contributions; to employ agents, consultants and employees; to acquire, construct, manage, maintain and operate any buildings, works or improvements; to acquire, hold or dispose of property; to sue and be sued in its own name; to incur debts, liabilities, or obligations; to issue revenue bonds, notes, warrants, and other evidences of indebtedness to finance the costs and incidental expenses of the projects of the Agency; to exercise all powers conferred by the Act; and to exercise all other powers common to the Member Entities not herein specifically mentioned which may be necessary to carry out the purpose of this Agreement.

No debt, liability or obligation of the Agency shall constitute a debt, liability or obligation of any Member Entity.

The Agency has no power to levy or cause to be levied ad valorem property taxes.

The powers are subject to the restrictions upon the manner of exercising the powers as provided in the Sanitary District Act of 1923, Division 6 of the Health and Safety Code of the State of California, as amended.

Section 6. Governing Body of the Agency. The Agency shall be governed by the Sewerage Agency of Southern Marin Commission.

The Commission shall consist of nine commissioners, each of whom shall have one vote. Each Member Entity shall appoint one commissioner as its representative on the commission. Each Member Entity shall also appoint an alternate commissioner.

Each commissioner and alternate shall be a voting member of the governing body of the Member Entity that he or she represents. A commissioner shall serve in such a manner and for such term as the Member Entity that he or she represents may determine.

Section 7. Officers and Duties. A Chairman, a Vice-Chairman and a Secretary shall be elected by the Commission from its own members, the term of office for each such office to be one year and until a successor is elected to such office.

The Chairman shall sign all contracts on behalf of the Agency and perform such other duties as may be imposed by the Commission. With the approval of the Commission, the Chairman may delegate to the Administrative Officer the power to sign contracts on behalf of the Agency. The Vice-Chairman shall act in the absence of the Chairman. The Secretary shall countersign all contracts on behalf of the Agency; perform such other duties as may be imposed by the Commission; and keep minutes of all meetings and cause a copy of the minutes to be forwarded to each of the members of the Commission and each of the Member Agencies.

The Commission may appoint and employ an Administrative Officer or an acting Administrative Officer who shall perform such



duties as may be imposed by the Commission and who shall report to the Commission in accordance with such rules and regulations as the Commission may adopt.

In the absence of an Administrative Officer, the Chairman shall perform the duties of the Administrative Officer.

The Treasurer of the County of Marin is hereby designated as the treasurer of the Agency and as the depository to have custody of all the moneys of the Agency from whatever source. The Auditor-Controller of the County of Marin is hereby designated as the auditor-controller of the Agency. The treasurer and auditor-controller shall have the duties and obligations set forth in Section 6505.5 of the Government Code of the State of California.

Section 8. Advisory Members. Representatives who are voting members of the governing bodies of the City of Sausalito, ~~Kay Park Sewer Maintenance District~~, and Marin Municipal Water District shall be advisory members of the Commission. In addition, a representative appointed by the Marin County Board of Supervisors shall be an advisory member of the Commission. Such members shall have rights to participate in discussion in matters of planning. Such advisory members shall have no power to vote or to make or second motions and shall not count towards a quorum.

Section 9. Duties of the Commission. The duties of the Commission shall be:

- (a) To make all policy decisions and exercise all of the powers of the Agency;
- (b) To submit full and regular reports to the Member Entities;
- (c) To adopt from time to time such rules and regulations for the conduct of its affairs as may be required.

The members of the Commission shall receive no compensation except as may be provided by the respective Member Entities which they represent.

Section 10. Meetings of the Commission. Regular meetings of the Commission shall be held at such time and place as shall be established by the Commission by resolution.

All meetings of the Commission including regular, adjourned regular and special meetings, shall be called, noticed, held and conducted in accordance with the provisions of the Ralph M. Brown Act, Section 54950 through 54960 of the Government Code of the State of California.

Section 11. Quorum. A majority of the voting members of the Commission shall constitute a quorum. Any action of the Agency shall require the affirmative vote of a majority of the entire voting membership of the Commission.

Section 12. Accountability of Funds, Reports and Audits. There shall be strict accountability of all funds and a report of all receipts and disbursements of the Agency. The auditor-controller of the Agency shall cause annual audits of the accounts and records of the Agency to be prepared in accordance with the requirements contained in Section 6505 of the Government Code of the State of California. Should the Agency terminate prior to the expiration of any fiscal year, the auditor-controller shall cause a final audit of the accounts and records of the Agency to be prepared. The fiscal year of the Agency shall terminate June 30 of each year. The Agency shall establish and maintain all necessary funds and accounts which shall be open to inspection at all reasonable times.

Section 13. Bonding Persons Having Access to Property. Officers or person or persons who have charge of, handle or have access to any property of the Agency, shall be required to file an official bond with the Agency in such amount as may be established by the Commission. Should an existing bond of any of said officer or officers or person or persons be extended to cover the obligation provided herein, said bond shall be the official bond of said officers or officer or person or persons required to be posted

herein. The premium on any such bond or bonds shall be an appropriate expense of the Agency. Any payment to the treasurer or auditor-controller required in the operation of the Agency shall be an appropriate charge against the Agency.

The Administrative Officer shall have the responsibility of any and all property of Agency and shall indicate approval of all claims and demands for the disbursement of Agency funds prior to submittal of said claims and demands to the Commission for approval.

Section 14. Bonds. The Agency shall have power and authority to issue and sell revenue bonds in accordance with the following:

- (a) Article 2, Chapter 5, Division 7, Title 1 of the Government Code, commencing with Section 6540;
- (b) Chapter 6, Division 2, Title 5 of the Government Code, commencing with Section 54300; and
- (c) Chapter 5, Part 3, Division 5 of the Health & Safety Code, commencing with Section 4950.

For purposes of referendum and vote on an Agency-wide basis, the boundaries of the boundaries of the Agency shall be the consolidated boundaries of its Member Entities. Under applicable law, the Agency may form improvement districts in which event the boundaries thereof shall be determinative with respect to referendum and voting. Bond elections shall be conducted pursuant to the Uniform District Election Law and applicable provisions of the Elections Code.

The Agency shall have and exercise all powers conferred on "local agencies" by the provisions of the law with respect to such revenue bonds.

Section 15. Operating and Bond Funds. An operating fund shall be established and maintained which shall be used to pay all administrative and incidental expenses incurred by the Agency, together with all costs of maintenance and operation arising from the operation of Joint Use Facilities. Revenues for the operating

fund shall be derived from Regional Sewer Service Charges periodically charged to each Member Entity by the Agency, which Regional Sewer Service Charges the Member Entities hereby agree to pay. The periodic Regional Sewer Service Charge for each Member Entity shall be determined by the Agency and shall be based upon the relative volume and quality of wastewater generated by each Member Entity. Volume will be determined based upon continuous measuring to measure total volume generated during the period. Quality will be determined by periodic monitoring.

Each Member Entity, in turn, shall derive the revenues necessary to pay its Regional Sewer Service Charges to the Agency through the establishment of sewer service charges based upon single family dwelling unit equivalent as defined by the Agency.

Each single family dwelling unit shall be assigned one single family dwelling unit equivalent. All other structures, or portions thereof used for purposes other than as single family dwelling units, shall be assigned a number of such units, as determined by the Agency based upon 1) water meter readings and/or use of water from non-metered sources, 2) visual inspection to determine the relative extent to which water may be used for purposes which do not produce discharge into wastewater facilities, 3) the chemical and/or other composition of the wastewater produced, 4) the peaking and ebbing cycle of the wastewater flows, and 5) any requirements imposed by the federal or state governments or agencies thereof.

Upon adoption of this Agreement, each Member Entity shall contribute to the operating fund an amount based on its proportionate number of single family dwelling unit equivalents. This initial contribution shall be \$24.00 per single family dwelling unit equivalent. The money contained in this fund shall be used solely for initial administrative and operating expenses, including costs and expenses associated with so-called Step II, which may be necessary prior to the Agency's initial collection of Regional Sewer Service Charges.

If the initial contributions are not sufficient to meet the Agency's initial administrative and operating expenses prior to initial collection of Regional Sewer Service Charges, the Agency may assess the Member Entities, and the Member Entities shall pay such additional amount or amounts, in the same proportion as the initial contributions, as are necessary to meet such initial administrative and operating expenses. Such initial contributions and additional amounts, if any, shall be adjusted after the Agency's first full year of operating experience, to relative amounts proportionate to the Regional Sewer Service Charges paid by each Member Entity during such first year.

Revenues required to provide moneys for bond interest and redemption or other bond funds in connection with revenue bonds issued by the Agency shall be derived from a Uniform Sewer Service Charge levied by the Agency throughout the Agency's service area and shall be based on single family dwelling unit equivalents as hereinabove defined and determined. The amount of such charge shall be established by the Agency.

Section 16. Ownership and Operation of Properties. With respect to the ownership and operation of sewerage facilities and compensation for the use thereof, it is agreed by the parties hereto that:

1. Treatment Facilities.

Effective on a date to be determined and prior to award of construction contracts, Member Entities \_\_\_\_\_ shall allow the Agency rights in use of the wastewater treatment facilities which each owns together with the land on which such facilities are located and associated laboratory facilities and equipment all as described in Exhibit I, necessary for the operation of Joint Use Facilities, in consideration for an amount to be determined by special audit and based on the original cost of the facilities and improvements thereto. Such audit will be performed in accordance with the procedures set forth in the Financing Plan.

The manner and legal method, whether by lease, lease-leaseback, outright acquisition or other, of improvements only or land and improvements, by which the Agency will attain such rights shall be negotiated between the Agency and each such Member Entity. It is understood, however, that whatever the legal method, the Agency will attain such rights as will permit it to exercise responsibility for operation and maintenance of these facilities and that such Member Entity will relinquish such responsibility. In the exercise of such responsibility, the Agency may agree to permit any such Member Entity to operate and maintain such facilities under contract to the Agency.

Also, whatever the legal method, the Agency shall have the right to construct improvements and extensions to such facilities.

The Agency will pay the costs, if any, associated with demolition and salvage of treatment or related facilities, presently existing, which are abandoned, or for the acquisition of facilities other than treatment facilities.

## 2. Sewerage Works Other Than Treatment Facilities.

The sewerage works described in Exhibit II are necessary for the operation of Joint Use Facilities. The Member Entities owning such works may continue to own, operate and maintain same, provided, however, that the Agency shall have the right to construct improvements and extensions thereto. If such improvements and extensions are constructed, the costs and expenses of operating such works shall be allocated between the Agency and the owner Member Entity, by agreement, on the basis of the ratio of respective use of such works by the Member Entity as an integral part of its collection system and by the Agency as an integral part of its Joint Use Facilities.

Upon request by a Member Entity, the Agency shall agree to and shall operate and maintain such works with the costs thereof being allocated as hereinabove described. An agreement so providing shall be entered into within a reasonable time after such request is made and shall be of at least three years duration unless otherwise agreed.

Unless otherwise agreed, the Agency shall be solely responsible and shall assume legal liability for the operation and maintenance of such works and shall do so in manner consistent with sound practice and fiscal conservatism.

With respect to either type of agreement herein described, if the Agency and the Member Entity cannot agree on a cost allocation formula, they shall refer the matter for final determination to a mutually agreed upon arbitrator.

3. Sewerage Facilities Financed by Agency Funds.

The Agency shall own entirely all facilities financed by Agency funds including cash, service charge revenues or the proceeds from the sale of revenue bonds.

4. Sole Use Facilities.

Member Entities shall retain ownership of and operate and maintain their respective Sole Use Facilities including wastewater collector systems, provided, however, that the Agency and any Member Entity may, by agreement, provide for ownership and/or for operation and maintenance of that Member Entity's Sole Use Facilities, all or in part, by the Agency. Any such agreement must provide that all costs associated with the operation and maintenance of such Sole Use Facilities by the Agency shall be charged to and paid by the Member Entity.

5. Capital Reserve Funds.

Excess capital funds, if any, from surpluses provided for cash flow by contribution prior to grant receipt shall be credited back to the Member Entities in proportion to their respective initial contributions. Excess capital funds, if any, from annual capital replacement requirements, or from other sources are the property of the Agency and, after approval by the Commission, may be used for capital improvements and the call of outstanding bonds.

6. Operation, Administration, and Maintenance Surplus Funds.

Excess administration, operation and maintenance funds, if any, from whatever source, are the property of the Agency. After provision, if any, for a reasonable working reserve, the Commission may allocate all or a share of such funds to reduce the amounts required for the following year's budget.

7. Employees.

During the period of initial phasing over of responsibility to the Agency for the operation and maintenance of facilities as herein provided, it shall be the policy of the Agency to retain, as employees of the Agency, such of those employees of the Member Entities whose primary responsibility is the operation and maintenance of those facilities which become the responsibility of the Agency for operation and maintenance, and the compensation, benefits, and working conditions of such employees shall be not less than equal to those which exist at the time the Agency assumes such responsibility.

Section 17. Functional Responsibilities. With respect to the administration, operation and maintenance of sewerage facilities within Member Entity boundaries and the performance of functions related thereto, it is agreed by the parties hereto that:

1. The Agency has sole right to establish Regional Sewer Service Charges and Uniform Sewer Service Charges required for bond service.

2. Member Entities will be responsible for processing and review of permit applications, collection and accounting for permit fees, inspection of connections and all recordkeeping attendant thereto, and will retain all such fees associated therewith. Member Entities may perform these functions directly or by contract.

3. Member Entities will collect on behalf of the Agency a regional connection charge per single family dwelling or equivalent, in the amount specified in the then current Agency resolution.



4. As a condition of the acquisition of rights of use in wastewater treatment plants and other sewerage facilities, the Agency will assume full responsibility for the operation and maintenance of treatment plants, and other sewerage facilities for which compensation will be paid.

5. Unless otherwise agreed upon, Member Entities will have total responsibility for their respective wastewater collector systems and reserve the right to impose charges to pay for this service within their respective jurisdictions.

6. Unless otherwise agreed upon, Member Entities will be responsible for all billing and collection of Uniform Sewer Service Charges on behalf of the Agency and associated recordkeeping, accounting, and delinquency follow-up.

Section 18. Equalization Plan. The Agency agrees to compensate Member Entities for the acquisition of sewerage facilities in the amounts as set forth in Exhibit III, Table 11.

Payments will be made as specified below:

1. Bond Service.

The Agency shall reimburse amounts equal to a proportionate amount of annual interest and principal on outstanding indebtedness incurred for major sewerage purposes in the amount set forth in Exhibit III, Table 11.

2. Reimbursement Payments.

The Agency will pay annually the amounts set forth in Exhibit III, Table 12, which amounts include five percent on the remaining unpaid balance, until the total amounts set forth in Exhibit III, Table 12, shall have been reached. Payments will commence on July 1, 1981.

Section 19. Records and Accounts. The Agency shall cause to be kept accurate and correct books of account, showing in detail the costs and expenses of any new construction, extra construction or reconstruction and the maintenance and operation of the Joint Use

Facilities and all financial transactions of the Member Entities relating to the Joint Use Facilities, which books of account shall correctly show any receipts and also any costs, expenses or charges to be paid by all or any of the Member Entities. Said books of account shall be open to inspection at all times by any representative of any of the Member Entities. The Commission shall, in accordance with Section 6505 of the Government Code, cause the books of account and other financial records of the Agency to be audited annually by an independent public accountant or certified public accountant. All records shall be kept in accordance with the Uniform System of Accounts of the State Controller.

Section 20. Settlement of Disputes. If a dispute arises as to the construction, interpretation or implementation of any provision of this Agreement, the issues in dispute or matter requiring action shall be submitted to binding arbitration. For such purpose, an agreed arbitrator shall be selected by all members of the Commission, or in the absence of unanimous agreement, the Commission, by majority vote, shall select an arbitrator and the members of the Commission in dissent shall select an arbitrator. The two arbitrators so selected shall select a third arbitrator. The arbitrator, or three arbitrators acting as a panel, shall proceed to arbitrate the matter in accordance with the provisions of Title 9 of Part 3 of the Code of Civil Procedure.

Section 21. Withdrawal or Dissolution. Upon withdrawal of a Member Entity from the Agency or upon dissolution of the Agency, there shall be partial or complete distribution of assets and discharge of liabilities as follows:

(a) Withdrawal. A Member Entity may withdraw from the Agency only with the unanimous consent of the remaining Member Entities and upon mutually agreeable terms and conditions. Upon withdrawal of any Member Entity from the Agency, the withdrawing Member Entity shall receive its proportionate share of the assets of the Agency and shall

contribute its proportionate share toward discharge of any enforceable liabilities incurred by the Agency as the same appear on the books of the Agency.

(b) Dissolution. Upon dissolution of the Agency, each Member Entity shall receive its proportionate share of the assets of the Agency and shall contribute its proportionate share toward discharge of any enforceable liabilities incurred by the Agency as the same appear on the books of the Agency.

The distribution of assets may be made in kind or assets may be sold and the proceeds thereof distributed to a Member Entity at the time of withdrawal or to all Member Entities at the time of dissolution, provided that all facilities and rights in facilities assigned or transferred by any Member Entity to the Agency shall be reconveyed to said Member Entity free and clear of all encumbrances and liens of any kind.

Upon withdrawal of a Member Entity from the Agency or upon dissolution of the Agency, the responsibility of the Member Entity of Member Entities to contribute to the discharge of enforceable liabilities incurred by the Agency shall be limited to the proportion that the contributions made by each Member Entity bears to the total contributions made by all of the Member Entities to the Agency from the effective date of this Agreement to the date of withdrawal or dissolution.

Section 22. Miscellaneous. The section headings herein are for convenience only and are not to be construed as modifying or governing the language in the section referred to.

This Agreement is made in the State of California and under its Constitution and laws, and it is to be so construed.

To preserve a reasonable degree of flexibility, many parts of this Agreement are stated in general terms. It is understood that the Commission may from time to time adopt and implement rules and regulations to further define the rights and obligations of the

Member Entities and of the Agency to carry out the purposes of this Agreement.

This Agreement may be amended in any particular, from time to time, by unanimous action of the Member Entities, provided, however, that no authority on which action has been taken by the Agency shall be limited or withdrawn.

Section 23. Partial Invalidity. If any one or more of the terms, provisions, promises, covenants, or conditions of this Agreement shall to any extent be adjudged invalid, unenforceable, void, or voidable for any reason whatsoever by a court of competent jurisdiction, each and all of the remaining terms, provisions, promises, covenants, and conditions of this Agreement shall not be affected thereby, and shall be valid and enforceable to the fullest extent permitted by law.

Section 24. Successors. This Agreement shall be binding upon and shall inure to the benefit of the successors of the parties hereto.


Section 25. Effective Date. The effective date of this Agreement shall be July 1, 1979.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and attested by their proper officers thereunto duly authorized, and their official seals to be hereto affixed, as of the day and year first above written.

CITY OF MILL VALLEY,  
a Municipal Corporaton

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

(SEAL)

ALMONTE SANITARY DISTRICT,  
a Public Corporaton

Raymond F. Douglas  
President

ATTEST:

Thomas Roberts  
Secretary (SEAL)

ALTO SANITARY DISTRICT,  
a Public Corporation

George Hoffman  
President

ATTEST:

Sherri L. [Signature]  
Secretary (SEAL)

RICHARDSON BAY SANITARY DISTRICT,  
a Public Corporation

[Signature]  
President

ATTEST:

John Radovich  
Secretary (SEAL)

TAMALPAIS COMMUNITY SERVICES  
DISTRICT

John F. Walker  
President

ATTEST:

Leonard Mitchell  
Secretary (SEAL)

INFORMATION NOTE  
The Tamalpais Community Services District's  
responsibilities under this agreement are  
for the Kay Park Sewer Maintenance District  
area only.



# Tamalpais Community Services District

305 Bell Lane, Mill Valley, CA 94941 • 415 388-6393 • Fax: 415 388-4168  
info@tcsd.us • www.tcsd.us

January 13, 2017

Mr. Keene Simonds  
Executive Director  
Marin County LAFCO  
1401 Los Gamos Drive, Ste 220  
San Rafael, CA 94903

Dear Keene,

In answer to your December 5, 2016 memo, TCSD submits the materials relating to the only JPA to which we belong – SASM.

Please let me know if this does not complete your request.

Sincerely,

  
Jon Elam  
General Manager



JANUARY 11, 2017

ITEM 5G

**SUBMISSION OF SASM JPA MATERIALS TO LAFCO  
AS REQUIRED UNDER SB 1266**

**TO: BOARD OF DIRECTORS**  
**FROM: JON ELAM**   
**SUBJECT: SUBMISSION OF SASM JPA MATERIALS TO LAFCO AS REQUIRED UNDER SB 1266**

A newly passed state law (SB 1266) requires all special districts that are a part of a Joint Powers Agreement (JPA), to file copies of their JPA with LAFCO.

TCSD is part of just one JPA and that is with the Sanitary Agencies of Southern Marin, or SASM. This was formed and went into operation on June 1, 1979, to provide sewer waste water treatment in the area that was formerly called Kay Park Sanitary District, which merged into TCSD. It consists of a total of 265 EDUs with 125 residential, 67 commercial units, and 74 unallocated.

SB 1266 outlines the process requirements for TCSD to file a copy of our SASM JPA. A copy of that agreement with all amendments is attached. Information materials explaining SB 1266 are also attached for background purposes.

Recommended Action: Informational item only. Staff will forward materials required to LAFCO.







**MEMORANDUM**

December 5, 2016

**TO:** Local Public Agency Administrators  
 - County of Marin  
 - Cities/Towns of Marin County  
 - Special Districts of Marin County

**FROM:** Keene Simonds, Executive Officer

**SUBJECT:** **Implementing Senate Bill 1266 (McGuire) |**  
 New Reporting Requirements for Certain Joint Power Authorities

This memorandum provides formal notice by the Marin Local Agency Formation Commission (LAFCO) of the new filing requirements established under Senate Bill 1266 (McGuire). This legislation becomes effective on January 1, 2017 and amends the Joint Exercise of Powers Act to establish new reporting procedures in which certain joint power agencies (JPAs) shall now file their agreements and any subsequent amendments with LAFCOs and within certain prescribed time periods. The legislation follows the recommendations of an earlier Legislative Analyst's Office report and intended to further assist LAFCOs in meeting their long-standing directive to document, assess, and facilitate shared local public service opportunities in all 58 counties. The legislation similarly advances the Legislature's interest in LAFCOs serving as community resources by developing more inclusive repositories on local government services for the benefit of the general public. Failure to comply with the new reporting requirements will prohibit a subject JPA from issuing any bonds or incur indebtedness of any kind.

As referenced not all JPAs are subject to SB 1266. The legislation is purposefully limited to those JPAs with a county, city, town, or special district member in which the entity provides a local municipal service consistent with Government Code Section 56047.7. Towards this end, and for purposes of limiting the scope of potential reporting entities, Marin LAFCO internally defines the provision of "municipal services" to include any service or related function listed under Government Code Section 61100. Additionally, and to expedite the reporting process, Marin LAFCO encourages all respondents to provide copies of their agreements and amendments in electronic format to Administrative Analyst Rachel Jones at [rjones@marinlafco.org](mailto:rjones@marinlafco.org). All submittals will be followed by formal acknowledgments by Marin LAFCO for agency records.

**Attachments:**

- 1) Senate Bill 1266 as Chaptered
- 2) Government Code Section 56047.7
- 3) Government Code Section 61100



**Judy Arnold, Regular**  
 County of Marin

**Damon Connolly, Regular**  
 County of Marin

**Kate Sears, Alternate**  
 County of Marin

**Carla Condon, Vice Chair**  
 Town of Corte Madera

**Sashi McEntee, Regular**  
 City of Mill Valley

**Matt Brown, Alternate**  
 City of San Anselmo

**Jack Baker, Regular**  
 North Marin Water District

**Craig K. Murray, Regular**  
 Las Gatas Valley Sanitary

**Lew Kicun, Alternate**  
 Alameda Sanitary District

**Jeffrey Blanchfield, Chair**  
 Public Member

**Chris Burdick, Alternate**  
 Public Member



SEWERAGE AGENCY OF SOUTHERN MARIN  
JOINT EXERCISE OF POWERS AGREEMENT

THIS AGREEMENT, dated for convenience as of June 1, 1979, by and between ALMONTE SANITARY DISTRICT, ALTO SANITARY DISTRICT, THE CITY OF MILL VALLEY, RICHARDSON BAY SANITARY DISTRICT and TAMALPAIS VALLEY COMMUNITY SERVICES DISTRICT.

R E C I T A L S

WHEREAS, as of June 20, 1973, the parties hereto entered into a Joint Exercise of Powers Agreement creating the Southern Marin Subregional Sewerage Agency for the purpose of preparing a plan and program necessary for meeting the wastewater treatment needs of the Southern Marin area;

WHEREAS, said purpose has been substantially accomplished and final approvals of the Eastern Marin Southern Sonoma Wastewater Facilities Plan and Associated Environmental Impact Report and Environmental Impact Statement are now pending;

WHEREAS, said plan provides for the construction and installation of wastewater collection, treatment, reclamation and disposal facilities to serve the Southern Marin area;

WHEREAS, it will be to the financial advantage of each of the parties hereto to provide 1) for the joint financing, ownership, operation and maintenance of certain of the wastewater facilities to be installed and constructed according to said Plan as finally approved; 2) for the joint operation and maintenance of certain of the wastewater facilities to be so installed and constructed and also of certain wastewater facilities already in place; and 3) for coordination in the operation, use and maintenance of those wastewater facilities which remain in the ownership of the respective parties hereto and which shall be operated and maintained by them; and

WHEREAS, the parties hereto possess the common power to collect, treat, reclaim and dispose of wastewater, to provide for solution of such problems which are of direct concern to the parties hereto in the performance of their constitutional and statutory functions, and to join associations and expend public funds for such purposes, including funds contributed by the parties or by any person or any subventions or grants which may be obtained from the federal and/or state governments;

NOW, THEREFORE, in consideration of the mutual terms, covenants and conditions herein contained, said parties, acting by and through their respective governing bodies, do hereby agree as follows:

Section 1. Definition of Terms.

"ACT" means the provisions of Chapter 5 of Division 7 of Title 1 of the Government Code (commencing with Section 6500) pertaining to joint powers agreements.

"AGENCY" means the Sewerage Agency of Southern Marin. Agency

"COMMISSION" means the governing board of the Sewerage Agency of Southern Marin.

"FINANCING PLAN" means the Financing Plan contained in the Eastern Marin Southern Sonoma Wastewater Facilities Plan, Volume II, Southern Marin Planning Unit, as finally approved.

"JOINT USE FACILITIES" means those wastewater facilities used or capable of being used by two or more Member Entities.

"MEMBER ENTITY" means any city or district party to this agreement.

"REGIONAL SEWER SERVICE CHARGE" means the periodic lump sum charge payable by each Member Entity to the Agency as hereinafter further defined.

"SOLE USE FACILITIES" means those wastewater facilities used by a single Member Entity.

"UNIFORM SEWER SERVICE CHARGE" means the sewer service charge established and levied by the Agency throughout its service area as hereinafter further defined.

Section 2. Creation of Agency. There is hereby created a public agency to be known as the "Sewerage Agency of Southern Marin". The Agency is formed by this Agreement pursuant to the provisions of Article I, Chapter 5, Division 7, Title 1 of the Government Code of the State of California relating to the joint exercise of powers common to public agencies. For the purposes of this Agreement, the Agency is a separate public agency separate from the parties hereto and shall be the agency to administer or execute this Agreement.

Section 3. Purpose. The purpose of this Agreement is to create an agency which will plan, acquire, construct, maintain and operate facilities, for either joint or sole use, for the collection, treatment, reclamation and disposal of sewage and other wastewater for the benefit of lands and inhabitants within or without the collective boundaries of the Member Entities.

Section 4. Term and Effect. This Agreement shall become effective when all eligible Member Entities have approved and authorized execution of this Agreement by their respective governing bodies and shall continue in full force and effect until such time as all revenue bonds that may be issued by the Agency and the interest thereon shall have been paid in full or other provision for such payment shall have been made as set forth in the proceedings for the issuance thereof; provided, however, that the term of this Agreement may be extended by written agreement of the Member Entities.

This Agreement shall supersede and terminate all existing agreements between Member Entities providing for wastewater treatment and disposal by one Member Entity for another in joint use facilities to be operated and maintained by the Agency pursuant to

this Agreement. The termination date of such existing agreements shall be the date upon which the Agency commences the exercise of responsibility for operation and maintenance of such joint use facilities.

Section 5. Powers. The Agency shall have the power and authorization to plan, acquire, construct, maintain and operate facilities, for either joint or sole use, for the collection, treatment, reclamation and disposal of sewage and other wastewater for the benefit of lands and inhabitants within or without the boundaries of the Member Entities. The Member Entities will relinquish to, and the Agency will assume for the benefit of the Member Entities, responsibility for all functions pertaining to the treatment, reclamation and disposal of sewage and other wastewater. The Agency may enter into contracts to perform any or all of these functions.

The Agency is hereby authorized, in its own name, to do all acts necessary for the exercise of said power for said purposes, including but not limited to any or all of the following: to make and enter into contracts; apply for and accept grants, advances, and contributions; to employ agents, consultants and employees; to acquire, construct, manage, maintain and operate any buildings, works or improvements; to acquire, hold or dispose of property; to sue and be sued in its own name; to incur debts, liabilities, or obligations; to issue revenue bonds, notes, warrants, and other evidences of indebtedness to finance the costs and incidental expenses of the projects of the Agency; to exercise all powers conferred by the Act; and to exercise all other powers common to the Member Entities not herein specifically mentioned which may be necessary to carry out the purpose of this Agreement.

No debt, liability or obligation of the Agency shall constitute a debt, liability or obligation of any Member Entity.

The Agency has no power to levy or cause to be levied ad valorem property taxes.

The powers are subject to the restrictions upon the manner of exercising the powers as provided in the Sanitary District Act of 1923, Division 6 of the Health and Safety Code of the State of California, as amended.

Section 6. Governing Body of the Agency. The Agency shall be governed by the Sewerage Agency of Southern Marin Commission.

The Commission shall consist of nine commissioners, each of whom shall have one vote. Each Member Entity shall appoint one commissioner as its representative on the commission. Each Member Entity shall also appoint an alternate commissioner.

Each commissioner and alternate shall be a voting member of the governing body of the Member Entity that he or she represents. A commissioner shall serve in such a manner and for such term as the Member Entity that he or she represents may determine.

Section 7. Officers and Duties. A Chairman, a Vice-Chairman and a Secretary shall be elected by the Commission from its own members, the term of office for each such office to be one year and until a successor is elected to such office.

The Chairman shall sign all contracts on behalf of the Agency and perform such other duties as may be imposed by the Commission. With the approval of the Commission, the Chairman may delegate to the Administrative Officer the power to sign contracts on behalf of the Agency. The Vice-Chairman shall act in the absence of the Chairman. The Secretary shall countersign all contracts on behalf of the Agency; perform such other duties as may be imposed by the Commission; and keep minutes of all meetings and cause a copy of the minutes to be forwarded to each of the members of the Commission and each of the Member Agencies.

The Commission may appoint and employ an Administrative Officer or an acting Administrative Officer who shall perform such



duties as may be imposed by the Commission and who shall report to the Commission in accordance with such rules and regulations as the Commission may adopt.

In the absence of an Administrative Officer, the Chairman shall perform the duties of the Administrative Officer.

The Treasurer of the County of Marin is hereby designated as the treasurer of the Agency and as the depositary to have custody of all the moneys of the Agency from whatever source. The Auditor-Controller of the County of Marin is hereby designated as the auditor-controller of the Agency. The treasurer and auditor-controller shall have the duties and obligations set forth in Section 6505.5 of the Government Code of the State of California.

Section 8. Advisory Members. Representatives who are voting members of the governing bodies of the City of Sausalito, ~~Kay Park Sewer Maintenance District~~, and Marin Municipal Water District shall be advisory members of the Commission. In addition, a representative appointed by the Marin County Board of Supervisors shall be an advisory member of the Commission. Such members shall have rights to participate in discussion in matters of planning. Such advisory members shall have no power to vote or to make or second motions and shall not count towards a quorum.

Section 9. Duties of the Commission. The duties of the Commission shall be:

- (a) To make all policy decisions and exercise all of the powers of the Agency;
- (b) To submit full and regular reports to the Member Entities;
- (c) To adopt from time to time such rules and regulations for the conduct of its affairs as may be required.

The members of the Commission shall receive <sup>no</sup> compensation except as may be provided by the respective Member Entities which they represent.

Section 10. Meetings of the Commission. Regular meetings of the Commission shall be held at such time and place as shall be established by the Commission by resolution.

All meetings of the Commission including regular, adjourned regular and special meetings, shall be called, noticed, held and conducted in accordance with the provisions of the Ralph M. Brown Act, Section 54950 through 54960 of the Government Code of the State of California.

Section 11. Quorum. A majority of the voting members of the Commission shall constitute a quorum. Any action of the Agency shall require the affirmative vote of a majority of the entire voting membership of the Commission.

Section 12. Accountability of Funds, Reports and Audits. There shall be strict accountability of all funds and a report of all receipts and disbursements of the Agency. The auditor-controller of the Agency shall cause annual audits of the accounts and records of the Agency to be prepared in accordance with the requirements contained in Section 6505 of the Government Code of the State of California. Should the Agency terminate prior to the expiration of any fiscal year, the auditor-controller shall cause a final audit of the accounts and records of the Agency to be prepared. The fiscal year of the Agency shall terminate June 30 of each year. The Agency shall establish and maintain all necessary funds and accounts which shall be open to inspection at all reasonable times.

Section 13. Bonding Persons Having Access to Property. Officers or person or persons who have charge of, handle or have access to any property of the Agency, shall be required to file an official bond with the Agency in such amount as may be established by the Commission. Should an existing bond of any of said officer or officers or person or persons be extended to cover the obligation provided herein, said bond shall be the official bond of said officers or officer or person or persons required to be posted

herein. The premium on any such bond or bonds shall be an appropriate expense of the Agency. Any payment to the treasurer or auditor-controller required in the operation of the Agency shall be an appropriate charge against the Agency.

The Administrative Officer shall have the responsibility of any and all property of Agency and shall indicate approval of all claims and demands for the disbursement of Agency funds prior to submittal of said claims and demands to the Commission for approval.

Section 14. Bonds. The Agency shall have power and authority to issue and sell revenue bonds in accordance with the following:

(a) Article 2, Chapter 5, Division 7, Title 1 of the Government Code, commencing with Section 6540;

(b) Chapter 6, Division 2, Title 5 of the Government Code, commencing with Section 54300; and

(c) Chapter 5, Part 3, Division 5 of the Health & Safety Code, commencing with Section 4950.

For purposes of referendum and vote on an Agency-wide basis, the boundaries of the boundaries of the Agency shall be the consolidated boundaries of its Member Entities. Under applicable law, the Agency may form improvement districts in which event the boundaries thereof shall be determinative with respect to referendum and voting. Bond elections shall be conducted pursuant to the Uniform District Election Law and applicable provisions of the Elections Code.

The Agency shall have and exercise all powers conferred on "local agencies" by the provisions of the law with respect to such revenue bonds.

Section 15. Operating and Bond Funds. An operating fund shall be established and maintained which shall be used to pay all administrative and incidental expenses incurred by the Agency, together with all costs of maintenance and operation arising from the operation of Joint Use Facilities. Revenues for the operating

fund shall be derived from Regional Sewer Service Charges periodically charged to each Member Entity by the Agency, which Regional Sewer Service Charges the Member Entities hereby agree to pay. The periodic Regional Sewer Service Charge for each Member Entity shall be determined by the Agency and shall be based upon the relative volume and quality of wastewater generated by each Member Entity. Volume will be determined based upon continuous measuring to measure total volume generated during the period. Quality will be determined by periodic monitoring.

Each Member Entity, in turn, shall derive the revenues necessary to pay its Regional Sewer Service Charges to the Agency through the establishment of sewer service charges based upon single family dwelling unit equivalent as defined by the Agency.

Each single family dwelling unit shall be assigned one single family dwelling unit equivalent. All other structures, or portions thereof used for purposes other than as single family dwelling units, shall be assigned a number of such units, as determined by the Agency based upon 1) water meter readings and/or use of water from non-metered sources, 2) visual inspection to determine the relative extent to which water may be used for purposes which do not produce discharge into wastewater facilities, 3) the chemical and/or other composition of the wastewater produced, 4) the peaking and ebbing cycle of the wastewater flows, and 5) any requirements imposed by the federal or state governments or agencies thereof.

Upon adoption of this Agreement, each Member Entity shall contribute to the operating fund an amount based on its proportionate number of single family dwelling unit equivalents. This initial contribution shall be \$24.00 per single family dwelling unit equivalent. The money contained in this fund shall be used solely for initial administrative and operating expenses, including costs and expenses associated with so-called Step II, which may be necessary prior to the Agency's initial collection of Regional Sewer Service Charges.

If the initial contributions are not sufficient to meet the Agency's initial administrative and operating expenses prior to initial collection of Regional Sewer Service Charges, the Agency may assess the Member Entities, and the Member Entities shall pay such additional amount or amounts, in the same proportion as the initial contributions, as are necessary to meet such initial administrative and operating expenses. Such initial contributions and additional amounts, if any, shall be adjusted after the Agency's first full year of operating experience, to relative amounts proportionate to the Regional Sewer Service Charges paid by each Member Entity during such first year.

Revenues required to provide moneys for bond interest and redemption or other bond funds in connection with revenue bonds issued by the Agency shall be derived from a Uniform Sewer Service Charge levied by the Agency throughout the Agency's service area and shall be based on single family dwelling unit equivalents as hereinabove defined and determined. The amount of such charge shall be established by the Agency.

Section 16. Ownership and Operation of Properties. With respect to the ownership and operation of sewerage facilities and compensation for the use thereof, it is agreed by the parties hereto that:

1. Treatment Facilities.

Effective on a date to be determined and prior to award of construction contracts, Member Entities \_\_\_\_\_ shall allow the Agency rights in use of the wastewater treatment facilities which each owns together with the land on which such facilities are located and associated laboratory facilities and equipment all as described in Exhibit I, necessary for the operation of Joint Use Facilities, in consideration for an amount to be determined by special audit and based on the original cost of the facilities and improvements thereto. Such audit will be performed in accordance with the procedures set forth in the Financing Plan.

The manner and legal method, whether by lease, lease-leaseback, outright acquisition or other, of improvements only or land and improvements, by which the Agency will attain such rights shall be negotiated between the Agency and each such Member Entity. It is understood, however, that whatever the legal method, the Agency will attain such rights as will permit it to exercise responsibility for operation and maintenance of these facilities and that such Member Entity will relinquish such responsibility. In the exercise of such responsibility, the Agency may agree to permit any such Member Entity to operate and maintain such facilities under contract to the Agency.

Also, whatever the legal method, the Agency shall have the right to construct improvements and extensions to such facilities.

The Agency will pay the costs, if any, associated with demolition and salvage of treatment or related facilities, presently existing, which are abandoned, or for the acquisition of facilities other than treatment facilities.

## 2. Sewerage Works Other Than Treatment Facilities.

The sewerage works described in Exhibit II are necessary for the operation of Joint Use Facilities. The Member Entities owning such works may continue to own, operate and maintain same, provided, however, that the Agency shall have the right to construct improvements and extensions thereto. If such improvements and extensions are constructed, the costs and expenses of operating such works shall be allocated between the Agency and the owner Member Entity, by agreement, on the basis of the ratio of respective use of such works by the Member Entity as an integral part of its collection system and by the Agency as an integral part of its Joint Use Facilities.

Upon request by a Member Entity, the Agency shall agree to and shall operate and maintain such works with the costs thereof being allocated as hereinabove described. An agreement so providing shall be entered into within a reasonable time after such request is made and shall be of at least three years duration unless otherwise agreed.

Unless otherwise agreed, the Agency shall be solely responsible and shall assume legal liability for the operation and maintenance of such works and shall do so in manner consistent with sound practice and fiscal conservatism.

With respect to either type of agreement herein described, if the Agency and the Member Entity cannot agree on a cost allocation formula, they shall refer the matter for final determination to a mutually agreed upon arbitrator.

3. Sewerage Facilities Financed by Agency Funds.

The Agency shall own entirely all facilities financed by Agency funds including cash, service charge revenues or the proceeds from the sale of revenue bonds.

4. Sole Use Facilities.

Member Entities shall retain ownership of and operate and maintain their respective Sole Use Facilities including wastewater collector systems, provided, however, that the Agency and any Member Entity may, by agreement, provide for ownership and/or for operation and maintenance of that Member Entity's Sole Use Facilities, all or in part, by the Agency. Any such agreement must provide that all costs associated with the operation and maintenance of such Sole Use Facilities by the Agency shall be charged to and paid by the Member Entity.

5. Capital Reserve Funds.

Excess capital funds, if any, from surpluses provided for cash flow by contribution prior to grant receipt shall be credited back to the Member Entities in proportion to their respective initial contributions. Excess capital funds, if any, from annual capital replacement requirements, or from other sources are the property of the Agency and, after approval by the Commission, may be used for capital improvements and the call of outstanding bonds.

6. Operation, Administration, and Maintenance Surplus Funds.

Excess administration, operation and maintenance funds, if any, from whatever source, are the property of the Agency. After provision, if any, for a reasonable working reserve, the Commission may allocate all or a share of such funds to reduce the amounts required for the following year's budget.

7. Employees.

During the period of initial phasing over of responsibility to the Agency for the operation and maintenance of facilities as herein provided, it shall be the policy of the Agency to retain, as employees of the Agency, such of those employees of the Member Entities whose primary responsibility is the operation and maintenance of those facilities which become the responsibility of the Agency for operation and maintenance, and the compensation, benefits, and working conditions of such employees shall be not less than equal to those which exist at the time the Agency assumes such responsibility.

Section 17. Functional Responsibilities. With respect to the administration, operation and maintenance of sewerage facilities within Member Entity boundaries and the performance of functions related thereto, it is agreed by the parties hereto that:

1. The Agency has sole right to establish Regional Sewer Service Charges and Uniform Sewer Service Charges required for bond service.

2. Member Entities will be responsible for processing and review of permit applications, collection and accounting for permit fees, inspection of connections and all recordkeeping attendant thereto, and will retain all such fees associated therewith. Member Entities may perform these functions directly or by contract.

3. Member Entities will collect on behalf of the Agency a regional connection charge per single family dwelling or equivalent, in the amount specified in the then current Agency resolution.

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4. As a condition of the acquisition of rights of use in wastewater treatment plants and other sewerage facilities, the Agency will assume full responsibility for the operation and maintenance of treatment plants, and other sewerage facilities for which compensation will be paid.

5. Unless otherwise agreed upon, Member Entities will have total responsibility for their respective wastewater collector systems and reserve the right to impose charges to pay for this service within their respective jurisdictions.

6. Unless otherwise agreed upon, Member Entities will be responsible for all billing and collection of Uniform Sewer Service Charges on behalf of the Agency and associated recordkeeping, accounting, and delinquency follow-up.

Section 18. Equalization Plan. The Agency agrees to compensate Member Entities for the acquisition of sewerage facilities in the amounts as set forth in Exhibit III, Table 11.

Payments will be made as specified below:

1. Bond Service.

The Agency shall reimburse amounts equal to a proportionate amount of annual interest and principal on outstanding indebtedness incurred for major sewerage purposes in the amount set forth in Exhibit III, Table 11.

2. Reimbursement Payments.

The Agency will pay annually the amounts set forth in Exhibit III, Table 12, which amounts include five percent on the remaining unpaid balance, until the total amounts set forth in Exhibit III, Table 12, shall have been reached. Payments will commence on July 1, 1981.

Section 19. Records and Accounts. The Agency shall cause to be kept accurate and correct books of account, showing in detail the costs and expenses of any new construction, extra construction or reconstruction and the maintenance and operation of the Joint Use

Facilities and all financial transactions of the Member Entities relating to the Joint Use Facilities, which books of account shall correctly show any receipts and also any costs, expenses or charges to be paid by all or any of the Member Entities. Said books of account shall be open to inspection at all times by any representative of any of the Member Entities. The Commission shall, in accordance with Section 6505 of the Government Code, cause the books of account and other financial records of the Agency to be audited annually by an independent public accountant or certified public accountant. All records shall be kept in accordance with the Uniform System of Accounts of the State Controller.

Section 20. Settlement of Disputes. If a dispute arises as to the construction, interpretation or implementation of any provision of this Agreement, the issues in dispute or matter requiring action shall be submitted to binding arbitration. For such purpose, an agreed arbitrator shall be selected by all members of the Commission, or in the absence of unanimous agreement, the Commission, by majority vote, shall select an arbitrator and the members of the Commission in dissent shall select an arbitrator. The two arbitrators so selected shall select a third arbitrator. The arbitrator, or three arbitrators acting as a panel, shall proceed to arbitrate the matter in accordance with the provisions of Title 9 of Part 3 of the Code of Civil Procedure.

Section 21. Withdrawal or Dissolution. Upon withdrawal of a Member Entity from the Agency or upon dissolution of the Agency, there shall be partial or complete distribution of assets and discharge of liabilities as follows:

(a) Withdrawal. A Member Entity may withdraw from the Agency only with the unanimous consent of the remaining Member Entities and upon mutually agreeable terms and conditions. Upon withdrawal of any Member Entity from the Agency, the withdrawing Member Entity shall receive its proportionate share of the assets of the Agency and shall

contribute its proportionate share toward discharge of any enforceable liabilities incurred by the Agency as the same appear on the books of the Agency.

(b) Dissolution. Upon dissolution of the Agency, each Member Entity shall receive its proportionate share of the assets of the Agency and shall contribute its proportionate share toward discharge of any enforceable liabilities incurred by the Agency as the same appear on the books of the Agency.

The distribution of assets may be made in kind or assets may be sold and the proceeds thereof distributed to a Member Entity at the time of withdrawal or to all Member Entities at the time of dissolution, provided that all facilities and rights in facilities assigned or transferred by any Member Entity to the Agency shall be reconveyed to said Member Entity free and clear of all encumbrances and liens of any kind.

Upon withdrawal of a Member Entity from the Agency or upon dissolution of the Agency, the responsibility of the Member Entity of Member Entities to contribute to the discharge of enforceable liabilities incurred by the Agency shall be limited to the proportion that the contributions made by each Member Entity bears to the total contributions made by all of the Member Entities to the Agency from the effective date of this Agreement to the date of withdrawal or dissolution.

Section 22. Miscellaneous. The section headings herein are for convenience only and are not to be construed as modifying or governing the language in the section referred to.

This Agreement is made in the State of California and under its Constitution and laws, and it is to be so construed.

To preserve a reasonable degree of flexibility, many parts of this Agreement are stated in general terms. It is understood that the Commission may from time to time adopt and implement rules and regulations to further define the rights and obligations of the

Member Entities and of the Agency to carry out the purposes of this Agreement.

This Agreement may be amended in any particular, from time to time, by unanimous action of the Member Entities, provided, however, that no authority on which action has been taken by the Agency shall be limited or withdrawn.

Section 23. Partial Invalidity. If any one or more of the terms, provisions, promises, covenants, or conditions of this Agreement shall to any extent be adjudged invalid, unenforceable, void, or voidable for any reason whatsoever by a court of competent jurisdiction, each and all of the remaining terms, provisions, promises, covenants, and conditions of this Agreement shall not be affected thereby, and shall be valid and enforceable to the fullest extent permitted by law.

Section 24. Successors. This Agreement shall be binding upon and shall inure to the benefit of the successors of the parties hereto.


Section 25. Effective Date. The effective date of this Agreement shall be July 1, 1979.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and attested by their proper officers thereunto duly authorized, and their official seals to be hereto affixed, as of the day and year first above written.

CITY OF MILL VALLEY,  
a Municipal Corporation

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

(SEAL)

ALMONTE SANITARY DISTRICT,  
a Public Corporation

Raymond F. Douglas  
President

ATTEST:

Thomas Roberts  
Secretary (SEAL)

ALTO SANITARY DISTRICT,  
a Public Corporation

James Hallman  
President

ATTEST:

Sherri L. Smith  
Secretary (SEAL)

RICHARDSON BAY SANITARY DISTRICT,  
a Public Corporation

For [Signature]  
President

ATTEST:

J. Radach  
Secretary (SEAL)

TAMALPAIS COMMUNITY SERVICES  
DISTRICT

John F. Walker  
President

ATTEST:

Leonard Mitchell  
Secretary (SEAL)

INFORMATION NOTE

The Tamalpais Community Services District's responsibilities under this agreement are for the Kay Park Sewer Maintenance District area only.

FIRST AMENDMENT TO  
SEWERAGE AGENCY OF SOUTHERN MARIN  
JOINT EXERCISE OF POWERS AGREEMENT

THIS FIRST AMENDMENT, dated for convenience as of October 1, 1979, by and between ALMONTE SANITARY DISTRICT, ALTO SANITARY DISTRICT, CITY OF MILL VALLEY, RICHARDSON BAY SANITARY DISTRICT and TAMALPAIS COMMUNITY SERVICES DISTRICT.

R E C I T A L S

WHEREAS, the parties hereto have previously entered into an agreement entitled SEWERAGE AGENCY OF SOUTHERN MARIN JOINT EXERCISE OF POWERS AGREEMENT, dated for convenience as of June 1, 1979;

WHEREAS, the parties hereto desire to amend said Agreement in certain particulars;

NOW, THEREFORE, the parties hereto do hereby agree to amend Sections 6, 7 and 8 of said Agreement to read, respectively, as follows:

"Section 6. Governing Body of the Agency. The Agency shall be governed by the Sewerage Agency of Southern Marin Commission.

Each Member Entity shall appoint one commissioner as its representative on the Commission. Each Commissioner shall have one vote. Each Member Entity shall also appoint an alternate commissioner.

Each commissioner and alternate shall be a voting member of the governing body of the Member Entity that he or she represents. A commissioner shall serve in such a manner and for such term as the Member Entity that he or she represents may determine.";

"Section 7. Officers and Duties. A President, a Vice-President and a Secretary shall be elected by

the Commission from its own members, the term of office for each such office to be one year and until a successor is elected to such office.

The President shall sign all contracts on behalf of the Agency and perform such other duties as may be imposed by the Commission. With the approval of the Commission, the President may delegate to the Administrative Officer the power to sign contracts on behalf of the Agency. The Vice-President shall act in the absence of the President. The Secretary shall countersign all contracts on behalf of the agency; perform such other duties as may be imposed by the Commission; and keep minutes of all meetings and cause a copy of the minutes to be forwarded to each of the members of the Commission and each of the Member Agencies.

The Commission may appoint and employ an Administrative Officer or an acting Administrative Officer who shall perform such duties as may be imposed by the Commission and who shall report to the Commission in accordance with such rules and regulations as the Commission may adopt.

In the absence of an Administrative Officer, the President shall perform the duties of the Administrative Officer.

The Treasurer of the County of Marin is hereby designated as the treasurer of the Agency and as the depository to have custody of all the moneys of the Agency from whatever source. The Auditor-Controller of the County of Marin is hereby designated as the auditor-controller of the Agency. The treasurer and auditor-controller shall have the duties and obligations set forth in Section 6505.5 of the Government Code of the State of California.";

"Section 8. Advisory Members. Representatives who are voting members of the governing bodies of the City of Belvedere, Sanitary District No. 5 of Marin County, Sausalito - Marin City Sanitary District, City of Sausalito, and Marin Municipal Water District shall be advisory members of the Commission. In addition, a representative appointed by the Marin County Board of Supervisors shall be an advisory member of the Commission. Such members shall have rights to participate in discussion in matters of planning. Such advisory members shall have no power to vote or to make or second motions and shall not count towards a quorum.";

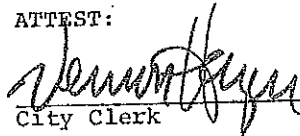
and to amend Exhibit II attached to said Agreement to read as Exhibit II hereto attached and incorporated by reference herein.

This Amendment shall become effective when all parties hereto shall have authorized execution thereof by their respective governing bodies.

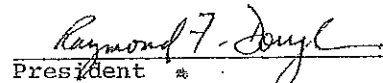
CITY OF MILL VALLEY,  
a Municipal Corporation

  
\_\_\_\_\_  
Mayor


ATTEST:

  
\_\_\_\_\_  
City Clerk (SEAL)

ALMONTE SANITARY DISTRICT,  
a Public Corporation

  
\_\_\_\_\_  
President \*

ATTEST:

  
\_\_\_\_\_  
Secretary (SEAL)



ALTO SANITARY DISTRICT,  
a Public Corporation

George Hoffman  
President

ATTEST:  
Shan. D. D. [Signature]  
Secretary (SEAL)

RICHARDSON BAY SANITARY DISTRICT,  
a Public Corporation

[Signature]  
President

ATTEST:  
[Signature]  
Secretary (SEAL)

TAMALPAIS COMMUNITY SERVICES  
DISTRICT, a Public Corporation

Eugene Spake  
President

ATTEST:  
[Signature]  
Secretary (SEAL)

SECOND AMENDMENT TO  
SEWERAGE AGENCY OF SOUTHERN MARIN  
JOINT EXERCISE OF POWERS AGREEMENT

THIS SECOND AMENDMENT, dated for convenience as of October 15, 1979, by and between ALMONTE SANITARY DISTRICT, ALTO SANITARY DISTRICT, CITY OF MILL VALLEY, RICHARDSON BAY SANITARY DISTRICT, TAMALPAIS COMMUNITY SERVICES DISTRICT AND HOMESTEAD VALLEY SANITARY DISTRICT.

R E C I T A L S

WHEREAS, the parties hereto, excepting HOMESTEAD VALLEY SANITARY DISTRICT, have previously entered into an Agreement entitled SEWERAGE AGENCY OF SOUTHERN MARIN JOINT EXERCISE OF POWERS AGREEMENT, dated for convenience as of June 1, 1979;

WHEREAS, said Agreement was subsequently amended by a FIRST AMENDMENT TO SEWERAGE AGENCY OF SOUTHERN MARIN JOINT EXERCISE OF POWERS AGREEMENT dated for convenience as of October 1, 1979;

WHEREAS, HOMESTEAD VALLEY SANITARY DISTRICT desires to become a party to said Agreement as amended;

WHEREAS, HOMESTEAD VALLEY SANITARY DISTRICT possesses in common with the original parties to said Agreement the powers to collect, treat, reclaim and dispose of wastewater, to provide for solution of such problems which are of direct concern to the parties in the performance of their constitutional and statutory functions, and to join associations and expend public funds for such purposes, including funds contributed by the parties or by any person or any subventions or grants which may be obtained from the federal and/or state governments; and

WHEREAS, the public interest and convenience will be served by HOMESTEAD VALLEY SANITARY DISTRICT becoming a party to said Agreement;

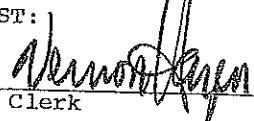
NOW, THEREFORE, the parties hereto do hereby agree as follows:

1. HOMESTEAD VALLEY SANITARY DISTRICT shall be a party to the SEWERAGE AGENCY OF SOUTHERN MARIN JOINT EXERCISE OF POWERS AGREEMENT, as subsequently amended, and shall be a Member Entity of said Agency with all of the rights, duties and obligations thereof.

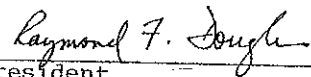
2. This amendment shall become effective when all parties hereto shall have authorized execution thereof by their respective governing bodies.


CITY OF MILL VALLEY,  
a Municipal Corporation

  
Mayor

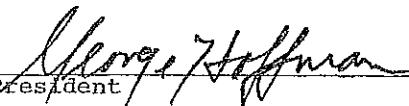
ATTEST:  
  
City Clerk  
(SEAL)

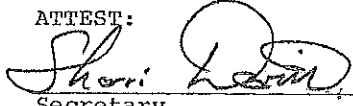
ALMONTE SANITARY DISTRICT,  
a Public Corporation

  
President

ATTEST:  
  
Secretary  
(SEAL)

ALTO SANITARY DISTRICT,  
a Public Corporation

  
President

ATTEST:  
  
Secretary  
(SEAL)

RICHARDSON BAY SANITARY DISTRICT,  
a Public Corporation

*J. W. McLaughlin*  
President

ATTEST:

*John Robb*  
Secretary (SEAL)

TAMALPAIS COMMUNITY SERVICES  
DISTRICT, a Public Corporation

*Eugene Speck*  
President

ATTEST:

*Edward Mitchell*  
Secretary (SEAL)

HOMESTEAD VALLEY SANITARY DISTRICT,  
a Public Corporation

*Bert P. Davies*  
President

ATTEST:

*Lawrence Joyce*  
Secretary (SEAL)



THIRD AMENDMENT TO  
SEWERAGE AGENCY OF SOUTHERN MARIN  
JOINT EXERCISE OF POWERS AGREEMENT

THIS THIRD AMENDMENT to Sewerage Agency of Southern Marin Joint Exercise of Powers Agreement, dated for convenience as of June 1, 1980, by and between ALMONTE SANITARY DISTRICT, ALTO SANITARY DISTRICT, CITY OF MILL VALLEY, RICHARDSON BAY SANITARY DISTRICT, TAMALPAIS COMMUNITY SERVICES DISTRICT and HOMESTEAD VALLEY DISTRICT.

R E C I T A L S

WHEREAS, the parties hereto have previously entered into an Agreement entitled, "SEWERAGE AGENCY OF SOUTHERN MARIN JOINT EXERCISE OF POWERS AGREEMENT," dated for convenience as of June 1, 1979, as subsequently amended; and

WHEREAS, the parties hereto desire to further amend said Agreement in certain particulars;

NOW, THEREFORE, the parties hereto do hereby agree to amend Section 7 of said Agreement to read as follows:

"Section 7. Officers and Duties. A President, a Vice-President and a Secretary shall be elected by the Commission from its own members, the term of office for each such office to be one year and until a successor is elected to such office.

The President shall sign all contracts on behalf of the Agency and perform such other duties as may be imposed by the Commission. With the approval of the Commission, the President may delegate to the Administrative Officer the power to sign contracts on behalf of the Agency. The Vice-President shall act in the absence of the President. The Secretary shall countersign all contracts on behalf of the agency; perform such other duties as may be imposed by the Commission; and keep minutes of all meetings and cause a copy of the

and keep minutes of all meetings and cause a copy of the minutes to be forwarded to each of the members of the Commission and each of the Member Agencies.

The Commission may appoint and employ an Administrative Officer or an acting Administrative Officer who shall perform such duties as may be imposed by the Commission and who shall report to the Commission in accordance with such rules and regulations as the Commission may adopt.

In the absence of an Administrative Officer, the President shall perform the duties of the Administrative Officer.

The Commission shall appoint one of its members or employees, other than the Administrative Officer, as Treasurer of the Agency to be the depository and have custody of all the money of the Agency from whatever source. The Commission shall appoint one of its members or employees, other than the Administrative Officer, as Auditor-Controller of the Agency to draw warrants to pay demands against the Agency when the demands have been approved by the Commission. The same officer or employee may be appointed as both Treasurer and Auditor-Controller and the Treasurer and Auditor-Controller shall have the duties and obligations set forth in Sections 6505.5 and 6505.6 of the Government Code of the State of California."

This Amendment shall become effective when all parties hereto shall have authorized execution thereof by their respective governing bodies.

CITY OF MILL VALLEY,  
a Municipal Corporation

*Jean Bressanek*  
Mayor

ATTEST:

*Elaine F. Carry*  
City Clerk, Deputy

(SEAL)

ALMONTE SANITARY DISTRICT,  
a Public Corporation

Raymond F. Dougherty  
President

ATTEST:

Thomas J. Pickett  
Secretary  
(SEAL)

ALTO SANITARY DISTRICT,  
a Public Corporation

George Hoffman  
President

ATTEST:

Shari L. Smith  
Secretary  
(SEAL)

RICHARDSON BAY SANITARY DISTRICT  
a Public Corporation

John Radovich  
President

ATTEST:

Edward Sotelo  
Secretary  
(SEAL)



TAMALPAIS COMMUNITY SERVICES  
DISTRICT, a Public Corporation

Eugene Spake  
President

ATTEST:

Leonard Mitchell  
Secretary

(SEAL)

HOMESTEAD VALLEY SANITARY DISTRICT,  
a Public Corporation

Beotram L. Davis  
President

ATTEST:

Lawrence Payne  
Secretary

(SEAL)

FOURTH AMENDMENT TO  
SEWERAGE AGENCY OF SOUTHERN MARIN  
JOINT EXERCISE OF POWERS AGREEMENT

THIS FOURTH AMENDMENT to Sewerage Agency of Southern Marin Joint Exercise of Powers Agreement, dated for convenience as of January 15, 1981, by and between ALMONTE SANITARY DISTRICT, ALTO SANITARY DISTRICT, CITY OF MILL VALLEY, RICHARDSON BAY SANITARY DISTRICT, TAMALPAIS COMMUNITY SERVICES DISTRICT and HOMESTEAD VALLEY SANITARY DISTRICT.

R E C I T A L S

WHEREAS, the parties hereto have previously entered into an Agreement entitled, "SEWERAGE AGENCY OF SOUTHERN MARIN JOINT EXERCISE OF POWERS AGREEMENT," dated for convenience as of June 1, 1979, as subsequently amended; and

WHEREAS, the parties hereto desire to further amend said Agreement in certain particulars;

NOW, THEREFORE, the parties hereto do hereby agree to amend Sections 16.1, 16.2 and 18.2 of said Agreement to read as follows:

"Section 16. Ownership and Operation of Properties. With respect to the ownership and operation of sewerage facilities and compensation for the use thereof, it is agreed by the parties hereto that:

I. Treatment Facilities.

Effective on a date to be determined and prior to award of construction contracts, Member Entities shall allow the Agency rights in use of the wastewater treatment facilities which each owns together with the land on which such facilities are located and associated laboratory facilities and equipment all as described in Exhibit I, necessary for the operation of Joint Use Facilities, in consideration for an amount to be determined by special audit and based on the original cost of the facilities and improvements thereto. Such audit will be performed in accordance with the procedures set forth in the Financing Plan.

The manner and legal method, whether by lease, lease-leaseback, outright acquisition or other, of improvements only or land and improvements, by which the Agency will attain such rights shall be negotiated between the Agency and each such Member Entity. It is understood, however, that whatever the legal method, the Agency will attain such rights as will permit it to

exercise responsibility for operation and maintenance of these facilities and that such Member Entity will relinquish such responsibility. In the exercise of such responsibility, the Agency shall contract with the City of Mill Valley to operate and maintain such facilities and all other sanitary sewerage facilities owned by the Agency.

Also, whatever the legal method, the Agency shall have the right to construct improvements and extensions to such facilities.

The Agency will pay the costs, if any, associated with demolition and salvage of treatment or related facilities, presently existing, which are abandoned, or for the acquisition of facilities other than treatment facilities.

## 2. Sewerage Works Other Than Treatment Facilities.

The sewerage works described in Exhibit II are necessary for the operation of Joint Use Facilities. The Member Entities owning such works may continue to own, operate and maintain same, provided, however, that the Agency shall have the right to construct improvements and extensions thereto. If such improvements and extensions are constructed, the costs and expenses of operating such works shall be allocated between the Agency and the owner Member Entity, by agreement, on the basis of the ratio of respective use of such works by the Member Entity as an integral part of its collection system and by the Agency as an integral part of its Joint Use Facilities.

The Agency shall contract with the City of Mill Valley to operate and maintain such works with the costs thereof being allocated as hereinabove described. An agreement so providing shall be entered into within a reasonable time after such request is made and shall be of at least three years duration unless otherwise agreed.

Unless otherwise agreed, the Agency shall be solely responsible and shall assume legal liability for the operation and maintenance of such works and shall do so in manner consistent with sound practice and fiscal conservatism.

With respect to either type of agreement herein described, if the Agency and the Member Entity cannot agree on a cost allocation formula, they shall refer the matter for final determination to a mutually agreed upon arbitrator.

## Section 18. Equalization Plan.

### 2. Reimbursement Payments.

The Agency will pay annually the amounts set forth in Exhibit III, Table 12, which amounts include five percent on the remaining unpaid balance, until the total amounts set forth in Exhibit III, Table 12, shall have been reached. Annual payments will commence not later than 6 months after commencement of the Agency's effluent discharge through the Racoon Straits outfall."

This Fourth Amendment shall become effective when all parties hereto shall have authorized execution thereof by their respective governing bodies.

CITY OF MILL VALLEY,  
a Municipal Corporaton

Joan Bessenecker  
Mayor

ATTEST:

Elaine Curry  
City Clerk  
(SEAL)

ALMONTE SANITARY DISTRICT,  
a Public Corporaton

Raymond F. Douglas  
President

COUNTERSIGN:

Thomas Robert  
Secretary  
(SEAL)

ALTO SANITARY DISTRICT,  
a Public Corporation

George Hoffmann  
President

COUNTERSIGN:

Sherrill H. Brown  
Secretary  
(SEAL)

RICHARDSON BAY SANITARY DISTRICT,  
a Public Corporation

Edward J. Zetelo  
President

COUNTERSIGN:

John Radovich  
Secretary (SEAL)

TAMALPAIS COMMUNITY SERVICES  
DISTRICT, a Public Corporation

Eugene Spake  
President

ATTEST:

Leonard Mitchell  
Secretary (SEAL)

HOMESTEAD VALLEY SANITARY DISTRICT  
a Public Corporation

Bertram P. Davies  
President

COUNTERSIGN:

Harmon Payne  
Secretary (SEAL)

FIFTH AMENDMENT TO  
SEWERAGE AGENCY OF SOUTHERN MARIN  
JOINT EXERCISE OF POWERS AGREEMENT

THIS FIFTH AMENDMENT to Sewerage Agency of Southern Marin Joint Exercise of Powers Agreement, dated for convenience as of November 1, 1982, by and between ALMONTE SANITARY DISTRICT, ALTO SANITARY DISTRICT, CITY OF MILL VALLEY, RICHARDSON BAY SANITARY DISTRICT, TAMALPAIS COMMUNITY SERVICES DISTRICT and HOMESTEAD VALLEY SANITARY DISTRICT.

R E C I T A L S

WHEREAS, the parties hereto have previously entered into an Agreement entitled, "SEWERAGE AGENCY OF SOUTHERN MARIN JOINT EXERCISE OF POWERS AGREEMENT," dated for convenience as of June 1, 1979, as subsequently amended; and

WHEREAS, the parties hereto desire to further amend said Agreement in certain particulars;

NOW, THEREFORE, the parties hereto do hereby agree to amend said Agreement by adding subsection 8 to Section 16 thereof to read as follows:

"8. Hold Harmless.

(a) It is specifically understood and agreed that no Member Entity nor any officer or employee thereof, is responsible for any damage or liability occurring by reason of anything done or omitted to be done by Agency under or in connection with any work, authority or jurisdiction not delegated to any Member Entity under this Agreement. It is also understood and agreed that, pursuant to Government Code Section 895.4, Agency shall fully indemnify and hold each Member Entity harmless from any damage or liability occurring by reason of anything done or omitted to be done by Agency under or in connection with any work, authority or jurisdiction not delegated to any of the Member Entities under this Agreement.

(b) It is specifically understood and agreed that neither Agency nor any officer or employee thereof, is responsible for any damage or liability occurring by reason of anything done or omitted to be done by any of the Member Entities pursuant to this Agreement. It is also understood and agreed that, pursuant to Government Code Section 895.4, each Member Entity shall fully indemnify and hold Agency harmless from any damage or liability occurring by reason of anything done or omitted to be done by such Member Entity pursuant to this agreement."

This Fifth Amendment shall become effective when all parties hereto shall have authorized execution thereof by their respective governing bodies.

CITY OF MILL VALLEY,  
a Municipal Corporaton

Flora Franzyk  
Mayor

ATTEST:

Elaine Carry  
City Clerk  
(SEAL)

ALMONTE SANITARY DISTRICT,  
a Public Corporaton

Thomas C. Roberts  
President

COUNTERSIGN:

[Signature]  
Secretary  
(SEAL)

ALTO SANITARY DISTRICT,  
a Public Corporation

Howard A. Lewis  
President

COUNTERSIGN:

Maeie McClure  
Secretary  
(SEAL)

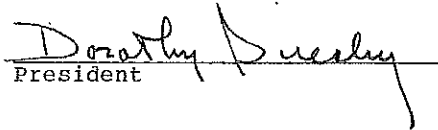
RICHARDSON BAY SANITARY DISTRICT,  
a Public Corporation

  
\_\_\_\_\_  
President

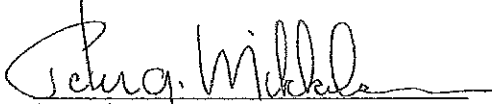
COUNTERSIGN:

  
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Secretary  
(SEAL)

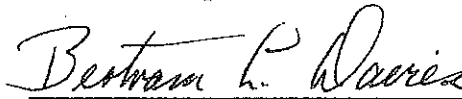
TAMALPAIS COMMUNITY SERVICES  
DISTRICT, a Public Corporation

  
\_\_\_\_\_  
President

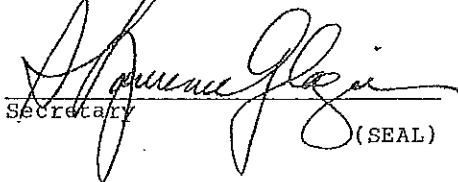
ATTEST:

  
\_\_\_\_\_  
Secretary  
(SEAL)

HOMESTEAD VALLEY SANITARY DISTRICT  
a Public Corporation

  
\_\_\_\_\_  
President

COUNTERSIGN:

  
\_\_\_\_\_  
Secretary  
(SEAL)





SIXTH AMENDMENT TO  
SEWERAGE AGENCY OF SOUTHERN MARIN  
JOINT EXERCISE OF POWERS AGREEMENT

THIS SIXTH AMENDMENT to Sewerage Agency of Southern Marin Joint Exercise of Powers Agreement, is dated for convenience as of July 1, 1987, and is by and between ALMONTE SANITARY DISTRICT, ALTO SANITARY DISTRICT, CITY OF MILL VALLEY, RICHARDSON BAY SANITARY DISTRICT, TAMALPAIS COMMUNITY SERVICES DISTRICT and HOMESTEAD VALLEY SANITARY DISTRICT.

R E C I T A L S

WHEREAS, the parties hereto have previously entered into an Agreement entitled, "SEWERAGE AGENCY OF SOUTHERN MARIN JOINT EXERCISE OF POWERS AGREEMENT," dated for convenience as of June 1, 1979, as subsequently amended; and

WHEREAS, the Agency and the Member Entities are, individually, empowered by law to procure and maintain in effect policies of insurance providing coverage for losses, indemnity and defense arising out of occurrences and events related to such risks as: claims for bodily injury, property damages, personal injuries, public officials errors and omissions, and other forms of liability; casualty losses to real and personal property; workers compensation; and, health and welfare benefits; and

WHEREAS, under the Act (specifically Section 6502 of the California Government Code) and also under Government Code § 990.8, two or more public entities may, by a joint exercise of powers agreement (such as the Agreement between the parties hereto), provide insurance for any purpose; and

WHEREAS, pursuant to Government Code §§ 990.4 and 990.8, such joint coverage may be provided by self-insurance, insurance in an insurer authorized to transact such business in this State, insurance secured in accordance with certain provisions of the California Insurance Code, or any combination of such methods; and

WHEREAS, the parties desire to further amend this Agreement to expressly authorize the Agency and the Member Entities, or any combination of any of them, to act jointly to secure insurance and/or self-insurance coverage,

NOW, THEREFORE, the parties hereto do hereby agree to amend said Agreement by amending Section 5 to read as follows:

"Section 5. Powers. The Agency shall have the power and authorization to plan, acquire, construct, maintain and operate facilities, for either joint or sole use, for the collection, treatment, reclamation and disposal of sewage and other wastewater for the benefit of lands and inhabitants within or without the boundaries of the Member Entities. The Member Entities will relinquish to, and the Agency will assume for the benefit of the Member Entities, responsibility for all functions pertaining to the treatment, reclamation and disposal of sewage and other wastewater. The Agency may enter into contracts to perform any or all of these functions.

The Agency is hereby authorized, in its own name, to do all acts necessary for the exercise of said power for said purposes, including but not limited to any or all of the following: to make and enter into contracts; apply for and accept grants, advances, and contributions; to employ agents, consultants and employees; to acquire, construct, manage, maintain and operate any buildings, works or improvements; to acquire, hold or dispose of property; to sue and be sued in its own name; to incur debts, liabilities, or obligations; to issue revenue bonds, notes, warrants, and other evidences of indebtedness to finance the costs and incidental expenses of the projects of the Agency; to exercise all powers conferred by the Act; and to exercise all other powers common to the Member Entities not herein specifically mentioned which may be necessary to carry out the purpose of this Agreement.

The Agency and/or any one or more of its Member Entities are further authorized to jointly participate in any program of insurance or self-insurance as to which participation by public agencies is authorized under California Law. Participation may take the form of a joint program involving only the the participation of parties to this Agreement, or the participating parties may join with other public agencies by means of an insurance or self-insurance pool, a joint exercise of powers agreement or any other similar arrangement which is permissible under California law. The expense of participation in such joint insurance or self-insurance programs shall be shared proportionately by the participants according to their respective responsibilities for the costs of premiums, deductibles, fees, retentions or other assessments of any kind, as well as any costs of administration and overhead. In determining a participant's proportionate financial responsibility for such costs, all relevant factors may be considered including the participant's loss history and the nature and extent of the risks to which the participant is exposed. No part of the costs of any such program shall be borne, directly or indirectly, by any party to this Agreement who is not a participant in that program. Notwithstanding the authorization provided for herein, no Member Entity shall be entitled as a matter of right to participate in any such program without the approval of the other participants. To that end, the right is reserved to the other participants in a program to exclude or discontinue the participation of any Member Entity in a program if, by a majority vote of all participants, it is determined that participation by a Member Entity would be disadvantageous to the other participants.

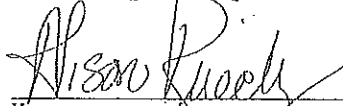
No debt, liability or obligation of the Agency shall constitute a debt, liability or obligation of any Member Entity.

The Agency has no power to levy or cause to be levied ad valorem property taxes.

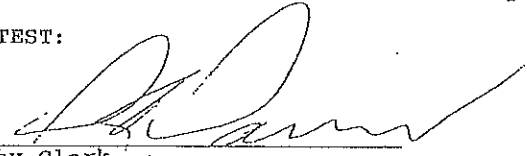
The powers are subject to the restrictions upon the manner of exercising the powers as provided in the Sanitary District Act of 1923, Division 6 of the Health and Safety Code of the State of California, as amended."

This Sixth Amendment shall become effective when all parties hereto shall have authorized execution thereof by their respective governing bodies.

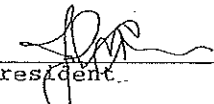
CITY OF MILL VALLEY,  
a Municipal Corporation

  
\_\_\_\_\_  
Mayor

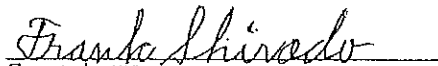
ATTEST:

  
\_\_\_\_\_  
City Clerk  
(SEAL)


ALMONTE SANITARY DISTRICT,  
a Public Corporation

  
\_\_\_\_\_  
President

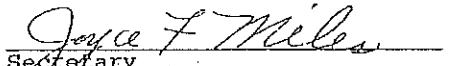
COUNTERSIGN:

  
\_\_\_\_\_  
Secretary  
(SEAL)

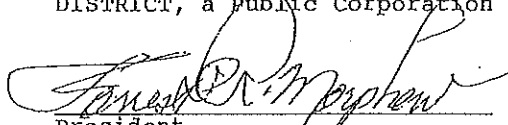
ALTO SANITARY DISTRICT,  
a Public Corporation

  
\_\_\_\_\_  
President

COUNTERSIGN:

  
\_\_\_\_\_  
Secretary (SEAL)

RICHARDSON BAY SANITARY  
DISTRICT, a Public Corporation

  
\_\_\_\_\_  
President

COUNTERSIGN:

  
\_\_\_\_\_  
Secretary (SEAL)

TAMALPAIS COMMUNITY SERVICES  
DISTRICT, a Public Corporation.

Michael Bronham  
President

ATTEST:

John G. Mitchell  
Secretary (SEAL)

HOMESTEAD VALLEY SANITARY  
DISTRICT, a Public Corporation

Bartram L. Davis  
President

COUNTERSIGN:

Aracene Joyce  
Secretary (SEAL)

SEWERAGE AGENCY OF SOUTHERN MARIN  
RESTATED JOINT EXERCISE OF POWERS AGREEMENT  
(Restated as of January 27, 2000)



**SEWERAGE AGENCY OF SOUTHERN MARIN  
RESTATED JOINT EXERCISE OF POWERS AGREEMENT  
(Restated as of January 27, 2000)**

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This "Restated Agreement" is made and entered into by and between the local government entities who are presently parties to the "Sewerage Agency of Southern Marin Joint Exercise of Powers Agreement" dated June 1, 1979 (the "Agreement") or who subsequently become parties to this Restated Agreement.

Recitals

1.0. The Sewerage Agency of Southern Marin (the "Agency") was formed by the Almonte Sanitary District, Alto Sanitary District, City of Mill Valley, Richardson Bay Sanitary District and Tamalpais Community Services District when those public agencies (the "Member Entities") executed the Agreement effective July 1, 1979.

2.0. The Agreement has been amended six times since the Agency was formed. One such amendment, the Second Amendment dated October 15, 1979, added Homestead Valley Sanitary District as a party to the Agreement as a Member Entity.

3.0. The Member Entities of the Agency wish to restate the Agreement for the following reasons:

3.1. To modernize the Agreement by eliminating outdated provisions and by adding new provisions which reflect the Agency's current organizational philosophy and operational practices; and

3.2 To incorporate all of the provisions of the Agreement in a single written instrument.

Terms and Conditions

In consideration of the Recitals stated above and the following Terms and Conditions, the Member Entities of the Agency agree that the Agreement shall be amended and restated in its entirety to read as follows:

Section 1. Definition of Terms.

"Act" means the provisions of Chapter 5 of Division 7 of Title 1 of the Government Code (commencing with Section 6500) pertaining to joint exercise of powers agreements.

"Agency" means the Sewerage Agency of Southern Marin.

"Agreement" means the "Sewerage Agency of Southern Marin Joint Exercise of Powers Agreement" dated June 1, 1979, together with the six amendments to the Agreement approved prior to the effective date of this Restated Agreement.

"Commission" means the governing board of the Agency.

"Member Entity" means any city or district which is a party to this Restated Agreement. Currently the Member Entities are the: Almonte Sanitary District, Alto Sanitary District, City of Mill Valley, Homestead Valley Sanitary District, Richardson Bay Sanitary District, and Tamalpais Community Services District.

"Sewer Service Charge" means a periodic lump sum charge payable by each Member Entity to the Agency in accordance with this Restated Agreement

"Restated Agreement" means this "Sewerage Agency of Southern Marin Restated Joint Exercise of Powers Agreement".

Section 2. Creation of Agency. The Agency is a public agency of the State of California which was formed by the Agreement pursuant to the provisions of Article 1, Chapter 5, Division 7, Title 1 of the Government Code of the State of California relating to the joint exercise of powers common to public agencies. The Agency is a separate public agency apart from the Member Entities and is the agency which shall administer and execute this Restated Agreement.

Section 3. Purposes. The purposes of this Restated Agreement are to continue the Agency and to plan, acquire, construct, maintain, own and operate facilities for the collection, treatment, reclamation and disposal of sewage and other wastewater for the benefit of lands and inhabitants within or without the collective boundaries of the Member Entities.

Section 4. Term and Effect. This Restated Agreement shall become effective when all eligible Member Entities have approved and authorized its execution by their respective governing bodies and it shall continue in full force and effect until the Agency is dissolved as provided in Section 21.2. This Restated Agreement supersedes the Agreement and any other existing agreements between Member Entities providing for wastewater treatment and disposal.

Section 5. Powers.

5.1. The Agency has the power and authority to plan, acquire, construct, maintain, own and operate facilities for the collection, treatment, reclamation and disposal of sewage and other wastewater for the benefit of lands and inhabitants within or without the boundaries of the Member Entities. The Member Entities relinquish, and the Agency assumes for the benefit of the Member Entities, responsibility for all functions pertaining to the treatment and disposal of sewage and other wastewater. The Agency may perform directly or enter into contracts to perform any or all of these functions.

5.2. The Agency is authorized, in its own name, to do all acts necessary for the exercise of its powers for the purposes of this Restated Agreement, including but not limited to any or all of the following:

5.2.1. To make and enter into contracts and apply for and accept grants, advances, and contributions;

5.2.2. To employ agents, consultants and employees;

5.2.3. To acquire, construct, manage, maintain and operate any buildings, works or improvements;

5.2.4. To acquire, hold or dispose of property;

5.2.5. To sue and be sued in its own name;

5.2.6. To incur debts, liabilities, or obligations; to issue revenue bonds, notes, warrants, and other evidences of indebtedness to finance the costs and incidental expenses of the projects of the Agency;

5.2.7. To exercise all powers conferred by the Act;

5.2.8. To exercise all powers conferred by other provisions of this Restated Agreement; and

5.2.9. To exercise all other powers common to the Member Entities not specifically mentioned in this Restated Agreement which may be necessary to carry out the purposes of this Restated Agreement.

5.3. The Agency and/or any one or more of its Member Entities are authorized to participate, jointly or severally, in any program of insurance or self-insurance as to which participation by public agencies is authorized under California law. The expense of participation in such programs shall be shared proportionately by the participants according to their respective responsibilities for the costs of premiums, deductibles, fees, retentions or other assessments of any kind, as well as costs of administration and overhead and other relevant factors. No part of the costs of any such program shall be borne, directly or indirectly, by any party to this Restated Agreement who is not a participant in that program.

5.4. No debt, liability or obligation of the Agency shall constitute a debt, liability or obligation of any Member Entity.

5.5. The Agency has no power to levy or cause to be levied ad valorem property taxes.

5.6. As required by Government Code Section 6509, the manner in which the Agency exercises its powers shall be subject to the restrictions applicable to the exercise of powers by a sanitary district pursuant to the Sanitary District Act of 1923 (Health and Safety Code Section 6400 et seq.).

Section 6. Governing Body of the Agency. The Agency shall be governed by the Commission. Each Member Entity shall appoint one commissioner as its representative on the Commission. Each commissioner shall have one vote. Each Member Entity shall also appoint an alternate who shall exercise the Member Entity's voting right in the absence of the regular commissioner. Each commissioner and alternate shall be a voting member of the governing body of the Member Entity that he or she represents and shall serve at the will and pleasure of that Member Entity.

Section 7. Officers and Duties.

7.1. A President, a Vice-President and a Secretary shall be elected by the Commission from its own members. The term of each office shall be one year and thereafter until a successor is elected.

7.2. The Agency's officers shall perform directly, or, with approval of the Commission, cause to be performed by other Agency representatives, the duties described below and such other duties as may be imposed by the Commission:

7.2.1. President: Sign contracts and other instruments on behalf of the Agency.

7.2.2. Vice President: Act in the absence of the President.

7.2.3. Secretary: Countersign contracts and instruments on behalf of the Agency; keep minutes of all Commission meetings, copies of which shall be provided to Commission members and the Member Entities.

7.3. The Commission may appoint a General Manager who shall perform such duties as specified in this Restated Agreement and as assigned and directed by the Commission. The General Manager shall report to the Commission.

7.4. In the absence of a General Manager, the Commission shall cause the duties of the General Manager to be performed by other persons.

7.5. The Commission shall designate a person who has the qualifications specified in Government Code Sections 6505.5 and 6505.6 as the Agency's Treasurer. Unless the Commission specifies otherwise, the Treasurer shall also serve as Auditor-Controller of the Agency to draw warrants to pay demands against the Agency approved by the Commission. The Treasurer and Auditor-Controller shall have the duties and obligations set forth in Government Code Sections 6505.5 and 6505.6.

Section 8. Enforcement.

8.1. The Agency is authorized to take any or all legal and equitable actions, including but not limited to injunction and specific performance, which are necessary and permitted by law to enforce this Restated Agreement.

8.2. The Agency is authorized and empowered to require the Member Entities to observe and comply with applicable provisions of law and any and all orders, contractual commitments, regulatory standards, permits and grant conditions, and other similar obligations and requirements which have been lawfully imposed on the Agency in the conduct of its governmental functions; and each Member Entity agrees to conform and comply with such obligations and requirements and, as necessary, to impose and enforce such obligations and requirements on its constituents and others to the extent the Member Entity is legally able to do so.

Section 9. Duties of the Commission; Compensation.

9.1. The duties of the Commission shall be:

9.1.1. To make all policy decisions.

9.1.2. To exercise all of the powers of the Agency except those which may be and have been lawfully delegated to others;

9.1.3. To submit full and regular reports to the Member Entities; and

9.1.4. To adopt from time to time such orders, resolutions, ordinances and other rules and regulations, including bylaws, for the conduct of its affairs and the business of the Agency as may be required.

9.1.5. To adopt an annual budget; and

9.1.6. To cause the obligations of the Agency under this Restated Agreement to be fully performed.

9.2. The members of the Commission shall receive no compensation except as may be provided by the respective Member Entities which they represent.

Section 10. Meetings of the Commission.

10.1. Regular meetings of the Commission shall be held at such time and place as shall be established by the Commission by resolution.

10.2. All meetings of the Commission shall be called, noticed, held and conducted in accordance with the provisions of the Ralph M. Brown Act (Section 54950 et seq.).

Section 11. Quorum. The attendance at a Commission Meeting of a majority of the voting members of the Commission constitutes a quorum. Any action of the Agency shall require the affirmative vote of a majority of the quorum unless by law a greater number of affirmative votes is required.

Section 12. Accountability Reports and Audits.

12.1. The Agency shall cause accurate and correct financial records and books of account to be kept as required by law and in conformance with the Uniform Systems of Accounts of the State Controller. There shall be strict accountability for all funds and properties of the Agency. The books and records of the Agency shall reflect all receipts and disbursements of the Agency including the details of the costs and expenses of construction, operation and maintenance of Agency properties and facilities and all financial transactions between the Agency and its Member Entities. The books and records of the Agency shall be open to inspection at all reasonable times by representatives of the Member Entities and the public.

12.2. The Commission shall cause annual audits of the accounts and financial records of the Agency to be conducted in accordance with the requirements of Government Code §§6505 and 6505.6.

12.3. The Commission shall cause periodic financial reports, including all such reports as are required by law, to be prepared and reviewed by the Commission on a regular basis.

Section 13. Bonding Persons Having Access to Property.

13.1. Any officer at the Agency or other person who has charge of, handles, or has access to cash, cash equivalents, securities, evidences of indebtedness, bank or investment accounts, or other financial instruments of any kind of the Agency, shall be required to file an official bond with the Agency in such amount as may be established by the Commission. Should an existing bond of any officer or officers or person or persons be extended to cover the obligations provided in this Restated Agreement, that bond shall be the official bond required to be posted by this Restated Agreement. The premium on any such bond or bonds shall be an appropriate expense of the Agency. Any payment to the Treasurer or Auditor-Controller required in the operation of the Agency shall be an appropriate charge against the Agency.

13.2. The General Manager shall have overall responsibility for the financial assets and other property of the Agency and shall cause all claims and demands for the disbursement of Agency funds to be reviewed and approved prior to submittal of the claims and demands to the Commission for its approval.

Section 14. Bonds.

14.1. The Agency shall have the power and authority to issue and sell bonds in accordance with applicable law.

14.2. For purposes of referendum and vote on an Agency-wide basis, the boundaries of the Agency shall be the consolidated boundaries of its Member Entities. Under applicable law, the Agency may form improvement districts in which event the boundaries of the improvement districts shall be determinative with respect to referendum and voting. Bond elections shall be conducted pursuant to the Uniform District Election Law and applicable provisions of the Elections Code.

14.3. The Agency shall have and exercise all powers conferred on "local agencies" by the provisions of the law with respect to revenue bonds.

Section 15. Operating Funds and Sewer Service Charges.

15.1. An operating fund shall be established and maintained which shall be used to pay all administrative and incidental expenses incurred by the Agency, together with all costs of maintenance and operations.

15.2. The Agency shall impose on and collect from the Member Entities a periodic Sewer Service Charge, the revenues from which shall be deposited in the operating fund. The manner in which the Sewer Service Charge is imposed and the amount of the charge shall be determined by the Agency.

15.3. Each Member Entity, in turn, shall derive the revenues necessary to pay its Sewer Service Charges to the Agency.

Section 16. Other Funds, Fees and Charges.

16.1. The Agency shall establish and maintain such other funds as are required to adequately account for revenues and expenses of the Agency which must or, in the discretion of the Commission, should be accounted for separately from the operating fund's revenues and expenses such as, for example, a fund or funds pertaining to capital facilities, repayment of bonds, and other similar activities.

16.2. In addition to its Sewer Service Charge, the Agency may impose and collect other fees and charges as authorized by law.

16.3. Excess capital funds, if any, generated by and not expended for annual capital replacement requirements, or from other sources, are the property of the Agency and, after approval by the Commission, may be used to pay for capital improvements, including payment of indebtedness incurred to make capital improvements or to establish reserves for such purposes.

16.4. Excess funds, if any, generated from whatever source for administration, operation and maintenance requirements but not expended are the property of the Agency. After provision, if any, for such reserves as the Commission determines are necessary and desirable, the Commission may allocate all or a share of such funds to reduce the amounts required for the following year's budget or to make capital improvements.

Section 17. Ownership and Operation of Properties and Facilities; Functional Responsibilities.

17.1. The Agency shall own, operate and maintain all properties and facilities which are or were contributed by the Member Entities or other properties and facilities which are or were financed by Agency funds including cash, Sewer Service Charge revenues and the proceeds from the sale of revenue bonds.



17.2. Member Entities shall retain ownership of and operate and maintain their respective properties and facilities including wastewater collector systems.

17.2.1. The Agency and any Member Entity may, by agreement, provide for operation and maintenance of that Member Entity's facilities, all or in part, by the Agency. Any such agreement must provide that all costs associated with the operation and maintenance of a Member Entity's facilities by the Agency shall be charged to and paid by the Member Entity.

17.2.2. Member Entities will be responsible for processing and review of permit applications, collection and accounting for permit fees, inspection of connections and all attendant record keeping, and will retain all fees generated from those functions.

17.2.3. Unless otherwise agreed upon, member Entities will have total responsibility for their respective wastewater collector systems and the right to impose charges to pay for this service within their respective jurisdictions is reserved to them.

Section 18. Hold Harmless.

18.1. It is specifically understood and agreed that no Member Entity nor any of its officers or employees, is responsible for any damage or liability occurring by reason of anything done or not done by the Agency in connection with any work, authority or jurisdiction not delegated to the Member Entity under this Restated Agreement. It is also understood and agreed that, pursuant to Government code Section 895.4, the Agency shall fully indemnify and hold each Member Entity harmless from any damage or liability occurring by reason of anything done or not done by the Agency in connection with any work, authority or jurisdiction not delegated to any of the Member Entities under this Restated Agreement.

18.2. It is specifically understood and agreed that neither Agency nor any of its officers or employees, is responsible for any damage or liability occurring by reason of anything done or not done by any of the Member Entities pursuant to this Restated Agreement. It is also understood and agreed that, pursuant to Government Code Section 895.4, each Member Entity shall fully indemnify and hold the Agency harmless from any damage or liability occurring by reason of anything done or not done by such Member Entity pursuant to this Restated Agreement.

Section 19. Capacity Allocation.

19.1. It has previously been established by the Commission and agreed to by the Member Entities that the Member Entities have been allocated and presently own capacity entitlements in the Agency's treatment plant and other jointly used capital facilities as follows:

<u>Member Entity</u>	<u>Capacity Allocations</u>	
	<u>By Percentage</u>	<u>By EDUs*</u>
Almonte SD	5.2	936
Alto SD	3.4	612
Homestead Valley SD	7.3	1,314
City of Mill Valley	49.2	8,856
Richardson Bay SD	35.5	6,030
Tamalpais CSD	<u>1.4</u>	<u>252</u>
	100.0	18,000

\*EDU - The average flow of wastewater produced by a single family Equivalent Dwelling Unit, which the parties have determined and agreed equates to 200 gallons per day.

19.2. Each Member Entity is entitled to discharge wastewater to the Agency for treatment, reclamation and disposal up to but not exceeding the Member Entity's established Capacity Allocation measured in EDUs.

19.3. The Agency's costs incurred for the repair, renovation and replacement of its capital facilities, as authorized and approved by the Commission, shall be allocated to the Member Entities, and the Member Entities shall pay those costs in the same proportions as their respective percentages of the Capacity Allocations.

19.4. Member Entities may enter into agreements with one or more other Member Entities to acquire, temporarily or permanently, some portion or all of that Member Entity(ies') unused Capacity Allocation upon such terms and conditions as the affected Member Entities may mutually agree in writing; but no such agreement shall be effective without the consent of the Agency, which consent shall not be unreasonably withheld. Agency considerations will include an assessment of the impact on the adequacy of Agency facilities. Any reallocations of Capacity Allocations pursuant to this Subsection shall be recognized by the Agency for purposes of capital facilities charges and other similar purposes.

19.5. If the Commission undertakes to increase the capacity of the Agency's capital facilities, only those Member Entities which elect to purchase and pay for additional Capacity Allocations shall share in the new capacity, such sharing to be in proportion to the participating Member Entities'

respective contributions. But no such increase in the Agency's capacity shall affect the right of Member Entity to continue to discharge wastewater pursuant to the Member Entity's present Capacity Allocation except to the extent it may subsequently be modified pursuant to Section 19.4 above.

19.6. The provisions of this Section are for the benefit of the Agency and of each Member Entity, and any affected party is entitled to pursue such remedies as may be afforded by law to protect the party's interests.

Section 20. Settlement of Disputes.

20.1. Except as indicated in Subsections 20.2 and 20.3 below, if a dispute arises as to the construction, interpretation or implementation of any provision of this Restated Agreement and the dispute directly affects the Agency, the dispute shall be submitted to binding arbitration in accordance with Sections 20.1 and 20.4.

20.2. A dispute between two or more Member Entities which does not directly affect the Agency is not governed by this Section.

20.3. At the request of any party to a dispute concerning the withdrawal of a Member Entity from the Agency or the termination of the Agency, the dispute shall not be governed by Sections 20.1 and 20.4.

20.4. Except as otherwise provided in this Section, the arbitration proceeding shall be conducted in accordance with the provisions of Title 9 of Part 3 of the Code of Civil Procedure.

20.5. A single arbitrator shall be selected by unanimous agreement of all members of the Commission. In the absence of unanimous agreement, the Commission, by majority vote (counted by excluding the votes of members in dissent), shall select an arbitrator and the members of the Commission in dissent shall select an arbitrator. The two arbitrators so selected shall select a third arbitrator and the dispute shall be determined by a majority vote of the panel of arbitrators. If for any reason the parties are unable to select an arbitrator in accordance with the provisions of this Subsection, the arbitrator shall be appointed by the Presiding Judge of the Marin County Superior Court.

20.6. The fees and expenses of the arbitrator or arbitrators shall be shared equally by each side to the dispute. Otherwise each party shall bear its own costs and expenses of the proceedings, including attorneys' fees.

20.7. Nothing in this Section shall preclude any party in a proper case from commencing a proceeding in a court of law seeking urgent interim or provisional relief. Pursuit of interim or provisional relief shall not constitute a waiver of the right to pursue arbitration under this Section, nor shall it relieve a party of its obligation to arbitrate all matters pertaining to the dispute which are not resolved by the court.

Section 21. Withdrawal or Dissolution. Upon withdrawal of a Member Entity from the Agency or upon dissolution of the Agency, there shall be partial or complete distribution of assets and discharge of liabilities as follows:

21.1. Withdrawal.

21.1.1. A Member Entity may withdraw from the Agency with the unanimous consent of the remaining Member Entities and upon mutually agreeable terms and conditions. In the absence of unanimous consent and mutual agreement, a Member Entity may withdraw only if the Agency's continued existence and governmental effectiveness will not be jeopardized by the withdrawal of the Member Entity and the Member Entity pays or secures payment of (a) all cost and expenses incurred by reason of the Member Entity's withdrawal and (b) the value of any economic detriment suffered or to be suffered by the Agency due to the withdrawal.

21.1.2. Upon withdrawal of any Member Entity from the Agency, the withdrawing Member Entity shall receive its proportionate share of the assets of the Agency and shall contribute its proportionate share toward discharge of the liabilities of the Agency, whether actual or contingent, as the same appear on the books of the Agency.

21.2. Dissolution. The Agency may be dissolved at any time by unanimous agreement of its Member Entities. Upon dissolution of the Agency, each Member Entity shall receive its proportionate share of the assets of the Agency and shall contribute its proportionate share toward discharge of any enforceable liabilities incurred by the Agency as the same appear on the books of the Agency.

21.3. For purposes of distributions and contributions required by Sections 21.1.2 and 21.2 above, the determination of what constitutes a "proportionate share" shall be made by the Commission in accordance with the following principles:

21.3.1. A "proportionate share" is an amount of money, property or money and property measured in dollars which the Commission determines is owed to or by a Member Entity taking into account pertinent factors such as, for example, the value of contributions made to the Agency by the Member Entity as compared to the contributions of other Member Entities, the proportionate value of benefits received by a Member Entity, the time value of money, the length of the Member Entity's participation in the Agency, and any other factors which the Commission determines to be reasonable and relevant and will lead to a fair and equitable result for all Member Entities and the Agency.

21.3.2. Any surplus money remaining after dissolution shall be returned to the Member Entities pursuant to Government Code Section 6512 in proportion to the respective contributions made by the Member Entities to the Agency.

21.3.3. The Agency's assets may be distributed in kind or they may be sold and the

proceeds distributed. If assets are to be distributed in kind and if a particular asset was contributed by a Member Entity, the asset shall be reconveyed to the contributing Member Entity if that Member Entity so requests and the reconveyance is otherwise consistent with that Member Entity's proportionate share.

21.3.4. Contributions which may be required of a Member Entity pursuant to Section 21.1.2 shall be made in money and not by property unless the Commission expressly agrees to accept a contribution of property

Section 22. Miscellaneous.

22.1. The section headings used in this Restated Agreement are for convenience only and are not to be construed as modifying or governing the language in the section referred to.

22.2. This Restated Agreement is made in the State of California and under its Constitution and laws, and it is to be so construed.

22.3. To preserve a reasonable degree of flexibility, many parts of this Restated Agreement are stated in general terms. The Commission may from time to time adopt and implement rules and regulations to further define the rights and obligations of the Member Entities and of the Agency to carry out the purposes of this Restated Agreement.

22.4. This Restated Agreement may be amended in any particular, from time to time, by unanimous approval of the Member Entities.

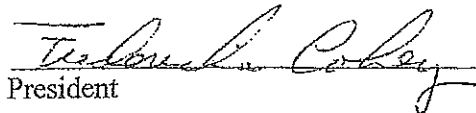
Section 23. Partial Invalidity. If any one or more of the terms, provisions, promises, covenants, or conditions of this Restated Agreement shall to any extent be adjudged invalid, unenforceable, void, or voidable for any reason by a court of competent jurisdiction, each and all of the remaining terms, provisions, promises, covenants, and conditions of this Restated Agreement shall not be affected and they shall be valid and enforceable to the fullest extent permitted by law.

Section 24. Successors. This Restated Agreement shall be binding upon and shall inure to the benefit of the successors of the parties.

Section 25. Effective Date. The effective date of this Restated Agreement shall be January 27, 2000.

As evidence of their Restated Agreement, each of the Member Entities has caused this instrument to be executed and attested by its duly authorized officers, and its official seal to be applied.

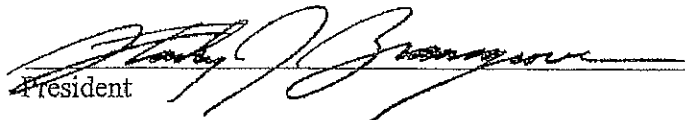
ALMONTE SANITARY DISTRICT

  
\_\_\_\_\_  
President

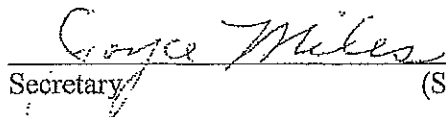
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Secretary (Seal)

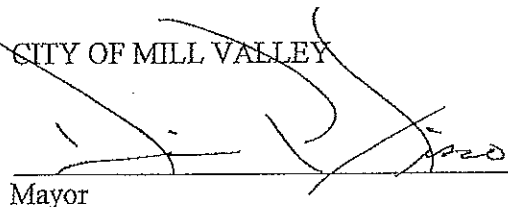
ALTO SANITARY DISTRICT

  
\_\_\_\_\_  
President

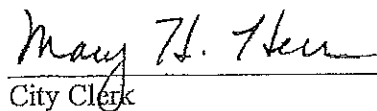
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Secretary (Seal)

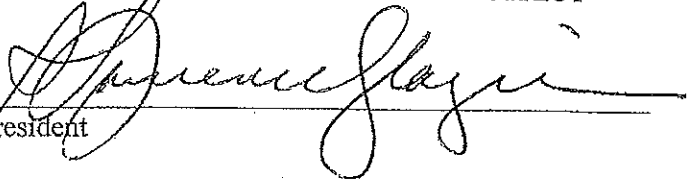
CITY OF MILL VALLEY

  
\_\_\_\_\_  
Mayor

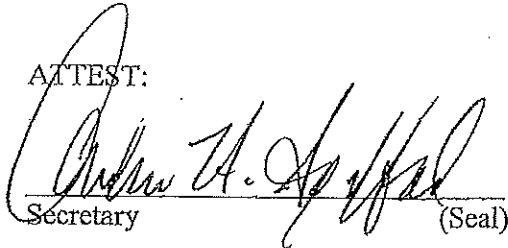
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City Clerk (Seal)

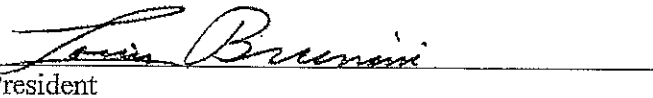
HOMESTEAD VALLEY SANITARY DISTRICT

  
\_\_\_\_\_  
President

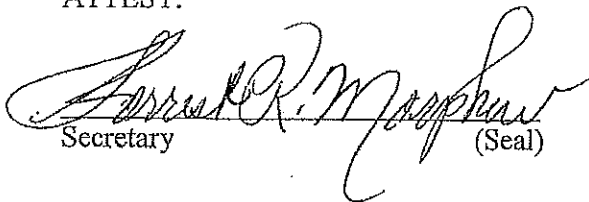
ATTEST:

  
\_\_\_\_\_  
Secretary (Seal)

RICHARDSON BAY SANITARY DISTRICT

  
\_\_\_\_\_  
President

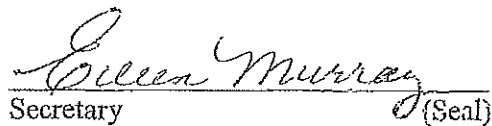
ATTEST:

  
\_\_\_\_\_  
Secretary (Seal)

TAMALPAIS COMMUNITY SERVICES DISTRICT

  
\_\_\_\_\_  
President

ATTEST:

  
\_\_\_\_\_  
Secretary (Seal)

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# Marin Local Agency Formation Commission

## Regional Service Planning | Subdivision of the State of California

### AGENDA REPORT

December 14, 2017

Item No. 8 (Consent / Information)

December 8, 2017

**TO:** Marin Commissioners

**FROM:** Rachel Jones, Interim Executive Officer

**SUBJECT:** **Notice of Expiring Commissioner Terms**  
 The Commission will receive a report identifying membership terms that are set to expire on May 7, 2018 and necessitate new appointments and or reappointments. The report is being presented for information only.

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 states the composition of Local Agency Formation Commission (LAFCOs) shall generally include seven regular members divided between county (two), city (two), special district (two), and public (one) representation. Each represented category has one alternate. Appointments for the county, city and special district seats are made by the board of supervisors, city selection committee, and the special district selection committee respectively. The Executive Officer is also authorized to conduct an election for special district members if certain conditions apply. Appointments for public seats are made by the other regular members. All terms are four years and there are no term limits.

### Information

Marin LAFCO (“Commission”) has one member whose current term is scheduled to expire on May 7, 2018 under State law. The member is listed below.

#### Regular Member

Carla Condon, Cities

A listing of all current terms follows.

Member	Designation	Appointing Authority	Term Expires
Jeff Blanchfield	Chair	Commission	May 6, 2019
Carla Condon	Vice Chair	Cities	May 7, 2018
Dennis Rodoni	Regular	County of Marin	May 4, 2020
Jack Baker	Regular	Special Districts	May 6, 2019
Damon Connolly	Regular	County of Marin	May 2, 2019
Sashi McEntee	Regular	Cities	May 6, 2019
Craig K. Murray	Regular	Special Districts	May 1, 2021
Matthew Brown	Alternate	Cities	May 4, 2020
Chris Skelton	Alternate	Commission	May 1, 2021
Lew Kious	Alternate	Special Districts	May 6, 2019
Judy Arnold	Alternate	County of Marin	May 4, 2020

**Administrative Office**  
 Rachel Jones, Interim 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

**Dennis J. Rodoni, Regular**  
 County of Marin

**Judy Arnold, Alternate**  
 County of Marin

**Carla Condon, Vice Chair**  
 Town of Corte Madera

**Sashi McEntee, Regular**  
 City of Mill Valley

**Matthew Brown, Alternate**  
 Town of San Anselmo

**Jack Baker, Regular**  
 North Marin Water District

**Craig K. Murray, Regular**  
 Las Gallinas Valley Sanitary

**Lew Kious, Alternate**  
 Almonte Sanitary District

**Jeffrey Blanchfield, Chair**  
 Public Member

**Chris Skelton, Alternate**  
 Public Member

### **Commission Review**

This item has been placed on the agenda as part of the consent calendar for information only. The Commission is invited to discuss the item and provide direction to staff on any related matter as needed.

Attachments: None



**Marin Local Agency Formation Commission**  
**Regional Service Planning | Subdivision of the State of California**

**AGENDA REPORT**

December 14, 2017

Item No. 9 (Consent / Information)

December 8, 2017

**TO:** Marin Commissioners

**FROM:** Rachel Jones, Interim Executive Officer

**SUBJECT:** **Little Hoover Commission Report | Special Districts**

The Commission will receive a report from the Little Hoover Commission outlining recommendations to improve the oversight and transparency of special districts. The report is being presented for information only.

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The Little Hoover Commission (LHC) is an independent state oversight agency that was created in 1962. The Commission’s mission is to investigate state government operations and – through reports, recommendations and legislative proposals – promote efficiency, economy, and improved service. By statute, the Commission is a balanced bipartisan board composed of five citizen members appointed by the Governor, four citizen members appointed by the Legislature, two Senators and two Assembly members. The Commission works to implement its recommendations either through legislation or administrative changes.

**Information**

The Little Hoover Commission, after a year of study, released their Final Report on August 30, 2017, on Special Districts. The report, titled: “Special Districts: Improving Oversight & Transparency”, focuses on district oversight and transparency as well as a special emphasis on healthcare districts and climate change. The report issues twenty final recommendations, eight of which are directly LAFCO related. Most notably, LHC recommends a one-time infusion of grant funding by the Legislature to LAFCOs of \$1 –\$3 million, and recommends the Legislature curtail special legislation that either bypass LAFCO or divest LAFCO authority. CALAFCO fully supports the final recommendations in the report.

A full list of recommendations in the report is presented below.

1. The Legislature and the Governor should curtail a growing practice of enacting bills to override LAFCO deliberative processes and decide local issues regarding special district boundaries and operations.
2. The Legislature should provide one-time grant funding to pay for specified LAFCO activities, to incentivize LAFCOs or smaller special districts to develop and implement dissolution or consolidation plans with timelines for expected outcomes. Funding should be tied to process

completion and results, including enforcement authority for corrective action and consolidation.

3. The Legislature should enact and the Governor should sign SB 448 (Wieckowski) which would provide LAFCOs the statutory authority to conduct reviews of inactive districts and to dissolve them without the action being subject to protest and a costly election process.
4. The Governor should sign AB 979 (Lackey), co-sponsored by the California Special Districts Association and the California Association of Local Agency Formation Commissions. The bill would strengthen LAFCOs by easing a process to add special district representatives to the 28 county LAFCOs where districts have no voice.
5. The Legislature should adopt legislation to give LAFCO members fixed terms, to ease political pressures in controversial votes and enhance the independence of LAFCOs.
6. The Legislature should convene an advisory committee to review the protest process for consolidations and dissolutions of special districts and to develop legislation to simplify and create consistency in the process.
7. The Legislature should require every special district to have a published policy for reserve funds, including the size and purpose of reserves and how they are invested.
8. The State Controller's Office should standardize definitions of special district financial reserves for state reporting purposes. (Page 3 of 4 Improving Transparency and Public Involvement)
9. The Legislature should require that every special district have a website that includes specified components, including basic governance, service, and financial information, and a link to the relevant LAFCO website as well as any other relevant oversight agencies.
10. The State Controller's Office should disaggregate information provided by independent special districts from dependent districts, nonprofits and joint powers authorities.
11. The California Special Districts Association, working with experts in public outreach and engagement, should develop best practices for independent special district outreach to the public on opportunities to serve on boards. What is the Role for Healthcare Districts?
12. The Legislature should update the 1945 legislative "practice acts" that enabled voters to create local hospital districts, renamed healthcare districts in the early 1990s.
13. The Legislature, which has been increasingly inclined to override local LAFCO processes and authority to press changes on healthcare districts, should defer these decisions to LAFCOs.
14. The Association of California Healthcare Districts and its member districts should step up efforts to define and share best practices among themselves. Front-line Roles for Climate Change Adaptation

15. The Legislature should place a requirement that special districts with infrastructure subject to the effects of climate change should formally consider long-term needs for adaptation in capital infrastructure plans, master plans and other relevant documents.
16. The California Special Districts Association (CSDA), in conjunction with its member districts, should document and share climate adaptation experiences with the Integrated Climate Adaptation and Resilience Program's adaptation information clearinghouse being established within the Governor's Office of Planning and Research (OPR). Similarly, CSDA and member districts should step up engagement in the state's current Fourth Assessment of climate threats, a state research project designed to support the implementation of local adaptation activities. The CSDA also should promote climate adaptation information sharing among its members to help districts with fewer resources plan for climate impacts and take actions.
17. The state should conduct a study - by either a university or an appropriate state department - to assess the effect of requiring real estate transactions to trigger an inspection of sewer lines on the property and require repairs if broken.
18. State regulatory agencies should explore the beginnings of a new regulatory framework that incorporates adaptable baselines when defining a status quo as climate impacts mount.
19. CSDA, and special districts, as some of the closest-to-the-ground local governments in California, should step up public engagement on climate adaptation, and inform and support people and businesses to take actions that increase their individual and community-wide defenses.
20. The California Special Districts Association and special districts should lead efforts to seek and form regional partnerships to maximize climate adaptation resources and benefits.

### **Commission Review**

This item has been placed on the agenda as part of the consent calendar for information only. The Commission is also invited to discuss the item and provide direction to staff on any related matter as needed.

#### Attachments:

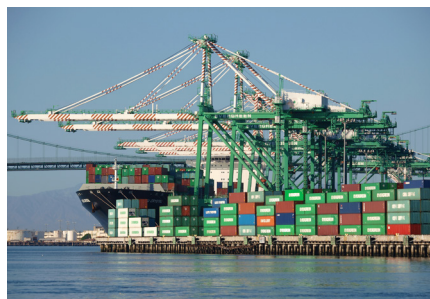
- 1) Little Hoover Commission's Final Report: Special Districts – Improving Oversight and Transparency



# Special Districts: Improving Oversight & Transparency

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Report #239, August 2017



## Little Hoover Commission

Pedro Nava  
*Chairman*

Sean Varner  
*Vice Chairman*

David Beier

Iveta Brigis

Anthony Cannella  
*Senator*

Joshua LaFarga

Chad Mayes  
*Assemblymember*

Don Perata

Bill Quirk  
*Assemblymember*

Richard Roth  
*Senator*

Janna Sidley

Helen Iris Torres

## Former Commissioners Who Served During The Study

Scott Barnett

Jack Flanigan

Sebastian Ridley-Thomas  
*Assemblymember*

Jonathan Shapiro

## Commission Staff

Carole D'Elia  
*Executive Director*

Terri Hardy  
*Deputy Executive Director*

## Former Commission Staff

Jim Wasserman  
*Deputy Executive Director*

## In Memoriam

Matthew Gagnon  
*Research Analyst*

# Dedicated to Promoting Economy and Efficiency in California State Government

The Little Hoover Commission, formally known as the Milton Marks "Little Hoover" Commission on California State Government Organization and Economy, is an independent state oversight agency.

By statute, the Commission is a bipartisan board composed of five public members appointed by the governor, four public members appointed by the Legislature, two senators and two assemblymembers.

In creating the Commission in 1962, the Legislature declared its purpose:

*...to secure assistance for the Governor and itself in promoting economy, efficiency and improved services in the transaction of the public business in the various departments, agencies and instrumentalities of the executive branch of the state government, and in making the operation of all state departments, agencies and instrumentalities, and all expenditures of public funds, more directly responsive to the wishes of the people as expressed by their elected representatives...*

The Commission fulfills this charge by listening to the public, consulting with the experts and conferring with the wise. In the course of its investigations, the Commission typically empanels advisory committees, conducts public hearings and visits government operations in action.

Its conclusions are submitted to the Governor and the Legislature for their consideration. Recommendations often take the form of legislation, which the Commission supports through the legislative process.

## Contacting the Commission

All correspondence should be addressed to the Commission Office:

Little Hoover Commission  
925 L Street, Suite 805,  
Sacramento, CA 95814  
(916) 445-2125  
[littlehoover@lhc.ca.gov](mailto:littlehoover@lhc.ca.gov)

This report is available from the Commission's website at [www.lhc.ca.gov](http://www.lhc.ca.gov).

# Letter From The Chair

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August 30, 2017



The Honorable Kevin de León  
President pro Tempore of the Senate  
and members of the Senate

The Honorable Patricia Bates  
Senate Minority Leader

The Honorable Anthony Rendon  
Speaker of the Assembly  
and members of the Assembly

The Honorable Chad Mayes  
Assembly Minority Leader

Dear Governor and Members of the Legislature:

California’s most prevalent form of government – special districts – is often its least visible. In a year-long review, the Commission looked at how California’s more than 2,000 independent special districts provide vital services ranging from fire protection to healthcare, cemeteries to sewers. It wanted to better understand if California taxpayers were well-served through this additional layer of specialized bureaucracy and to analyze whether consolidation or dissolution of some special districts could lead to improved efficiency in governance and operations.

The Commission found no one-size-fits-all answer. The districts are as diverse as the geographic locations they serve and the millions of Californians who support them through taxes and fees. What might provide an appropriate pathway for five small water districts in rural Northern California who want to consolidate but need help sorting out water rights, likely would not make sense for their powerhouse counterparts, the Metropolitan Water District or Santa Clara Valley Water District, who serve millions of customers in Southern California and the Bay Area. And water districts are just one of 29 types of independent special districts ranging from airport districts to veterans memorial districts.

As part of this study, the Commission considered the role of the Legislature, which gave life to this form of local government in 1877 and retains the power to create or dissolve districts and amend the practice acts that guide district activities. As California began its rapid growth and urbanization after World War II, the Legislature realized that decision-making over local government growth was best done by local officials. In 1963, the Legislature and Governor Edmund G. “Pat” Brown created a local mechanism for overseeing local boundary decisions – and formed 58 Local Agency Formation Commissions (LAFCOs). LAFCOs have the authority to initiate special district consolidations or dissolutions.

In 2000, the Legislature expanded the authority of LAFCOs to conduct Municipal Service Reviews. These reviews provide information to guide districts in performance improvement and can serve as a catalyst for LAFCOs to initiate consolidations or dissolutions. Like many great ideas in government, particularly in a state as large and diverse as California, these 58 different commissions are not uniformly effective.

The Commission also used this review to assess the progress of its recommendations from a 2000 report, *Special Districts: Relics of the Past or Resources for the Future?* In that study, the Commission found an expansive government sector, largely invisible, serving constituents who know little about them or how the money they provide is used.



The Commission found some progress but also saw a missed opportunity for special districts – many have a great story to tell. Very rarely are taxpayer dollars so closely tied to services provided in the community. And still people do not seem to know much about these local governments and their locally-elected boards.

As much as the Commission wanted to find a magic bullet to ensure these 2,000 districts were performing efficiently and effectively, it didn't. The LAFCO process may not be working as it could and should in every corner of the state, but special districts remain best served by local decision-making. To that end, the Commission recommends the Legislature curtail its practice of bypassing the local process. Additionally, the Commission offers a number of common-sense recommendations to help LAFCOs exercise their authority. Two ideas have already resulted in legislation, AB 979 (Lackey) and SB 448 (Wieckowski). The Commission recommends the Legislature enact SB 448 and requests the Governor's signature on AB 979 and SB 448. This report also includes a rare recommendation to infuse a small one-time grant fund to pay to initiate the most urgent consolidations or dissolutions, which should lead to taxpayer savings in improved government efficiency.

The Commission heard extensive testimony on reserve funding – a thorny issue first raised in its 2000 report. The State Controller's Office has convened a task force to standardize reporting on reserves, a necessary first step before anyone can assess the adequacy of each district's rainy day fund. The Commission also urges special districts to adopt prudent reserve policies and make these policies public.

The Commission found significant improvements since its last review in the way that districts communicate their activities and finances with their constituents although not every district has a website. All districts should have a website with basic information including how to participate in decision-making and an easy guide to revenue sources and expenditures.

The Commission did not evaluate every type of special district, but it did take a deeper look at one type – healthcare districts. Originally formed in the 1940s to build hospitals where none existed, less than half of the current healthcare districts run hospitals today. But even within healthcare districts, the Commission found significant differences. In rural communities, districts largely continue to fulfill their original mission – providing a hospital that otherwise would not exist. Among healthcare districts no longer operating hospitals, the Commission found some districts assessing local needs and filling a void in preventative healthcare service. But this was not consistent and the Commission suspects that in some locations, LAFCOs should do more to assess whether every healthcare district should continue to operate. To guide this work, an essential step for the Legislature is an update to the 1945 practice act to reflect the modern healthcare landscape.

As part of the vigorous discussion on reserves, special districts were asked how they were planning and using their reserves to adapt to climate change, particularly those districts with large infrastructure investments. Building on its 2014 report, *Governing California Through Climate Change*, the Commission in this report recommends special districts and their associations take more active roles in existing state government process and in sharing best practices.

During its study process, the Commission discussed some rather extreme solutions that generated intense interest. Through a very robust public process, however, the Commission ultimately concluded that local institutions are best served by local decision-making. The important recommendations in this report will lead to improved efficiency. The Commission stands ready to assist.



**Pedro Nava**  
Chair, Little Hoover Commission

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# Executive Summary

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Special districts, the workhorses of public service delivery created by the California Legislature during the earliest days of statehood, represent the most common form of local government. They have prevailed through endless upheaval as California morphed from a state of rural open spaces into one of the world's most powerful economic engines and home to nearly 40 million people. Today special districts generate some \$21 billion in annual revenues and employ more than 90,000 local government workers.<sup>1</sup>

In 2016 and 2017, the Little Hoover Commission reviewed and analyzed California's 2,071 independent special districts and the State of California's role and responsibility in overseeing them.<sup>2</sup> The Legislature not only created special districts and enacted the practice acts by which they are governed, but it retained the power to create new districts and also to dissolve them. In the early 1960s, the Legislature had the foresight to develop a local oversight mechanism, Local Agency Formation Commissions (LAFCOs) tasked with bringing more rational planning practices and reining in inappropriate growth by considering local government boundary decisions. LAFCOs have the authority to initiate dissolutions and consolidations of special districts, although ultimately local voters have the final say. The process is slow -- intentionally slow according to some --and occasionally frustrated parties attempt to bypass the local process by taking issues directly to the Legislature. This tension, in part, prompted the Commission to update its 2000 review of special districts to consider whether the local oversight process works as intended or whether a different process or a greater role for the Legislature would be more effective.

The Commission's review broke new ground, but also revisited issues first identified in its May 2000 report, *Special Districts: Relics of the Past or Resources for the Future?* The 2000 report declared that California's expansive special district sector often amounted to a poorly overseen and largely invisible governing sector serving residents who know little about who runs them or

what they pay in taxes to sustain them. The Commission nearly two decades ago questioned the soundness of special districts' financial management and asked if their numbers might be pared back through consolidations. Yet Commissioners also acknowledged in their 2000 analysis that special districts provide Californians valuable services and are "physically closest to their communities." The Commission concluded that despite its range of criticisms, special districts should remain, in the end, local institutions best served by local decision-making.

In its newest review the Commission heard from some who still contend that special districts are ripe for consolidation and represent convoluted, dispersed, under-the-radar government. Frustrated with the local oversight process, various local special district issues percolated up into bills in the 2015-16 legislative session as the Commission began its study, potentially signifying that the current system of oversight fails to work as well as intended.

In this review, the Commission found special districts themselves could do a better job of telling their own story to overcome the stigma that they function as hidden government. During an advisory committee meeting, Chair Pedro Nava encouraged special districts to "tell your story." There are very few government entities in a position to let people know that they work directly for the public and that the taxes and fees they collect fund local services, he said.

In testimony, the Commission also learned that despite the perception that special districts continue to proliferate in California, the number of special districts has declined 5 percent since 1997, while the number nationally increased by 10 percent.<sup>3</sup> Thirty-three states have more special districts per capita than California. Despite frequent calls for dissolving or consolidating these local governments, special districts seem to have pluses that render them tolerable to those they govern and able to forestall movements to purge them or fold their work into city and county governments.

The Commission's 2016-2017 review delved into four primary arenas concerning special districts:

- Oversight of special districts, specifically, opportunities to bolster the effectiveness of Local Agency Formation Commissions (LAFCOs).
- The continued need for districts to improve transparency and public engagement.
- The frequently-controversial evolution of California's healthcare special districts, which in the 1940s and 1950s built a far-ranging system of hospitals that are mostly now gone due to a tremendous transformation in healthcare from hospitalization to preventive care.
- The urgency of climate change adaptation in California and the front-line roles that special districts, particularly water, wastewater treatment and flood control districts, play in preparing their communities and defending them from harm.

## Toward Higher-Quality Local Control

As in 2000, the Commission held fast to the concept that special districts are essentially local institutions. Whether their individual endeavors are praised or panned, special districts seemingly reflect the wishes of local voters. They also reflect the politics of LAFCOs, unique oversight bodies in each county with authority to judge their performances and recommend whether they should continue to exist. The Commission again determined that LAFCOs should be the leading voice on the status of special districts in California – and that they need more tools to do the job well.

Commissioners perplexed by the seemingly slow progress in dissolutions and consolidations at one point during the study asked if a lack of money prevented LAFCOs and special districts from initiating consolidations or conducting the mandated Municipal Service Reviews that can identify opportunities for improved efficiency in service delivery. A chorus of stakeholders suggested a small, one-time infusion of grant funding, tied to specified outcomes to ultimately improve efficiency and save taxpayer dollars, was indeed warranted. They also called for various statutory changes that could bolster the effectiveness of LAFCOs.

Clearly, special districts can be improved. Given the routine front-line services they provide, the historic climate challenges these districts face in keeping California stable, as well as the need to provide the best possible healthcare to millions of residents, LAFCOs and the state have obligations to see that they succeed. To that end, the Commission offers 20 recommendations to guide the Legislature and Governor going forward. The first eight of those recommendations address the basic structure and governing issues revolving around special districts:

***Recommendation 1: The Legislature and the Governor should curtail a growing practice of enacting bills to override LAFCO deliberative processes and decide local issues regarding special district boundaries and operations.***

The Legislature and Governor have reason to be frustrated with slow and deliberative LAFCO processes. But these are local institutions of city, county and special district members often better attuned to local politics than those in the State Capitol. Exemptions where the Legislature gets involved should be few, and in special cases where the local governing elites are so intransigent or negligent – or so beholden to entrenched power structures – that some higher form of political authority is necessary.

***Recommendation 2: The Legislature should provide one-time grant funding to pay for specified LAFCO activities, to incentivize LAFCOs or smaller special districts to develop and implement dissolution or consolidation plans with timelines for expected outcomes. Funding should be tied to process completion and results, including enforcement authority for corrective action and consolidation.***

The Commission rarely recommends additional funding as a solution. However, a small one-time infusion of \$1 million to \$3 million in grant funding potentially could save California taxpayers additional money if it leads to streamlined local government and improved efficiency in service delivery. This funding could provide an incentive for LAFCOs or smaller districts to start a dissolution or consolidation process. Participants in the Commission's public process suggested the Strategic Growth Council or Department of Conservation could administer this one-time funding.

**Recommendation 3: The Legislature should enact and the Governor should sign SB 448 (Wieckowski) which would provide LAFCOs the statutory authority to conduct reviews of inactive districts and to dissolve them without the action being subject to protest and a costly election process.**

There has been no formal review to determine the number of inactive special districts – those that hold no meetings and conduct no public business. Rough estimates gauge the number to be in the dozens. Simplifying the LAFCOs' legal dissolution process would represent a significant step toward trimming district rolls in California. The Commission supports SB 448 and encourages the Legislature to enact the measure and for the Governor to sign the bill.

**Recommendation 4: The Governor should sign AB 979 (Lackey), co-sponsored by the California Special Districts Association and the California Association of Local Agency Formation Commissions. The bill would strengthen LAFCOs by easing a process to add special district representatives to the 28 county LAFCOs where districts have no voice.**

The Cortese-Knox-Hertzberg Reorganization Act of 2000 (AB 2838, Hertzberg) provided the option to add two special district members to county LAFCOs to broaden local governing perspectives. Nearly two decades later, 30 counties have special district representatives on their LAFCOs alongside city council members and county supervisors. This change provides LAFCOs a more diverse decision-making foundation and stronger finances. But 28 counties, mostly in rural California have not added special district representatives to their LAFCO governing boards, citing scarce resources. Presently, a majority of a county's special districts must pass individual resolutions within one year supporting a change. This has repeatedly proved itself a formidable obstacle to broadening the outlook of local LAFCOs. AB 979 (Lackey) would allow a simple one-time election process where districts could easily – and simultaneously – decide the question.

**Recommendation 5: The Legislature should adopt legislation to give LAFCO members fixed terms, to ease political pressures in controversial votes and enhance the independence of LAFCOs.**

The California Association of Local Agency Formation Commissions (CALAFCO) testified on August 25, 2016, that

individual LAFCO members are expected to exercise their independent judgment on LAFCO issues rather than simply represent the interests of their appointing authority. But this is easier said than done when representatives serve on an at-will basis. The CALAFCO hearing witness said unpopular votes have resulted in LAFCO board members being removed from their positions. Fixed terms would allow voting members to more freely exercise the appropriate independence in decision-making.

**Recommendation 6: The Legislature should convene an advisory committee to review the protest process for consolidations and dissolutions of special districts and to develop legislation to simplify and create consistency in the process.**

Complicated and inconsistent processes potentially impact a LAFCO's ability to initiate a dissolution or consolidation of a district. If 10 percent of district constituents protest a LAFCO's proposed special district consolidation, a public vote is required. If a special district initiates the consolidation, then a public vote is required if 25 percent of the affected constituents protest. Additionally, the LAFCO must pay for all costs for studies and elections if it initiates a consolidation proposal, whereas the district pays these costs if it proposes or requests the consolidation. Various participants in the Commission's public process cautioned against setting yet another arbitrary threshold and advised the issue warranted further study before proposing legislative changes. They called for more consistency in the process.

**Recommendation 7: The Legislature should require every special district to have a published policy for reserve funds, including the size and purpose of reserves and how they are invested.**

The Commission heard a great deal about the need for adequate reserves, particularly from special districts with large infrastructure investments. The Commission also heard concerns that reserves were too large. To better articulate the need for and the size of reserves, special districts should adopt policies for reserve funds and make these policies easily available to the public.

**Recommendation 8: The State Controller's Office should standardize definitions of special district financial reserves for state reporting purposes.**

Presently, it is difficult to assess actual reserve levels held by districts that define their numbers one way and the State Controller's Office which defines them another way. The State Controller's Office is working to standardize numbers following a year-long consultation with a task force of cities, counties and special districts. To improve transparency on reserves, a subject that still eludes effective public scrutiny, they should push this project to the finish line as a high priority.

## Improving Transparency and Public Involvement

Because there are thousands of special districts in California, performing tasks as varied as managing water supply to managing rural cemeteries, the public has little practical ability to ascertain the functionality of special districts, including the scope of services these local districts provide, their funding sources, the use of such funds and their governance structure. Although publicly elected boards manage independent special districts, constituents lack adequate resources to identify their local districts much less the board members who collect and spend their money.

The Commission saw a number of opportunities for special districts to do a better job communicating with the public, primarily through improvements to district websites and more clearly articulating financing policies, including adopting and making publicly available fund reserve policies. Existing law requires special districts with a website to post meeting agendas and to post or provide links to compensation reports and financial transaction reports that are required to be submitted to the State Controller's Office. The State Controller's Office – despite having a software platform from the late 1990s – attempts to make all the information it receives as accessible as possible.

Many special districts already utilize their websites to effectively communicate with their constituents and voluntarily follow the nonprofit Special District Leadership Foundation's transparency guidelines and receive the foundation's District Transparency Certificate of Excellence. But often, these districts are the exception and not the rule. The Commission makes three recommendations to improve special district transparency and to better engage the public served by the districts:

***Recommendation 9: The Legislature should require that every special district have a website.***

***Key components should include:***

- ***Name, location, contact information***
- ***Services provided***
- ***Governance structure of the district, including election information and the process for constituents to run for board positions***
- ***Compensation details – total staff compensation, including salary, pensions and benefits, or a link to this information on the State Controller's website***
- ***Budget (including annual revenues and the sources of such revenues, including without limitation, fees, property taxes and other assessments, bond debt, expenditures and reserve amounts)***
- ***Reserve fund policy***
- ***Geographic area served***
- ***Most recent Municipal Service Review***
- ***Most recent annual financial report provided to the State Controller's Office, or a link to this information on the State Controller's website***
- ***Link to the Local Agency Formation Commission and any state agency providing oversight***

Exemptions should be considered for districts that fall under a determined size based on revenue and/or number of employees. For districts in geographic locations without reliable Internet access, this same information should be available at the local library or other public building open and accessible to the public, until reliable Internet access becomes available statewide.

Building on this recommendation, every LAFCO should have a website that includes a list and links to all of the public agencies within each county service area and a copy of all of the most current Municipal Service Reviews. Many LAFCOs currently provide this information and some go further by providing data on revenues from property taxes

and user fees, debt service and fund balance changes for all the local governments within the service area. At a minimum, a link to each agency would enable the public to better understand the local oversight authority of LAFCOs and who to contact when a problem arises.

***Recommendation 10: The State Controller’s Office should disaggregate information provided by independent special districts from dependent districts, nonprofits and joint powers authorities.***

Over the course of this study, the Commission utilized data available on the State Controller’s website to attempt to draw general conclusions about independent special districts, such as overall revenues, number of employees and employee compensation. Presently, it is difficult to do this without assistance as information for independent districts is mixed with various other entities.

***Recommendation 11: The California Special Districts Association, working with experts in public outreach and engagement, should develop best practices for independent special district outreach to the public on opportunities to serve on boards.***

The Commission heard anecdotally that the public does not understand special district governance, does not often participate or attend special district board meetings and often does not know enough about candidates running to fill board positions. Often, the public fails to cast a vote for down-ballot races. Two county registrars provided the Commission information that showed in many instances those who voted for federal or statewide offices did not vote for local government officials at the same rate, whether they were city council positions, special district positions or local school or community college district positions.

## **What is the Role for Healthcare Districts?**

The Commission found in its review that special districts were as diverse as the services provided and the millions of Californians served. To gain deeper insight on one type of local government service provider, the Commission took a closer look at an often-controversial group: healthcare districts that no longer operate hospitals. These entities struggle to explain their relevance within the rapidly evolving healthcare industry,

which emphasizes preventative care over hospitalization. Amid uncertainty about the future of the Affordable Care Act, many of these districts claim they are carving out new roles in preventative care. Yet the Legislature, local grand juries, LAFCOs and healthcare analysts continue to question their relevance and need to exist. Presently, just 37 of 79 California healthcare districts operate 39 hospitals, mostly in rural areas with few competitors or other alternatives – and few suggest the need to dissolve those districts.

Controversy tends to afflict districts in former rural areas that became suburbanized in recent decades and grew into competitive healthcare markets. The 2015-16 legislative session included a rash of legislation that considered whether to force district dissolutions or modify district boundaries – even though those decisions are the responsibility of LAFCOs. Nonetheless, most healthcare districts officials continue to maintain they are more flexible than counties in defining priorities and are pioneering a new era of preventative care under the umbrella of “wellness.” Officials say their districts are misunderstood by critics who lack understanding about how much the healthcare landscape is changing. They also say that local voters generally support their local missions and how they allocate their share of property taxes in the community.

As part of its special districts review, the Commission convened a two-hour advisory committee with experts to shed light on healthcare districts. During the course of the Commission’s study, the Association of Healthcare Districts convened a workgroup to develop recommendations, in part, in response to legislative scrutiny. These recommendations were considered and discussed during the November advisory committee meeting. Participants analyzed whether counties or healthcare districts are best positioned as local and regional healthcare providers and discussed the role of LAFCOs in consolidating, dissolving or steering healthcare districts toward more relevant roles. During the meeting Commissioners also pushed districts to share and adopt best practices and define better metrics to measure what they are accomplishing with their shares of local property taxes. Three Commission recommendations arose from the discussion as well as numerous interviews with experts during the study:



**Recommendation 12: The Legislature should update the 1945 legislative “practice acts” that enabled voters to create local hospital districts, renamed healthcare districts in the early 1990s.**

Experts widely agree that statutory language in the acts no longer reflects the evolution of healthcare during the past seventy years, particularly the shift from hospital-based healthcare to modern preventive care models.

**Recommendation 13: The Legislature, which has been increasingly inclined to override local LAFCO processes and authority to press changes on healthcare districts, should defer these decisions to LAFCOs.**

LAFCOs have shown successes in shaping the healthcare district landscape and should be the primary driver of change. Given the controversies over healthcare districts, the California Association of Local Agency Formation Commissions and LAFCOs should be at the forefront of studying the relevance of healthcare districts, potential consolidations and dissolutions of districts. To repeat a theme of Recommendation 1, the Legislature should retain its authority to dissolve healthcare districts or modify boundaries, but this authority should be limited to cases in which local political elites are so intransigent or negligent – or so beholden to local power structures – that some form of higher political authority is deemed necessary.

**Recommendation 14: The Association of California Healthcare Districts and its member districts should step up efforts to define and share best practices among themselves.**

A Commission advisory committee meeting discussion clearly showed that not enough thought or interest has been assigned to sharing what works best in rural, suburban and urban areas among members. The association should formally survey its members and collectively define their leading best practices and models for healthcare, as well as guidelines to improve the impacts of grantmaking in communities.

## Front-line Roles for Climate Change Adaptation

At the Commission’s August 25, 2016, hearing, Chair Pedro Nava asked a simple question of special district attendees vigorously defending their need for robust reserve funds:

How are they assessing future climate change impacts when amassing reserves for long-range infrastructure spending? That question, rooted in the Commission’s 2014 climate adaptation report *Governing California Through Climate Change*, became the genesis of a deeper exploration of awareness of and preparations for climate change among special districts. In an October 27, 2016, hearing focused on special districts efforts to adapt to climate change, the Commission learned that:

- Special districts, even while vastly outnumbering cities and counties in California, have generally not participated at the levels of cities and counties in the state’s emerging climate adaptation information gathering and strategizing. Often that is because they lack land-use authority. Nonetheless, it is critical that their experienced voices be at the table.
- Many larger infrastructure-intensive water, wastewater and flood control districts stand at the forefront nationally in preparing for the varying, changing precipitation patterns – too much or too little water – at the heart of anticipated climate change impacts.

The Commission found it encouraging that many special districts are reducing the need for imported water by diversifying supplies and producing vastly more recycled water. Districts also are steering more stormwater runoff in wet years into groundwater recharge basins for use in dry years. The actions that all agencies must eventually take are already being done by some. The Commission agreed that these leading-edge actions and infrastructure spending strategies represent models for other districts to follow. Accordingly, the Commission makes six recommendations focused on climate change adaptation:

**Recommendation 15: The Legislature should place a requirement that special districts with infrastructure subject to the effects of climate change should formally consider long-term needs for adaptation in capital infrastructure plans, master plans and other relevant documents.**

Most special districts, especially the legions of small districts throughout California, have their hands full meeting their daily responsibilities. Many have few resources and little staff time to consider long-range issues, particularly those with the heavy uncertainty of

climate change adaptation. Making climate change a consideration in developing capital infrastructure plans and other relevant planning documents would formally and legally elevate issues of adaptation and mitigation, especially for districts where immediate concerns make it too easy to disregard the future.

***Recommendation 16: The California Special Districts Association (CSDA), in conjunction with its member districts, should document and share climate adaptation experiences with the Integrated Climate Adaptation and Resilience Program’s adaptation information clearinghouse being established within the Governor’s Office of Planning and Research (OPR). Similarly, CSDA and member districts should step up engagement in the state’s current Fourth Assessment of climate threats, a state research project designed to support the implementation of local adaptation activities. The CSDA also should promote climate adaptation information sharing among its members to help districts with fewer resources plan for climate impacts and take actions.***

The OPR clearinghouse promises to be the definitive source of climate adaptation planning information for local governments throughout California. At the Commission’s October 27, 2016, hearing, an OPR representative invited more district participation in state climate adaptation processes. It is critical that special districts and their associations assume a larger participatory role – both within state government and among their memberships – to expand the knowledge base for local governments statewide.

***Recommendation 17: The state should conduct a study – by either a university or an appropriate state department – to assess the effect of requiring real estate transactions to trigger an inspection of sewer lines on the property and require repairs if broken.***

The responsibility to safeguard California and adequately adapt to climate change impacts falls on every resident of California. This begins at home with maintenance and upgrading of aging sewer laterals. Requiring inspections and repairs during individual property transactions is an optimum way to slowly rebuild a region’s collective wastewater infrastructure in the face of climate change. At the community level, repairs will help prevent excess stormwater during major climate events from overwhelming wastewater systems and triggering sewage

spills into public waterways. The Oakland-based East Bay Municipal Utility District has instituted an ordinance that requires property owners to have their private sewer laterals inspected if they buy or sell a property, build or remodel or increase the size of their water meter. If the lateral is found to be leaking or damaged, it must be repaired or replaced. The state should consider implementing this policy statewide.

***Recommendation 18: State regulatory agencies should explore the beginnings of a new regulatory framework that incorporates adaptable baselines when defining a status quo as climate impacts mount.***

With climate change what has happened historically will often be of little help in guiding regulatory actions. State regulations designed to preserve geographical or natural conditions that are no longer possible or no longer exist already are creating problems for special districts. Wastewater agencies, for example, face conflicting regulations as they divert more wastewater flows to water recycling for human needs and less to streams historically home to wildlife that may or may not continue to live there as the climate changes. While it is not easy for regulators to work with moving targets or baselines, climate change is an entirely new kind of status quo that requires an entirely new approach to regulation.

***Recommendation 19: The California Special Districts Association, and special districts, as some of the closest-to-the-ground local governments in California, should step up public engagement on climate adaptation, and inform and support people and businesses to take actions that increase their individual and community-wide defenses.***

Special districts are uniquely suited to communicate with and help prepare millions of Californians for the impacts of climate change. Nearly all have public affairs representatives increasingly skilled at reaching residents through newsletters, social media and public forums. District staff grapple constantly with new ways to increase their visibility. Many will find they can build powerful new levels of public trust by helping to prepare their communities for the uncertainty ahead.

***Recommendation 20: The California Special Districts Association and special districts should lead efforts to seek and form regional partnerships to maximize climate adaptation resources and benefits.***

Water, wastewater and flood control districts are already bringing numerous agencies to the table to pool money, brainpower and resources for big regional projects. The East Bay Municipal Utility District has arrangements with many Bay Area and Central Valley water agencies to identify and steer water to where it is most needed for routine demands and emergencies alike. The Metropolitan Water District and Sanitation Districts of Los Angeles County also increasingly pool their joint resources to steer more recycled water to groundwater recharge basins for dry years. Likewise, the Santa Clara Valley Water district and other state and federal agencies are collectively planning and funding 18 miles of levees to protect the region from sea level rise. These partnerships among special districts and other government agencies clearly hint at what will be increasingly necessary as climate impacts begin to mount.

# Introduction

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*“Celebrated as the best example of democracy, cursed as the worst form of fragmented government, and generally misunderstood even by the experts, special districts are California’s unique contribution to local government.”*

*What’s So Special About Special Districts?* 2010. Senate Local Government Committee.

At any given moment in any random neighborhood, millions of Californians whirl through their lives within the boundaries of special districts. During their relentless proliferation over the past 75 years or more they have become the backbone of California’s vast public services delivery system and the state’s most common form of local government. The largest of these districts, each individually established by their inhabitants to perform a specific function, provide healthcare, water delivery, transportation, flood control and fire protection. Hundreds more special districts operate airports, harbors, cemeteries, sewer systems, parks and libraries. Still more keep the street lights on, limit the spread of mosquitoes and operate memorials and halls for veterans.

Typically, most residents living in these districts know little about them, how they operate, who runs them and what they pay in taxes or fees to support them. Yet California has an estimated 2,071 independent special districts – many with the power to collect property taxes, to send monthly bills and collect fees and frequently to make voters scratch their heads over a list of unfamiliar candidates during election time.

Generally, it is the state’s 482 cities and 58 counties that attract all the media and social media attention with their noisy, divisive issues and controversial political campaigning. But it is the quiet, below-the-radar special districts where most of the grunt work and local governing of California gets done.

## The Commission’s Study Process

The Commission, in keeping with its mission to seek economy and efficiency in California government, decided at its May 2016 business meeting to undertake a fresh look at the vast, interwoven political landscape of special districts that it first reviewed in 1999 and 2000. A new generation of Commissioners studied the basics of special districts and examined changes spurred by the Commission’s 2000 report. In following up during 2016 and 2017, they evaluated districts generally, but also specifically through the present political uncertainty regarding healthcare delivery and the lens of infrastructure planning for climate change.

*“Districts were popular because they could be put in place quickly, had flexible boundaries, and could efficiently provide those specific services in greatest need without saddling citizens with creation of complex municipal bureaucracies. They were a perfect fit for the dominant, low-density suburban lifestyle that characterized California almost from the beginning.”*

*Growth Within Bounds.* January 2000. Commission on Local Governance for the 21st Century.

Similarly to the 2000 study, this review largely focused on the 2,071 independent special districts. An August 25, 2016, introductory hearing helped the Commission explore the broad background of special districts and consider recommendations about their structures, operations and oversight. An October 27, 2016, hearing focused more narrowly on how special districts, as critical front-line service providers, are mapping out climate adaptation strategies, investing their financial reserves and budgeting for long-range infrastructure to prepare for anticipated climate impacts across California.

Additionally, a November 16, 2016, advisory committee meeting zeroed in on numerous controversies that continue to arise within the Capitol around healthcare districts and whether those districts without hospitals should continue to exist. The Commission examined the historic roles of hospital districts in California, noted the disappearance of many district hospitals and asked if redesigned successor healthcare districts remain a viable entity in an industry that has shifted from disease-focused care to an emphasis in preventative care. Finally, on June 22, 2017, the Commission held a roundtable meeting to discuss potential recommendations for this report, with 17 invited participants and approximately 40 others who provided input and comments to help guide the Commission’s review.

During the course of the study, the Commission and staff interviewed dozens of special district officials and members of their trade associations, government analysts, legislative consultants, members of special district oversight bodies and many others. Staff also toured Sierra

Nevada water delivery infrastructure that supplies water to East Bay Municipal Utility District customers.

Throughout the Commission’s study process, the evolution of special districts was viewed through California’s spectacular population growth since World War II. The Commission learned that newcomers created special districts by the hundreds, then thousands, to bring basic public services to developing rural areas and small towns as the California population rose from nearly seven million in 1940 to 20 million in 1970 and to nearly 40 million today. Many quiet places with ranches and single stoplights morphed into bustling suburbs, cities and urban counties during a frenzy of residential, commercial and industrial development. Often, competing agencies were established to fight fires, build parks and control floodwater. Today, this vast interlaced and unruly governing landscape of city, county and special district service providers is locked into place, the vestige of seven decades of hurry-up growth and hyperactive local agency creation.

## **Institute for Local Government: A Guide to Special Districts**

Special districts are public agencies created to provide one or more specific services to a community, such as water service, sewer service, parks, fire protection and others.

- **Independent Special Districts.** Many special districts operate under a locally elected, independent board of directors, which oversees district functions. These kind of special districts are called “independent special districts.” About two-thirds of special districts are independent.
- **Dependent Special Districts.** Sometimes the governing board of either a city or county will also serve as decision-makers for a special district. These kinds of special districts are called “dependent special districts.” About one-third of special districts are dependent.

Most special districts perform a single function, such as water service, parks and recreation, fire protection, pest abatement or cemetery management. Other districts have multiple functions, such as community service districts. Some special districts provide services for residents in both cities and counties, while others provide services only for residents who live outside city boundaries in the unincorporated areas.

In California, cities must be located in one county, and city boundaries may not cross county lines. On the other hand, special districts may cross city and county boundaries. For example, the Metropolitan Water District of Southern California serves residents in six different counties and most of the cities within those counties.

Special districts generate revenue from several sources including property taxes, special assessments, and fees.

- **Enterprise Special Districts.** These agencies run much like business enterprises and provide specific benefits to their customers. They are primarily funded by fees paid by service recipients.
- **Non-Enterprise Special Districts.** These deliver services that provide general benefits to entire communities. They are primarily funded by property taxes.

Source: Institute for Local Government. “About Special Districts.” Sacramento, CA. <http://www.ca-ilg.org/post/about-special-districts>. Accessed July 18, 2016.

The Commission quickly learned that the status quo is a formidable political force and amply able to quash reform efforts. As it began its 2016-2017 study, it assessed the failure of many reformers during the past quarter century to spur mass consolidation of older special districts or simply absorb them into cities and counties. Consistently, in reports, studies and books, they have argued for centralizing government to create efficiencies and make optimum use of tax revenues. Yet special districts largely continue to prevail. They seem to possess advantages – or conversely, lack wide-scale harms – that make them mostly tolerable to their constituents in the larger scheme of governing and able to forestall movements to purge them on a significantly large scale. Likewise, in California as elsewhere, voters still tend to prefer government that’s closest to them.

The Little Hoover Commission, in lieu of reemphasizing past reform perspectives that California is broken, cracking up and encrusted with too much multilayered or “barnacled” government, elected to provide a newer understanding of districts’ collective role, shine fresh light on old and emerging issues and find ways for the state to oversee better order among local and regional service providers. The Commission, as it assessed the role of special districts in a state that has largely matured in its growth patterns, considered potential ways to clean up poorly-organized local and regional governing systems lingering from chaotic episodes of growth and better prepare them for a new kind of California – one that is:

- Much more densely populated and urban
- Implementing concepts of wellness to create a healthier population and greatly reduce catastrophic healthcare costs, and
- Increasingly focused on economic stability and reliable service delivery as climate impacts begin to mount.

Public hearing witnesses and advisory committee meeting participants are listed in the appendices.

Throughout this study, Commission received much valuable input from interviews and correspondence with special district officials, legislative advocates, government analysts and other experts on governing California. All gave generously of their time, providing great benefit to

the Commission. The findings and recommendations in the report, however, are the Commission’s own.

# Background

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Special districts are a unique creation of California, a governing mechanism dating to the Legislature’s Wright Act of 1877 authorizing Stanislaus County farmers to form the Turlock Irrigation District and capture Sierra snowmelt to water their crops. Water districts led the way in formation of special districts in a vast rural state with approximately 1.5 million people in 1900. In 2017, with a population nearing 40 million, they still supply approximately 90 percent of the developed water in California.<sup>4</sup>

Cemetery districts likewise came into being when California’s population growth overwhelmed the traditional role of churches in providing and maintaining burial grounds.<sup>5</sup> Nearly 250 cemetery districts still exist statewide.<sup>6</sup> New districts in the 1930s built levees and airports and brought electricity to residential areas. Yet most of today’s 2,071 independent districts – the focus of this review – came into being after World War II to accommodate millions of newcomers who migrated to the state’s bounty and warm climate. Hospital districts formed to provide intensive medical care. Library districts put books on the shelves. Harbor districts created shelter for fishing boats and new community services districts took on most of the responsibilities of a small town with fire trucks, parks and night lighting.

The state’s largest districts tend to be located in long-developed coastal areas and include such regional giants as the Metropolitan Water District, Santa Clara Valley Water District and East Bay Regional Parks District. Most of the smaller districts, which are more narrowly focused and limited in service scope, are located in more recently developed inland areas of California.<sup>7</sup>

Proponents of special districts say their best quality is the ability to concentrate on one service. A city parks department is one among many competing for funding during budget season – and may share a city council meeting agenda with dozens of items on proposed shopping centers, gang prevention, pavement conditions, flooding and the homeless. A special district

has a narrowly-defined budget and a singular focus for interested constituents during its public meetings.

“By focusing only on providing the highest level of emergency services to the communities they serve, they avoid being sidetracked or competing for resources with other governmental services,” North Tahoe Fire Protection District Chief Michael Schwartz told the Commission in August 25, 2016, testimony. “Along with a focused mission comes a certain level of organizational expertise, do one thing, do it efficiently and do it well.”

One example from late 2015 testifies to the flexibility enjoyed by single-purpose special districts in contrast to cities, counties and state or federal agencies. When Amador and Calaveras counties were overwhelmed after the 70,000-acre Butte Fire and the federal government couldn’t immediately move to begin watershed restoration, the East Bay Municipal Utilities District (EBMUD) board voted to loan the U.S. Bureau of Land Management (BLM) \$1 million for helicopter time to quickly re-seed the Mokelumne River watershed which drains into the district’s Pardee and Camanche water storage reservoirs. “We really pushed the envelope of what could be done. We were like ‘let’s get going, let’s get going,’” said Chris Swann, ranger supervisor of EBMUD’s Mokelumne River Watershed and Recreation District. Unfortunately, said Mr. Swann, the BLM bureaucracy could not find a way to accept the loan to begin a response.<sup>8</sup>

## Special Districts: How Many Are There?

### Number of California Local Government Entities

- School Districts: 1,022
- Cities: 482
- Counties: 58
- Independent special districts: 2,071
- County-run dependent special districts (including more than 800 county service areas): 1,495
- City-run dependent special districts: 254
- Joint Powers Authorities and Nonprofit Corporations: 957

### Number of Independent Special Districts by Category

- Airport districts: 10
- Water districts: 132
- Water storage districts: 8
- Citrus pest districts: 9
- Community services districts: 321
- Cotton pest abatement districts: 1
- County sanitation districts: 37
- County water districts: 169
- Fire protection districts: 346
- Harbor districts: 7
- Healthcare districts: 79
- Irrigation districts: 92
- Levee districts: 13
- Library districts: 13
- Mosquito control and vector control districts: 47
- Municipal utility districts: 5
- Municipal water districts: 37
- Park and recreation districts: 95
- Police protection districts: 3
- Port districts: 5
- Public cemetery districts: 248
- Public utility districts: 54
- Reclamation districts: 150
- Resource conservation districts: 99
- Sanitary districts: 66
- Transit districts: 17
- Water conservation districts: 13
- Water replenishment districts: 2
- Veterans memorial districts: 27

Sources: See endnote 73.

*“What makes special districts an effective and efficient form of local governing is the empowerment of local service specialists with the revenue and budget authority. When you empower the specialists with the authority combined with the resources necessary to get the job done they will do it in a focused manner that results in efficiency and effectiveness. They will be more prudent, more innovative and more sustainable. As this Commission looks forward to its next hearing let’s not undermine this unique and invaluable tool, the independent special district, that local voters throughout California have established to make a difference in their communities. Let’s instead work together to strengthen these local specialists.”*

Kyle Packham, Advocacy and Public Affairs Director, California Special Districts Association, addressing the Commission August 25, 2016.

## State Auditor Elaine Howle on the Strengths and Challenges of Special Districts

**Strengths:** “Special districts are typically formed to provide specific services and serve certain areas or regions that are not necessarily tied to a city or a county and thus, often understand their constituents’ needs better than a government entity that provides many services and may be a bit further removed from the constituents. Special districts may be able to customize services and provide more tailored services to their customers.”

**Challenges:** “Special districts may have less resources or administrative staff than a city, county or state entity. With limited resources it is sometimes difficult to incorporate management controls and proper oversight that mitigate errors, irregularities, or mismanagement.”

Source: California Special District Magazine. October 15, 2015. “Interview with State Auditor Elaine Howle: Auditing in the Course of Checks and Balances.” Sacramento, CA. <http://www.csdanet.net/districts-in-the-news/interview-with-state-auditor-elaine-howle-auditing-in-the-course-of-checks-and-balances/#sthash.8PmlL0z2.dpuf>. Accessed July 18, 2016.



## Numbers Rising Nationally, but Declining in California

Nationally, the proliferation of special districts is increasing, numbering 38,266 in the U.S. Census Bureau's 2012 Census of Governments, and raising familiar concerns about too much government and too little oversight.<sup>9</sup> In California, the number has peaked, however, and is falling. The California Special Districts Association (CSDA), testifying at the August 25, 2016, hearing and citing 2012 Census of Governments data stated:

- The number of special districts in California has declined 5 percent since a 1997 peak, while the number nationally increased 10 percent since 1997.
- Thirty-three states have more special districts per capita than California.

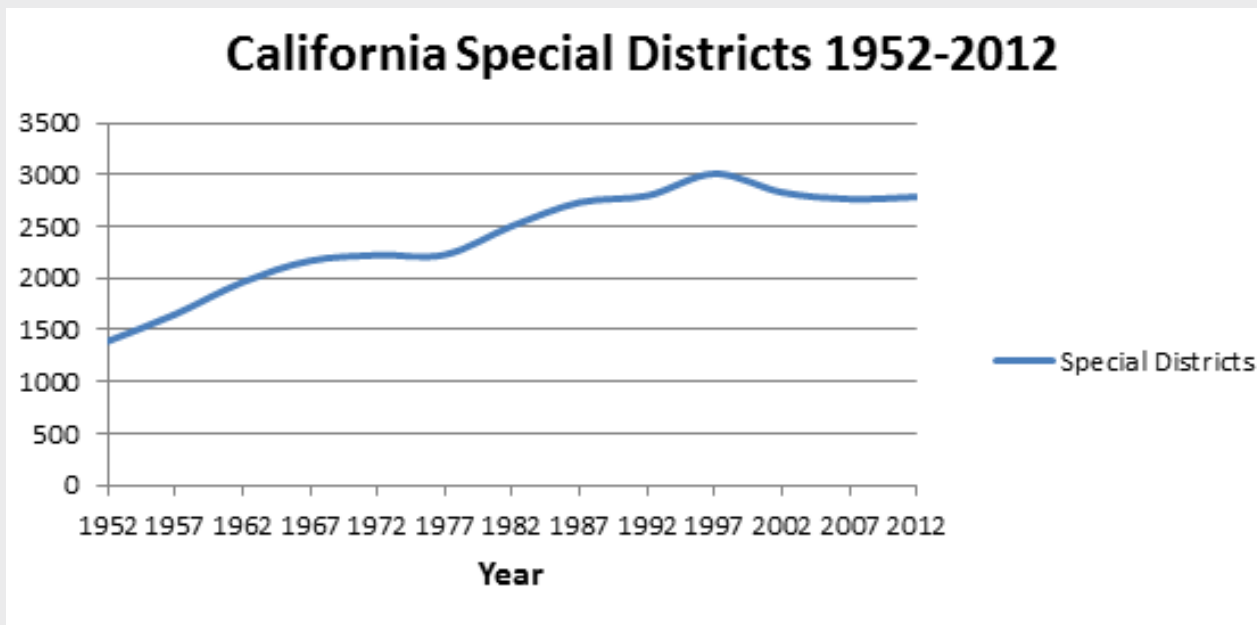
- California has 7.5 percent of the nation's special districts with 12 percent of the nation's population.

The leveling-off trend continues, according to the CSDA, which reported a half dozen district consolidations and dissolutions from mid-2015 through the end of 2016. They include:

- Lompico Water District in Santa Cruz County
- Los Trancos Water District in San Mateo County
- Rabb Park Community Services District in Amador County
- Del Rio Woods Recreation and Park District in Sonoma County
- Gold Springs Lighting District in Tuolumne County
- Niland Fire Protection District in Imperial County.

### Slight Declining Trend in Number of Special Districts

After 75 years of relentless formation and growth to accommodate the rapid development of California, the number of special districts within the state has leveled off.



Source: U.S. Department of Commerce. U.S. Census Bureau. Census of Governments. "List & Structures of Governments. Number of Special Districts." Washington, D.C. [https://www.census.gov/govs/go/number\\_of\\_special\\_districts\\_by\\_county.html](https://www.census.gov/govs/go/number_of_special_districts_by_county.html). Accessed July 18, 2016.

The Imperial County Local Agency Formation Commission moved to dissolve the Winterhaven Fire Protection District, in May 2017. The district had ceased to provide fire protection to the small community and its board had stopped meeting regularly, according to a May 2017 report from the LAFCO's executive officer.<sup>10</sup> Studies also were underway to consider dissolving the West Contra Costa Healthcare District and Rollingwood Wilart Recreation and Park District in Contra Costa County, according to CSDA analysts.<sup>11</sup> Likewise, representatives of five Tuolumne County special districts gathered on January 18, 2017, to discuss possible consolidation of their sanitary, parks, cemetery, lighting and fire districts – with combined annual revenue of \$2.1 million – into a single community services district. “I think through consolidation we would be more efficient,” said one board member quoted by the local newspaper. “We may spend the same amount of money, but I think we would be increasing services to the community.”<sup>12</sup>

In May 2017, the Commission received a copy of a letter from four water districts and one flood control and water conservation district in the Ukiah Valley of Northern California seeking assistance from the Governor in resolving water rights issues so that the five districts could voluntarily consolidate into one Joint Powers Authority. The letter highlighted the challenges that willing water districts working in conjunction with their LAFCO encounter in attempt to consolidate to become more efficient. The districts hoped to provide a statewide model for voluntary water district consolidation using the LAFCO process.<sup>13</sup>

The special districts community maintains there are an unknown number of inactive districts statewide – all candidates for further rounds of dissolutions. A handful of them, according to CSDA, include the Alpine Resource Conservation District, Corcoran District Hospital, Mootamai District Hospital, Odessa Water District and Reclamation District 2120, Silver Creek Drainage District, Valley Health System Healthcare District and Willow Springs Water District.<sup>14</sup> The California Association of Local Agency Formation Commissions (CALAFCO) suggested at the Commission's August 25, 2016, hearing that its member agencies would benefit from having statutory authority and funding to unilaterally dissolve inactive districts without protest votes and costly elections. Presently, when either a LAFCO or a district (even an inactive one) formally initiates its own dissolution residents can protest and upend the process. Legislation to resolve this issue is

currently pending consideration by the Legislature.

## What Californians Can Find Online About Special Districts

Special districts report financial data annually to the California State Controller and California State Treasurer for public review. The Controller's office annually updates the number of independent districts and their employees and reports their statewide and individual salaries and wages paid per district. Data on individual districts can be found by entering the name of the district. Many special districts also provide links to the State Controller's website. One challenge, as described in greater detail later in this report, is that the State Controller combines information on independent special districts, joint powers authorities and nonprofit corporations making it difficult to assess trends in the aggregate. Upon request from the Commission, the State Controller provided the following details on the 1,895 independent special districts that have data available on the State Controller's website<sup>15</sup>:

- These districts have revenues of \$21.5 billion.
- These districts employ 90,461 people.
- The total payroll for these districts was nearly \$6 billion.

The Controller also updates a Top 250 list of the largest districts, an activity spurred by legislation codifying a recommendation in the Little Hoover Commission's 2000 report. For historical information, the Controller's Office maintains a list of annual financial transaction reports from fiscal year 1995-1996 through 2011-2012. In 2014, the Controller's Office updated its financial reporting to an open data format, allowing the public to sort and compare data in a variety of ways. The Treasurer's office tracks special districts' outstanding debts on its *DebtWatch* website. According to the State Treasurer's *DebtWatch* website, California special districts issued \$10 billion in debt from July 2016 to July 2017.

The California Special District Association also has a wealth of information on special districts on its website, including an interactive map of California that includes the name and contact information for a majority of special districts by county with links to many local district websites.

## Relevant Websites to View Special Districts Data

Special Districts Annual Report – Top 250 Districts  
<http://lgrs.sco.ca.gov/sb282/index.asp>

Salary Database for Special Districts  
<http://publicpay.ca.gov/Reports/SpecialDistricts/SpecialDistricts.aspx>

Top 1,000 Special District Salaries  
<http://publicpay.ca.gov/Reports/SpecialDistricts/SpecialDistricts.aspx?fiscalyear=2015&rpt=2&chart=1>

Annual Special District Financial Transaction reports 1995-2011  
[http://www.sco.ca.gov/ard\\_locarep\\_districts.html](http://www.sco.ca.gov/ard_locarep_districts.html)

Special Districts By the Numbers Open Data Website  
<https://bythenumbers.sco.ca.gov>

Debtwatch (California State Treasurer’s Office)  
<http://debtwatch.treasurer.ca.gov>

Special Districts Map (California Special Districts Association)  
<http://www.csda.net/special-districts/map/>

## A Brief Recap: The Commission’s 2000 Study and Changes Since

In a May 3, 2000, letter to Governor Gray Davis and the Legislature following its initial year-long study, the Commission summarized that it found special districts were slow to change their ways, invisible to most citizens and often lacking in scrutiny until it was too late to head off scandal. “Ironically, these governments that are physically closest to their communities are oftentimes unknown to the people they serve. And in the absence of community involvement, the mechanisms for public accountability are dulled and the value of public scrutiny is lost.”

Wrote then Commission Chair Richard R. Terzian: “It also is ironic that when they were created, these districts were tailored to the needs of their communities. But as those communities have grown and changed, the districts themselves have been slow to change their boundaries, functions and governance to reflect their communities.” In its 2000 report, the Commission criticized excess

financial reserves held by some “well-heeled” districts, suggested that consolidating small districts into larger districts would yield efficiencies and stated that Local Agency Formation Commissions (LAFCOs) needed to be better-equipped and tougher to bring more order to the state’s checkerboard of districts.

*“When special districts first emerged, they were state-of-the-art government. All of their attributes were tailored to the unique needs of their communities – their boundaries, their functions, their governance and their finances ... Many of these independent government entities continue to evolve in ways that increase their value and relevance to the citizens they serve. But others are reluctant to change and to open themselves to scrutiny. Their boundaries are meaningless relics of communities that have lost distinctions. They spend money on their defined missions, regardless of other community needs. In some cases, they hold vast financial reserves that have simply not been publicly examined. In extreme cases, the governing boards are only “governing” contracts with private service providers.*

Little Hoover Commission. “Special Districts: Relics of the Past or Resources for the Future.” May 3, 2000.

The Commission’s five major recommendations in 2000:

- The Governor and Legislature should enact legislation to make special districts more visible and accountable to those they serve.
- The state should provide LAFCOs the direction and resources necessary to make them a catalyst for the effective and efficient evolution of independent special districts.
- The Governor and Legislature should establish a program at the California Policy Research Center, or similar institute, to equip policymakers and the public with tools necessary to assess and guide the organization of independent special districts. The program should develop guidelines and protocols for special district consolidations.

It also should study outcomes of consolidations and reorganizations, establish a cadre of trainers and develop performance measures.

- The Governor and Legislature should enact policies to ensure prudent management of special district reserve funds. Those reserves also should be incorporated into regional and statewide infrastructure planning.
- State policymakers should consider whether continuing to allocate property taxes to enterprise districts which bill their customers for services provided is appropriate.

The Commission's May 2000 report and recommendations have spurred few large-scale structural changes in the arena of special districts. There was no jump start in consolidations. There was no alteration of property tax allocations to enterprise districts. Explaining the lack of action, policymakers within the orbit of special districts told the Commission in 2016 that property tax policy is too intricate and convoluted to change allocations without tampering with Proposition 13. They also defended district reserve funds as a tool to pay for infrastructure or special programs such as the Metropolitan Water District's drought-inspired \$350 million lawn removal initiative in Southern California.<sup>16</sup> Many LAFCOs, meanwhile, remain as resource-challenged as they were in 2000, continuing to lack adequate funds to more aggressively initiate and study formation, dissolution or consolidation of districts.

Still, August 25, 2016, hearing witnesses, as well as others in interviews, told the Commission its 2000 report prodded many smaller changes and results: Among them:

- Numerous county grand juries conducted their own reviews of special districts following the Commission's report. These grand juries documented many of the same issues locally as those raised by the Commission. Many questioned reserve levels and district spending and suggested district consolidations.
- Governor Davis in 2001 signed legislation – SB 282 (Dunn) – requiring the California State Controller to publish an annual online report of 250 special districts with the largest revenues. This annual

report now provides the public specific data about districts' reserves, revenues, expenditures and cash and investments on hand.<sup>17</sup>

- The California Special Districts Association in 2001 issued a publication to its members which cited Little Hoover Commission concerns about reserves. It outlined methods to establish "prudent" reserves. The association updated its "Special District Reserve Guidelines" in 2013.
- The CSDA's Special District Leadership Foundation, formed in 1999, now issues certificates of excellence to districts that adhere to principles identified in the Commission study – ethics, transparency, accountability, efficiency and good policy choices.<sup>18</sup>
- Most special districts now have websites – unlike 2000 – and post notices of board meetings, minutes and financial and budget information online. Water districts, especially, make strong use of social media to engage customers and keep them in the know.<sup>19</sup>
- The Cortese-Knox-Hertzberg Act of 2000 – AB 2838 (Hertzberg) – authorized Local Agency Formation Commissions to occasionally analyze the organization and relevance of individual special districts. Most LAFCOs are doing these studies, called Municipal Service Reviews, according to state LAFCO officials.
- LAFCOs also have become more independent of other local government organizations that could sway their decisions. In 2000, some 70 percent of LAFCOs relied on county employees for staff. In 2016, approximately one-third rely on county employees.
- The number of county LAFCOs with special district representatives on their governing boards has increased from 25 to 30 since the Commission's 2000 report. In 2017, the California Special Districts Association and California Association of California Local Agency Formation Commissions is co-sponsoring legislation to remove a legal constraint that requires a majority of special districts within a county to pass resolutions favoring special district

representation on their LAFCO within a one-year period. The proposed change would allow a one-time election process where a majority of districts could vote on the question.

# Appropriate State Oversight

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The Legislature gave life to special districts in 1877 and retains the power to create them to meet new needs, dissolve them when they become irrelevant and adjust their boundaries to meet changing circumstances. Generally, the Legislature is free to intervene in operations of special districts any way it sees fit – and has repeatedly done so.

Many outside the Capitol told the Commission the Legislature increasingly is too quick to override local oversight of special districts – and ill-informed while weighing issues complicated by fractious local politics. Yet Capitol insiders say local oversight processes for special districts can be interminably slow and ineffective. It often requires higher political authority to break logjams, shut down troubled districts, consider the fairness of property tax allocations and scrutinize the scale of financial reserves.

The standoff is a constant in Capitol politics. What, indeed, is appropriate state oversight for special governing entities that are local and regional in scale, run by locally-elected boards, subject to local oversight authorities and, in theory, reflecting the wishes of local constituents?

## **It Begins with Local Agency Formation Commissions (LAFCOs)**

The Commission's 2000 report found LAFCOs were slow, underfunded and even unreliable when captured by local politics – and some still are. A frustrated

Legislature has reacted by bypassing LAFCOs altogether through legislation to directly create, expand, dissolve or alter the operations of special districts. Governor Schwarzenegger and Governor Brown have largely approved reorganization bills that reach their desks. An uptick in these types of bills introduced during the 2015-2016 legislative session signaled the LAFCO process was not living up to its potential equally across the state.

The Legislative action however raises red flags among local government watchers. One 2016 Senate Governance and Finance Committee analysis stated that “continuing to enact special legislation circumventing the LAFCO process for individual local government boundary changes and reorganizations may set a precedent that invites regular legislative involvement in all manner of disputes over local service delivery and boundary issues.”<sup>20</sup>

Despite marked improvements since the last major reform effort in 2000, the enactment of the Cortese-Knox-Hertzberg Reorganization Act of 2000, the LAFCO process has generally not spurred an abundance of dissolutions or consolidations of special districts.

In August 25, 2016, hearing testimony, Pamela Miller, executive director of the California Association of Local Agency Formation Commissions (CALAFCO) told the Commission her member agencies oppose bills that bypass LAFCO authority and are increasingly being introduced in the Legislature. She also cited negative implications of the Legislature powerfully inserting itself into purely local disputes and issues, often of late involving healthcare districts, an issue discussed more fully later in this report.

## What is a LAFCO and What Does it Do?

Many consider county Local Agency Formation Commissions, in theory, one of the best ideas of any state in helping guide the orderly growth of local government as communities develop and change. In practice, this task is often made much more difficult by local politics that can occasionally override the broader public interest. LAFCOs are dominated by local elected officials with varying ideologies about accommodating growth or development while the institutions are sometimes thought to be controlled by various city or county factions favorable or unfavorable to developers. A dissenting vote can lead to a member's removal. (The California Association of Local Agency Formation Commissions testified at the August 25, 2016, hearing that it would like to see statutory authority providing fixed terms for LAFCO members to ease political pressures in controversial local votes).

LAFCOs exist in each of California's 58 counties and are generally governed by five or seven members that include two county supervisors, two city council members and one public member – and in 30 counties, also two special district representatives. In most of those 30 counties, the cities, counties and special districts each pay one-third of a LAFCO's annual budget – though funding ratios can vary. In counties without special district representation cities and counties generally split the cost.

The Legislature and Governor Edmund G. "Pat" Brown created LAFCOs in 1963 as part of a tide of planning reforms enacted to prevent practices in which "many landowners engaged in leapfrog development – jumping far ahead of municipal boundaries and urban services to build subdivisions without central water and sewer systems," according to author William Fulton's "Guide to California Planning." Cities, wrote Fulton, "happily annexed distant property" and counties "permitted growth wherever landowners wanted to put it." LAFCOs were assigned to bring a rational view to these decisions, in essence, having the final say over city boundaries and also creation of special districts and their boundaries.

The Legislature has added many new responsibilities to LAFCOs since their creation. A 1993 reform law, AB 1335 (Gotch), gave LAFCOs the power to initiate consolidations among special districts while adding the option of including two special district members on LAFCOs.

Another major reform effort in 2000, the Cortese-Knox-Hertzberg Reorganization Act of 2000, AB 2838 (Hertzberg), gave LAFCOs authority to conduct reviews of the efficiency and effectiveness with which special districts deliver services. These are called Municipal Service Reviews (MSRs). While LAFCOs have no direct regulatory authority over special districts, these MSR's provide information to help districts improve their performance – and also serve as the basis for LAFCO decisions to recommend and take the initiative to consolidate or dissolve districts and make boundary changes. Local voters, however, have the final say on consolidations and dissolutions.

Sources: William Fulton. *Guide to California Planning*. Second Edition. Solano Press Books. 1999. Point Arena, CA. Pages 58-59, 76-77. Also, Pamela Miller, Executive Director, California Association of Local Agency Formation Commissions. August 25, 2016. Written testimony to the Commission.

## Recent Legislation Overriding LAFCO Authority in Special District Controversies

- SB 1374 (Lara), creating the Lower Los Angeles River Recreation and Park District without requiring the usual LAFCO study and approval process for new local government boundaries. Governor Brown signed the bill on September 22, 2016.
- AB 2414 (Garcia), allowing the Desert Regional Healthcare District in Riverside County to expand its boundaries into the eastern Coachella Valley without a full LAFCO review. Governor Brown signed the bill on September 21, 2016.
- AB 2471 (Quirk), expediting the dissolution of the Eden Township Healthcare District in Alameda County by ordering the LAFCO, under conditions specified in the legislation, to dissolve it. The bill was ordered to the Inactive File on August 29, 2016, at the request of Senator Loni Hancock, D-Oakland.
- AB 2737 (Bonta), bypassing LAFCO and the board of Eden Township Healthcare District to cap the district's administrative expenses at 20 percent of its annual revenue. Governor Brown signed the bill on September 21, 2016.
- AB 2470 (Gonzalez), requiring the San Diego County Water Authority to provide water outside its boundaries to the Sycuan Band of the Kumeyaay Nation if asked – bypassing LAFCO review and circumventing the annexation process. Governor Brown signed the bill on September 12, 2016.
- AB 3 (Williams), creating the Isla Vista Community Services District to administrate a long-neglected student-occupied neighborhood near UC Santa Barbara. The bill specifically prohibited the local LAFCO from disapproving the application to create it. Governor Brown signed the bill October 7, 2015.
- SB 88 (Committee on Budget and Fiscal Review), granting the State Water Resources Control Board power to bypass LAFCOs to force consolidation of local water districts to serve disadvantaged areas. Governor Brown signed the bill June 24, 2015.
- AB 2453 (Achadjian), establishing a special process to create a new Paso Robles Water District in San Luis Obispo County that included exceptions to the customary and statutorily-required LAFCO process. Governor Brown signed the bill September 16, 2014.
- AB 1232 (Huffman) allowing a special process for the consolidation of the Sewerage Agency of Southern Marin and its member districts, after notice and hearing, but without protest hearings. Governor Schwarzenegger signed the bill October 11, 2009.

Source: : Legislative Information System. Bill analyses.



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***“LAFCOs have been criticized for not doing enough when it comes to dissolving or consolidating districts. Simply reorganizing agencies does not necessarily improve services – ultimately, LAFCO recommendations are designed to improve the provision of service. Each district has its own funding approach and some have distinctly different levels of service. Consolidation or dissolution for the sake of change is not as simple or logical a path as one presumes and often leads to unintended consequences. LAFCOs must always recognize and respect that a special district board is locally elected and is accountable to its constituents when making local decisions, even if in stark contrast to a LAFCO recommendation.”***

Pamela Miller, executive director, California Association of Local Agency Formation Commissions. August 25, 2016, testimony to the Commission.

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In her testimony, Ms. Miller told the Commission that the Legislature is prone to ignore or override the local circumstances and conditions behind a particular special district dispute. She also said the extensive and time-consuming deliberations involved in LAFCO processes are necessary to ensure quality decision-making. The LAFCO studies required to consolidate, dissolve, change or create a district can take one to two years and cost thousands of dollars in staff time, she said. “The Legislature made the process very deliberative so it takes a while. A dissolution is messy. There are a lot of factors. What are the assets? Who will take over the assets and liabilities? It’s time-consuming and costly. Some entities think it’s less costly to run a bill through the state and nothing could be further from the truth,” she told the Commission.

Witnesses at the Commission’s August 2016 hearing and participants at the June 2017, advisory committee meeting suggested part of the reason for the inconsistent effectiveness of LAFCOs across California was insufficient funding. A small, one-time infusion of grant funding – particularly targeting the most critically needed reorganization studies by LAFCOs or smaller special districts – could lead to improved local governance.

Ms. Miller suggested that although ongoing funding to support LAFCO mandates is appropriate, she indicated CALAFCO fully supports a one-time infusion for LAFCOs to conduct certain activities.

She also acknowledged to the Commission that CALAFCO is seeking middle ground with the Legislature. “We are willing to work with the local government committees to look at LAFCO processes on what could be streamlined and still get the job done,” Ms. Miller said.

Several “nuts and bolts” types of fixes were proposed to the Commission during the study. Two recommendations – one that would make it easier for LAFCOs to dissolve inactive districts and another that would make it easier to add special districts to LAFCOs in the 28 counties where this currently is not the case, were introduced in the Legislature in 2017. The first bill was under consideration by the Legislature and the second was sent to the Governor’s desk in August 2017. Other proposed improvements including establishing fixed terms of service for LAFCO members and simplifying the consolidation and dissolution process.

## **Dealing with Property Tax Inequities**

The Commission spent considerable time in 1999 and 2000 examining a peculiar aspect of special districts that stems from rushed efforts to address the 1978 voter-created property tax limit measure, Proposition 13. The Commission then – alongside several other prominent task forces at the time – recommended reforms for fairer, more equal and sensible property tax distribution among local service providers. None of it gained traction due to powerful public entities, including special districts, fearing lost revenue and defending their locked-in property tax shares. The Commission revisited the topic at its August 25, 2016, hearing and heard a whole new round of opposition and protest from special districts and their trade associations. This opposition was repeated during and following the Commission’s June 2017 advisory committee meeting. It is clear that opportunities for property tax reform and more equitable distribution locally are little better in 2017 than in 2000.

Some districts – such as water districts – collect property taxes *and* charge fees for services to their customers. This enables them to prosper, build strong reserves and

keep fees lower. Meanwhile, some neighboring water districts *can't* collect property taxes, have few reserves and must charge customers higher fees.

*“The allocation of property tax revenues is difficult to administer and understand, complicating the work of policymakers and confounding taxpayers. Formulas for allocating property taxes enacted in the late 1970s often fail to reflect the contemporary needs and desires of local communities. Formulas are now locked in place that provide subsidies to some districts, prevent others from delivering services that the public wants, and preclude understanding by the public of what their property tax buys and from whom.”*

Special Districts: Relics of the Past or Resources for the Future. Little Hoover Commission. May 3, 2000.

This inequality prevails throughout California’s special districts landscape. It is due to AB 8, a quick, reactive measure which passed in 1979 and has defied solution ever since. AB 8 locked in a tax system in which special districts that levied their own property taxes in the mid-1970s get a similar share of their county’s 1 percent property tax rate today. Districts that didn’t levy property taxes in the 1970s – often due to politically-conservative boards – get no shares of their county’s property taxes. This inability to redistribute county property taxes for new program realities means libraries and parks may deteriorate due to taxing decisions made in the 1970s while nearby fire districts buy the best, newest fire trucks and healthcare districts give tax-funded grants to sometimes-questionable recipients – all while also maintaining reserve funds.

August 25, 2016, hearing witness Michael Coleman, a Davis-based government finance expert speaking for himself and not on behalf of his clients, told the Commission that special districts shouldn’t routinely be able to simultaneously receive property taxes and charge customer fees. He testified that the current system (inherited from the state government’s hurried, clumsy implementation of Proposition 13) often increases a region’s tax load – a struggling public library system must seek an additional parcel tax, for example, even as a nearby water district has seemingly outsized financial reserves.

Mr. Coleman acknowledged the difficulty of reforming an entrenched tax system fiercely defended by the winners. But he proposed a novel vision – one also floated during the early 1990s by the Legislative Analyst’s Office – to spend property tax dollars more efficiently in California by better aligning local property tax revenues with demand for services. “Communities should be empowered with the authority they need to allocate revenues according to their particular needs and preferences,” Mr. Coleman testified. “We have a local property tax apportionment system that fragments local governance: no local authority exists to allocate revenues among the core municipal services to better match local service level preferences as they exist today, not 30 or 40 years ago.”

Under Mr. Coleman’s scenario, the Legislature would give counties and cities responsibility to provide *all* services within their boundaries, even those now provided independently by special districts. Cities and counties would decide local service levels – for police, fire, parks, libraries, water and others – and have authority to shift annual spending of local property taxes to best provide them. In this manner, Mr. Coleman testified, a single government authority would set service priorities within its boundaries through an annual open budget process, he testified, rather than the current system of numerous independent entities making those decisions irrespective of one another and the region’s overall needs and wants.

“The authority to reallocate revenues from taxes should be tied at the hip with the responsibility for the service for which those taxes are intended,” Mr. Coleman told the Commission. Policymakers with the power to shift revenues from one program to another should shoulder the responsibilities for those programs.”

“Special districts could continue to be service providers under arrangement with cities and counties, but would no longer be ‘taxing entities,’” Mr. Coleman stated in his written testimony. Orally, he told the Commission, “I have said this many times, and I should reemphasize here again, that special districts, are in many cases, I do not doubt, the very best, most efficient and effective service provider for an area. What I’m suggesting is that that decision can be made through contract, as it is in many cases, as opposed to a locked-in allocation of revenues so that a community has the choice to think about what’s the best alternative for providing the service in the area.”

Special district representatives disagreed vigorously with Mr. Coleman’s proposal. Kyle Packham of the California Special Districts Association told the Commission it “fails on multiple levels” and noted the fact that it’s never been implemented suggested that it’s too difficult or “it may be it’s just a bad idea.” “The linchpin to the effectiveness of special districts, which Mr. Coleman recognizes in his written testimony, is their authority over revenues and expenditures. They’re independent,” Mr. Packham testified. “The moment that authority is subjugated to another body like cities, the district is completely undermined.”

Mr. Packham added: “Giving another body the purse strings might as well be handing them chains and shackles. He who controls, or she who controls, the revenue controls the outcomes. Therefore, turning over revenue control to the cities would inherently eliminate the purpose for which voters established special districts and the foundation for their effectiveness and efficiency.”

The Commission clearly recognizes that intense opposition to a different, more rational model of tax sharing creates formidable political obstacles to reforms. Yet, reflecting on the obvious inequities of property tax allocation and the locked-in formulas that have created winners and losers for nearly four decades after Proposition 13’s passage, it considers Mr. Coleman’s proposal worth keeping among policy options for the longer term in California.

## The Prickly Question of Reserves

The August hearing also revisited a sensitive topic of financial reserves held by special districts. In its 2000 report the Commission issued a finding, noting: “Hundreds of independent special districts have banked multi-million dollar reserves that are not well publicized and often not considered in regional or statewide infrastructure planning.”<sup>21</sup> The Commission found that “some reserves appear unreasonably large” and reported at length on ways to define a “prudent” reserve.

At the Commission’s August 25, 2016, hearing, Jon Coupal, president of the Howard Jarvis Taxpayers Association, reiterated many of those criticisms, stating, “Few can deny that many government entities have abused the public trust by hoarding vast sums of money. The problem remains, as it did in 2000, especially acute with enterprise districts.” Mr. Coupal added that reserves have continued

to increase since 2000 among the 25 top enterprise districts cited in the Commission’s original report.

The California Special Districts Association and individual special districts in 19 instances of public comment forcefully contested Mr. Coupal’s figures as well as his criticism. Mr. Coupal defended his testimony, stating, “It’s been said that we don’t understand reserves. I would submit that we do, very well.”

In his written testimony, Mr. Packham stated, “There are many factors to maintaining sufficient reserve levels and ultimately the fact that one agency has larger or smaller reserves than another is not, in and of itself, a bad thing.” He added, “The key is for agencies to establish a clear and well-articulated rationale for the accumulation and management of reserve funds.”<sup>22</sup>

Special districts have likewise continued to dispute the numbers cited for special district reserves in the Commission’s 2000 report, labeling them inaccurate and misleading. In 2016, a Commission discussion with special districts about their reserve figures cited by the State Controller’s Office led to the same impasse as districts told the Commission they use different definitions and calculations for their reserves than those reported by the State Controller. The bottom line: it is nearly impossible under the current state reporting system to draw conclusions that won’t be challenged by special districts as inaccurate. Trade associations for special districts told the Commission the State Controller’s Office has established a task force including representatives of cities, counties and special districts, to work on standardizing definitions used in its reporting of reserves to eliminate this constant discrepancy. The Commission hopes that work remains a priority and is soon concluded to help the public properly assess the reserves held by their local districts.

Special district executives repeatedly told the Commission during its August 25, 2016, hearing that strong financial reserves are necessary for district operations and represent good fiscal judgment. The discussion, highly focused on the need for expensive infrastructure to do their work today and into the future, prompted Commission Chair Pedro Nava to ask district representatives if they are considering the impacts of climate change when investing their reserve funds. That discussion prompted additional research and a second

hearing on October 27, 2016, on districts' reserve policies and climate change adaptation, a subject that will be discussed in a later chapter.

## RECOMMENDATIONS

Many of the concerns raised about special districts continue to be repeated in 2017. Within Capitol policy circles, some still contend that special districts are ripe for consolidation and represent convoluted, dispersed, under-the-radar government. The Commission, while recognizing that many districts could still be consolidated, believes that number may be more in the dozens than the hundreds. It takes at face value the fact that the number of districts has continued to level off since 1997. Yet the Commission remains frustrated with this seemingly slow process and at one juncture during the study process, even considered recommending broad and sweeping changes or encouraging a larger role for the Legislature.

After significant additional public input and several deliberations, the Commission still largely agrees, as it did in 2000, that keeping or dissolving a special district remains more of a local choice than a choice to be exercised within the Capitol. Governing issues remain, however, and special districts operations can be improved. The state can help through a one-time infusion of funding, combined with additional statutory improvements for LAFCOs. But these recommendations, if implemented, should be analyzed and measured and if additional progress does not occur, further reforms should be considered.

***Recommendation 1: The Legislature and the Governor, should curtail a growing practice of enacting bills to override LAFCO deliberative processes and decide local issues regarding special district boundaries and operations.***

The Legislature and Governor have reason to be frustrated with slow and deliberative LAFCO processes. But these are local institutions of city, county and special district members often better attuned to local politics than those in the State Capitol. Exemptions where the Legislature gets involved should be few, and in special cases where the local governing elites are so intransigent or negligent – or so beholden to entrenched power structures – that some higher form of political authority is necessary.

***Recommendation 2: The Legislature should provide one-time grant funding to pay for specified LAFCO activities, particularly to incentivize LAFCOs or smaller special districts to develop and implement dissolution or consolidation plans with timelines for expected outcomes. Funding should be tied to process completion and results, including enforcement authority for corrective action and consolidation.***

The Commission in its 2000 report and again in this study heard that certain LAFCOs and smaller districts lack the resources to propose consolidations and dissolutions. As part of the August 2016 hearing and June 2017 advisory committee meeting the Commission was told a small one-time infusion of \$1 million to \$3 million in grant funding could save California taxpayers money if local government is streamlined and efficiency is improved. This funding could provide an incentive for LAFCOs or smaller districts to start a dissolution or consolidation process. Participants in the Commission's public process suggested the Strategic Growth Council or Department of Conservation could administer this one-time funding.

***Recommendation 3: The Legislature should enact and the Governor should sign SB 448 (Wieckowski) which would provide LAFCOs the statutory authority to conduct reviews of inactive districts and to dissolve them without the action being subject to protest and a costly election process.***

The Commission's study found that there are inactive special districts that hold no meetings and conduct no public business. The exact number of inactive districts is not known and no formal effort to quantify this problem has occurred. A preliminary review by The California Special Districts Association found seven examples. Making the legal dissolution process for inactive districts easier for LAFCOs would represent a significant first step in trimming district rolls in California.

***Recommendation 4: The Governor should sign AB 979 (Lackey), co-sponsored by the California Special Districts Association and the California Association of Local Agency Formation Commissions. The bill would strengthen LAFCOs by easing a process to add special district representatives to the 28 county LAFCOs where districts have no voice.***

The Cortese-Knox-Hertzberg Reorganization Act of 2000 (AB 2838, Hertzberg) provided the option to add two special district members to county LAFCOs to broaden local governing perspectives. Nearly two decades later, 30 counties have special district representatives on their LAFCOs alongside city council members and county supervisors. This change provides LAFCOs a more diverse decision-making foundation and stronger finances. But 28 additional counties, mostly in rural California, have balked, citing scarce resources. Presently, a majority of a county's special districts must pass individual resolutions within one year supporting a change. This has repeatedly proved itself a formidable obstacle to broadening the outlook of local LAFCOs. AB 979 would allow a simple one-time election process where districts could easily – and simultaneously – decide the question.

***Recommendation 5: The Legislature should adopt legislation to give LAFCO members fixed terms, to ease political pressures in controversial votes and enhance the independence of LAFCOs.***

The California Association of Local Agency Formation Commissions testified on August 25, 2016, that individual LAFCO members – members of city councils, county boards of supervisors and special districts – are expected to exercise their independent judgment on LAFCO issues rather than simply represent the interests of their appointing authority. It is a sometimes difficult expectation when members serve at will of their appointing authority. The CALAFCO hearing witness said unpopular votes have resulted in LAFCO board members being removed from their positions. Fixed terms would make voting members more willing to exercise the appropriate independence in decision-making.

***Recommendation 6: The Legislature should convene an advisory committee to review the protest process for consolidations and dissolutions of special districts and to develop legislation to simplify and create consistency in the process.***

The Commission heard that an overly complicated and inconsistent process provides another obstacle to implementing district dissolutions or consolidations. There is one set of rules if a LAFCO initiates a dissolution or consolidation and another if the same process is initiated by a district. There was general agreement that a simplified and consistent process could improve

local governance, but the Commission was cautioned against recommending specifics on the process without significantly more stakeholder input. The June 2017 meeting participants agreed this topic warranted further review and suggested the local governance committees in the Legislature convene an advisory group to propose specific legislative changes.

***Recommendation 7: The Legislature should require every special district to have a published policy for reserve funds, including the size and purpose of reserves and how they are invested.***

The Commission heard a great deal about the need for adequate reserves, particularly from special districts with large infrastructure investments. The Commission also heard reserves were excessive and district policies on how reserves are set aside, invested and earmarked for future use are not readily available for public review. To be more responsive to constituents, special districts should better articulate the need for and the size of reserves, by adopting explicit policies for reserve funds. These policies should be readily available for public review.

***Recommendation 8: The State Controller's Office should standardize definitions of special district financial reserves for state reporting purposes.***

Presently, it is difficult to assess actual reserve levels held by districts that define their numbers one way and the State Controller's Office which defines them another way. The State Controller's Office is working to standardize numbers following a year-long consultation with a task force of cities, counties and special districts. To improve transparency on reserves, a subject that still eludes effective public scrutiny, the State Controller's Office should push this project to the finish line as a high priority.

# Improving Transparency

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**M**odern technology provides government a broad array of tools for providing information to the public and to solicit input and involvement from constituents. The Commission found dramatic improvement in the way special districts used websites to reach the public as compared to its prior review in 2000. But this is still not true statewide. And, it still is difficult for the public to know which districts receive their property tax dollars, how to participate in their district’s public process and how to pick the best board members to run their districts from an often obscure list of potential candidates.

## Improving Transparency on Websites

In its 2000 report, the Commission found many districts provided minimal information to the public and many were still in the practice of posting meetings and agendas only at the district headquarters. In the subsequent 17 years, many special districts have embraced technology and provide much more information online. Some of the small and rural districts, however, still lack sufficient revenue and the consistent Internet access that would allow them to create and maintain a web presence. For these districts, it is more feasible to have no website at all rather than comply with state mandates for local government websites. Social media such as Twitter and Facebook provide new, less-costly outreach options.

The California Special Districts Association in partnership with the nonprofit Special District Leadership Foundation can be credited with making significant strides in improving online transparency for many special districts since the Commission’s 2000 report. The Special District Leadership Foundation has developed specific criteria special districts must meet to be awarded a District Transparency Certificate of Excellence. Currently, 118 special districts have received this certification.

Additionally, the California Special Districts Association has partnered with Streamline, a division of Digital Deployment, a web development company, to develop a website builder. With no startup fees and no commitment, association members can create and launch a website that meets all legal requirements as well as the Special District Leadership Foundation’s transparency guidelines for as little as \$10 per month.<sup>23</sup>

Current law mandates four requirements for any local agency with a website:

1. Agendas must be posted 72 hours before a meeting occurs.
2. Annual compensation reports, or a link to the State Controller’s website that contains the report, must be posted.
3. Financial transaction reports, or a link to the State Controller’s website that contains the report, must be posted.
4. Enterprise system catalogs must be posted.

The fourth requirement – to post enterprise system catalogs – is a fairly new requirement unique to local governments enacted through legislation in 2015, SB 272 (Hertzberg). This law requires local governments to include a list of all software and computer systems that it uses to collect, store or analyze information. By creating the new rule as part of the Public Records Act, the law technically did not create an unfunded mandate for local government. Local governments, however, point to this type of legislation as state micromanagement as this website feature may add little value to local government constituents, but does require ongoing staff resources to keep the feature up-to-date.

## Certificate of Excellence Website Requirements

The Special District Leadership Foundation encourages special districts to apply for a District Transparency Certificate of Excellence. These certificates indicate the district meets certain criteria and maintains a website with the following required items:

- Names of board members and their full terms of office to include start and end date
- Name of general manager and key staff along with contact information
- Election/appointment procedure and deadlines
- Board meeting schedule (Regular meeting agendas must be posted 72 hours in advance pursuant to Government Code Section 54954.2 (a)(1) and Government Code Section 54956 (a))
- District's mission statement
- Description of district's services/functions and service area
- Authorizing statute/Enabling Act (Principle Act or Special Act)
- Current District budget
- Most recent financial audit
- Archive of Board meeting minutes for at least the last 6 months
- Link to State Controller's webpages for district's reported board member and staff compensation (Government Code Section 53908)
- Link to State Controller's webpages for district's reported Financial Transaction Report (Government Code Section 53891 (a))
- Reimbursement and Compensation Policy
- Home page link to agendas/board packets (Government Code Section 54957.5) SB 272 compliance-enterprise catalogs (Government Code Section 6270.5)

The foundation also encourages additional items – and requires websites to include at least four of the items below:

- Post board member ethics training certificates
- Picture, biography and e-mail address of board members
- Last (3) years of audits
- Financial Reserves Policy
- Online/downloadable public records act request form
- Audio or video recordings of board meetings
- Map of district boundaries/service area
- Link to California Special Districts Association mapping program
- Most recent Municipal Service Review (MSR) and Sphere of Influence (SOI) studies (full document or link to document on another site)
- Link to [www.districtsmakethedifference.org](http://www.districtsmakethedifference.org) site or a general description of special districts
- Link to most recently filed FPPC forms
- Machine readable/searchable agendas (required in 2019)

Source: Special District Leadership Foundation website. Accessed August 7, 2017. [https://docs.wixstatic.com/ugd/e1128e\\_2a54d6cbed247a19f30556c297daee0.pdf](https://docs.wixstatic.com/ugd/e1128e_2a54d6cbed247a19f30556c297daee0.pdf)

In written comments to the Commission following the June 2017 advisory committee meeting, Mr. Packham from the California Special District Association noted that between April and June 2017, one district website had 289,133 unique page views to its homepage, but only 16 unique page views of the enterprise system catalog link. In the same letter, Mr. Packham urged the Commission to not only consider the upfront costs of developing or updating a website to comply with statutory requirements, but also the ongoing personnel costs required to maintain and update information on the website. He and others also suggested that any new requirements related to special district websites be consistent across all levels and types of state and local government and that consideration be given to small special districts with limited revenue and inconsistent access to the Internet.<sup>24</sup>

Improving websites was a significant discussion topic at the Commission's June 2017 advisory committee meeting. Chair Pedro Nava encouraged districts to "tell their story" in plain language. There are very few government entities that are in a position to let people know that they are out there working directly for them and that the taxes and fees they pay fund local services, he said.

The goal of additional transparency is not micro-managing, another Commissioner stated at the meeting, but rather consistently making information available that answers basic questions about a district: how many employees are there and what are they paid, where does the revenue come from and how is money spent in the district. The goal, he said, is to build trust.

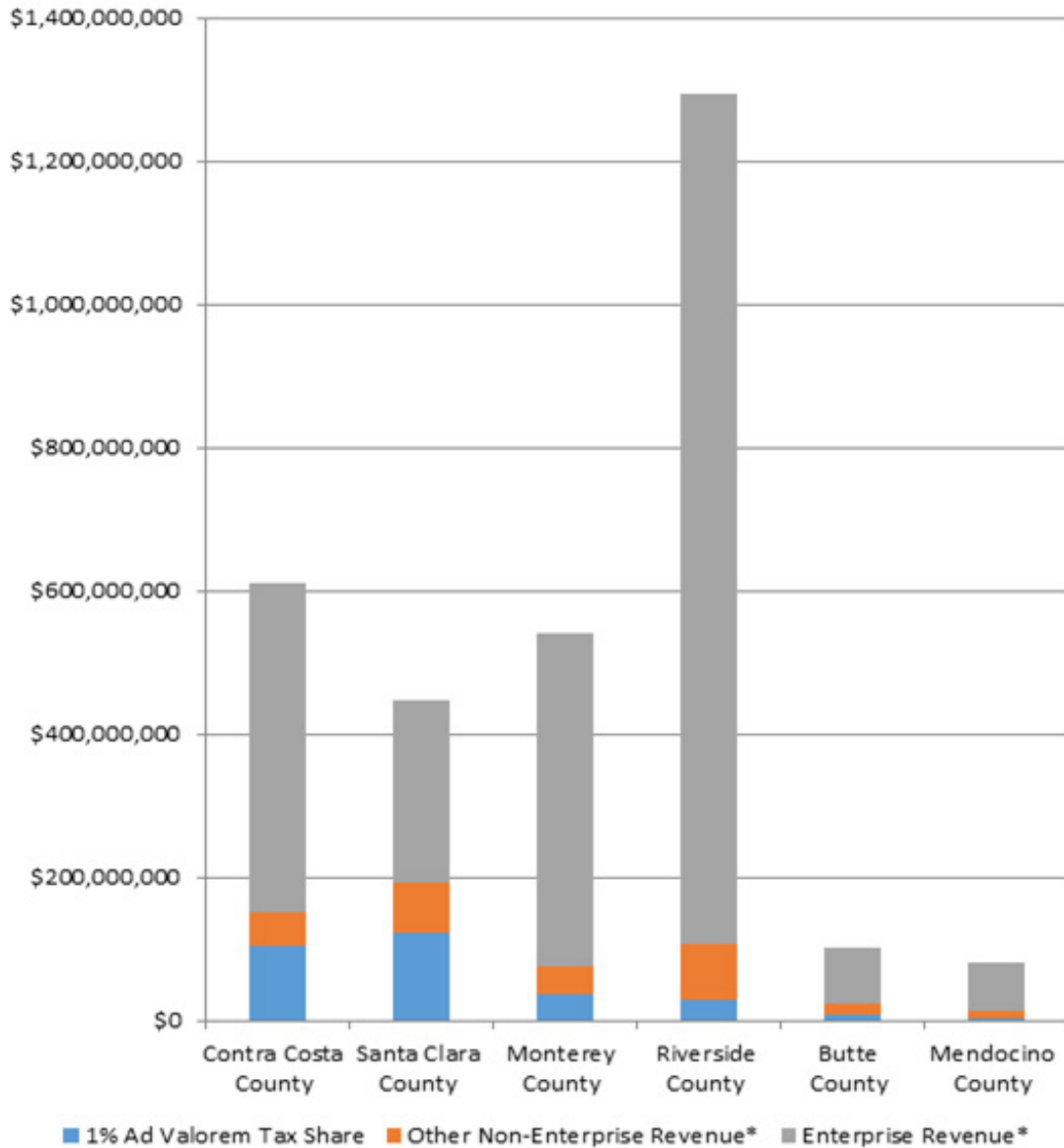
During the study process, the Commission also found it difficult to draw basic conclusions about independent special districts even though much information is publicly available on the State Controller's websites. [Government Compensation in California](#), includes employee salary, benefits and pension costs for every special district that submits this information as required to the State Controller's Office. Another State Controller's Office website, [By the Numbers](#), provides access to the financial information provided by special districts including revenue, expenditures, long-term debt and other data points and allows the website user to compare up to five different districts. This information on these two websites is valuable and helpful, particularly if the interested party knows where to look and the name of the special district they want to review, but it is difficult to

compile aggregate data as the State Controller combines independent and dependent special districts along with joint powers authorities and nonprofit corporations. Disaggregating independent special district data on the website would enable the public and policymakers to more easily draw general conclusions. With assistance from State Controller's Office staff, the Commission was able to learn that independent special districts generate some \$21 billion in annual revenues and employ more than 90,000 local government workers.<sup>25</sup>

The Commission also found that it is difficult, if not impossible, for taxpayers to understand where their property tax dollars are spent locally. Although many special districts, as previously described, do receive a portion of their revenue from property taxes, not all do. SB 448 (Wieckowski), the legislation that would make it easier for LAFCOs to dissolve inactive districts, also included provisions requiring all county tax bills to include a list of all services provided by a city, county, special district or school district that are funded by the general ad valorem property tax. Ad valorem taxes are levied on property based on its value. In California, the ad valorem property tax is restricted by a formula set by Proposition 13, a ballot proposition enacted by voters in 1978. An analysis of SB 448 by the Senate Appropriations Committee concluded this provision would create "significant reimbursable mandate costs, likely in the millions annually related to requirements for counties to report specified information regarding services provided through the ad valorem property tax on every tax bill."<sup>26</sup> As a result of the cost, the bill was amended to delete the provision related to tax bills. The Legislature should continue to work with county officials to develop an alternative that would allow taxpayers to better understand the use of their ad valorem property taxes without causing an excessive burden for counties.



### Independent Special District Revenue, by County FY 2015



Source: Data obtained from Kyle Packham, Advocacy and Public Affairs Director, California Special Districts Association. Sacramento, CA. June 21, 2007. Written communication. Citing State Controller’s Office Financial Transaction Report Data obtained through [www.bythenumbers.sco.ca.gov](http://www.bythenumbers.sco.ca.gov).

At the Commission’s April business meeting, Commissioners asked if it was possible to look at one or two counties and view how much of the ad valorem property tax went to each of the districts operating within the county – with the understanding that many districts straddle more than one county and many districts receive no property tax revenue at all. In response, the California Special Districts Association, using data from the State Controller’s By the Numbers website, compiled information for two urban, two suburban and two rural counties. In the six counties analyzed, the ad valorem property tax generated ranged from 2 percent of total special district revenue in Riverside County to 27 percent of total special district revenue in Santa Clara County. Data show the vast majority of revenue for special districts in each of these six counties came from fees charged for services, not property taxes. Approximately 47 percent of the 256 special districts identified in the six counties received no property tax at all.<sup>27</sup> The data provided also included the total ad valorem property tax provided to county government, city government and all the special districts within each of the six counties. The chart below reflects the variances in each county, with special districts

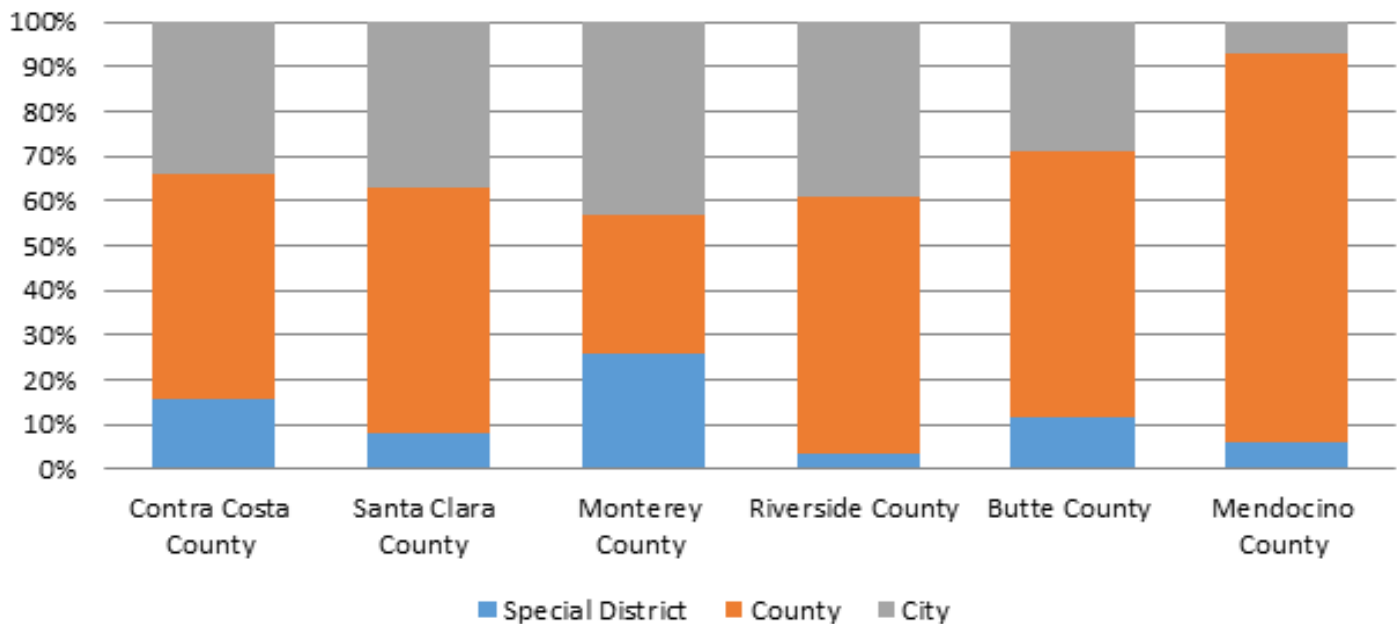
in Riverside County receiving approximately 3 percent of total ad valorem tax revenues and Monterey County receiving approximately 25 percent of the total.<sup>28</sup>

### Low Visibility = Public Engagement Challenges

The public often does not know what government entity provides a particular service, according to testimony at the Commission’s public hearings and discussion at its advisory committee meetings. Mr. Packham and others suggested that K-12 civics education should include more information about local government, particularly since cities, counties and special districts provide government services most relevant to local communities.

There was an ongoing dialogue throughout the study process about public outreach including opportunities to create greater awareness for public participation at district board meetings and opportunities to serve on boards as well as the need for better information on candidates running to serve on boards.

**Ad Valorem Tax**



Source: Data obtained from Kyle Packham, Advocacy and Public Affairs Director. California Special Districts Association. Sacramento, CA. June 21, 2007. Written communication. Citing State Controller’s Office Financial Transaction Report Data obtained through [www.bythenumbers.sco.ca.gov](http://www.bythenumbers.sco.ca.gov).

## When Districts Go Bad

Given the Commission’s general interest in this review of working within existing institutions and the established system to regulate special districts, Commissioners also considered what legal or other mechanisms exist to deal with districts (or district officials) that go off the rails with poor ethical decisions or illegal behavior. The Commission learned of a number of options to right wrongs within the existing system:

- Residents of the district can vote perceived offenders on the board out at the next election.
- Residents of the district can mount a recall effort of board members who exercise questionable conduct.
- The county District Attorney can file criminal charges.
- Whistleblowers can use the State Attorney General’s whistleblower system. The Attorney General also has authority for criminal matters.
- County civil grand juries can investigate special districts and report on findings.
- County Local Agency Formation Commissions can do a Municipal Service Review and initiate a process for dissolution or reorganization.
- The California State Auditor has statutory authority to identify, audit and issue reports on local government agencies, including special districts deemed at “high risk for the potential of waste, fraud, abuse, and mismanagement or that has major challenges associated with its economy, efficiency, or effectiveness.” Audited districts must file reports every six months on their progress implementing corrective action plans until the auditor is satisfied with results.
- The California Public Employees Retirement System (CalPERS) can administratively address pension issues such as reports of pension spiking related to special districts and district members.
- The state’s Fair Political Practices Commission has authority to investigate and fine special district officials for elections or campaign financing violations.
- Voters have power to qualify a local ballot initiative regarding a special district.
- Depending on the type of district or situation there may also be recourse through various regulatory bodies, such as the State Water Resources Control Board, the Public Employment Relations Board and others.

Sources: California Special Districts Association. Commission staff research.

As previously noted, one of the benefits of special districts is that they typically focus on one service area. This, however, lowers their visibility – hence such nicknames as ghost governments, invisible governments and under-the-radar governments. Low visibility also can inhibit public participation. A 2016 “Last Week Tonight with Jon Oliver” parody on special districts made fun of the fact that no one attended a public meeting of the Litchfield, New Hampshire, Mosquito Control District, at which two board members recited the Pledge of Allegiance by themselves and faithfully asked of the empty room if there was public comment on individual agenda items. (“I guess when you’re a member of ghost

government, you’re going to have a ghost public,” Oliver quipped).<sup>29</sup> The media infrequently attends and reports on special district meetings and most receive little local scrutiny until a scandal arises.

Low visibility of special districts contributes to challenges with public engagement. How do districts reach out about climate change or other topics to residents who are busy with their lives, aren’t overly familiar with the district in the first place, don’t know about the district’s social media sites and typically throw away most of the unsolicited paper that comes in their mail? Moreover, how do they broaden a governing board with new voices from

underrepresented communities where many working people don't have time, money or inclination to run for office or serve long hours for a minimal volunteer salary?

Special districts impact quality of life dramatically, yet voters often have the least information about those candidates during an election. District candidates often do not have websites or the visibility typically found in a city council or county supervisor election. And, local government elections typically yield lower voter participation than national or statewide elections. A 2011 Legislative Analyst's review of 42 special districts in San Diego County found little difference in voter participation, stating, "In our analysis of San Diego County local governments since 2002, we found that regardless of the size of the district, special district voter turnout was substantially similar to the turnout for city and county government elections."<sup>30</sup>

Voter participation drops for down ballot contests, such as school board or water district elections, in comparison to participation in top of the ballot contests such as presidential or gubernatorial seats, according to election data provided to the Commission by county registrars from Orange and Santa Cruz counties. Data collected on voter participation in Santa Cruz County since 1985 show that, on average, voters participate in special district and city elections at a much lower frequency than they do for presidential and gubernatorial elections.<sup>31</sup>

**Average Voter Turnout in Santa Cruz County Elections Since 1985**

Presidential General	78.90%
Presidential Primary	59.01%
Gubernatorial General	63.97%
Gubernatorial Primary	47.85%
Special District or City Special Election	42.21%

Similarly, data from Orange County's last three general elections show that participation in top of the ticket items is high. In 2012 and 2016, 67 percent and 78 percent of the county's registered voters respectively turned out to vote for a presidential candidate. Top of the ticket turnout in 2014 for the state's gubernatorial race was

comparatively lower – just 43 percent of registered voters cast a vote for a gubernatorial candidate.<sup>32</sup> In these three elections, on average, about 47 percent of registered voters in Orange County turned out to cast a vote in special district or city elections.<sup>33</sup>

Commissioners asked special district representatives during both public hearings how they engage with the public, particularly with underrepresented communities, about participating in public meetings and even running for office to ensure district boards reflect the diversity of the constituents served. Typically, representatives responded they make wide use of their websites and still wider use of social media sites – Facebook, Twitter, LinkedIn, Instagram and Next Door – to communicate with residents. Many go into schools with classroom presentations, erect booths at community fairs, use inserts with bills and publish a monthly or quarterly newsletter mailed to residents. In 2016, the Sanitation Districts of Los Angeles County began a quarterly workshop to educate the public and stakeholders on water issues related to climate change. As budgets have improved from the Great Recession, facility tours also are a popular public engagement tool, they said.

The California Special Districts Association, in August 25, 2016, hearing testimony, also cited a partnership with the Sacramento-based Institute for Local Government (ILG) to help build public outreach capacity within special districts. The institute, funded with a \$300,000 grant from the James Irvine Foundation, in 2017 began providing engagement training to cities, counties and special districts. The program provides a step-by-step approach to help local governments plan and execute their public engagement work in a systemic way. Sarah Rubin, ILG program manager for public engagement, said the program identifies up-and-comers in public organizations who may be doing a variety of jobs unrelated to outreach, but are expected to become leaders. They received training in systemic, continuous public outreach that goes beyond what cities, counties and special districts usually do – which is engage people to support one-time events such as voting for special taxes or benefit assessment districts. Ms. Rubin told the Commission, "We want them to think beyond the one-off way. To think about who is in their community, to think, when you need new board members, how do you notify the community to make sure they know about it."<sup>34</sup>

## RECOMMENDATIONS

The Commission recommended improving transparency in its 2000 report and while it acknowledges significant improvement in this area, much more can be done. At the June 2017 advisory committee meeting, Commissioners agreed that the goal of increased transparency was not to micromanage or create unnecessary burdens or significant new mandates for special districts but to improve trust in government. Ultimately, it is in the best interest of special districts to “tell their story.” Many are quietly providing excellent services, often unnoticed until a rate hike is proposed, a street floods or the power goes out.

Likewise, the Commission commends efforts to improve public engagement by the California Special Districts Association and the Institute for Local Government and urges these organizations to continue to develop best practices.

***Recommendation 9: The Legislature should require that every special district have a website.***

***Key components should include:***

- ***Name, location, contact information***
- ***Services provided***
- ***Governance structure of the district, including election information and the process for constituents to run for board positions***
- ***Compensation details – total staff compensation, including salary, pensions and benefits or a link to this information on the State Controller’s website***
- ***Budget (including annual revenues and the sources of such revenues, including without limitation, fees, property taxes and other assessments, bond debt, expenditures and reserve amounts)***
- ***Reserve fund policy***
- ***Geographic area served***
- ***Most recent Municipal Service Review***

- ***Most recent annual financial report provided to the State Controller’s Office, or a link to this information on the State Controller’s website***
- ***Link to the Local Agency Formation Commission and any state agency providing oversight***

Exemptions should be considered for districts that fall under a determined size based on revenue and/or number of employees. For districts in geographic locations without stable Internet access, make this same information available at the local library or other public building open and accessible to the public, until stable Internet access becomes available.

Building on this recommendation, every LAFCO should have a website that includes a list and links to all of the public agencies within each county service area and a copy of all of the most current Municipal Service Reviews. Many LAFCOs currently do this and some even go beyond by providing data on revenues from property taxes and user fees, debt service and fund balance changes for all the local governments within the service area. At a minimum, a link to each agency would enable the public to better understand the local oversight authority of LAFCOs and who to contact when a problem arises.

***Recommendation 10: The State Controller’s Office should disaggregate information provided by independent special districts from dependent districts, nonprofits and joint powers authorities.***

The State Controller’s Office is a leader in making the information it has available to the public. Despite its significantly out-of-date database software, the public can find a substantial amount of data on the State Controller’s website, particularly if the search is focused and the name of the district is known. But the manner in which data is stored on the State Controller’s Office website makes it difficult to draw general conclusions about independent special districts, such as overall revenues or employee compensation as information for independent districts is mixed with various other entities.

***Recommendation 11: The California Special Districts Association, working with experts in public outreach and engagement, should develop best practices for independent special district outreach to the public on opportunities to serve on boards.***

The Commission heard anecdotally that the public does not understand special district governance, does not often participate or attend special district board meetings and often does not vote in local elections. This was supported by information provided to the Commission by two county registrars that showed that many voters who voted for federal or statewide offices, did not vote for local government officials at the same rate, whether they were city council positions, special district positions or local school or community college district positions.

# What Role for Healthcare Districts?

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Few public policy arenas in 2017 appear fraught with more political and financial uncertainty than healthcare. And few public entities have more at stake in the outcome than a particular subset of special districts known as healthcare districts. As part of this review, the Commission sought to better understand one type of special district. It specifically focused on a controversial class of healthcare districts – those which no longer operate hospitals. Most of these districts, just like counties before them, have shed their hospitals in recent years due to deteriorating financial conditions within their operations. Instead, some districts manage various prevention and community-based wellness programs, often targeting specific identified needs. Others provide grants and manage healthcare facilities, among many other activities.

Scattered incidences of political turmoil, grand jury reviews and accompanying unflattering media in the wake of these transitions shows that many districts without hospitals still struggle to explain their roles in a rapidly evolving era of healthcare that emphasizes preventive care over hospitalization. No category of special district is perhaps more misunderstood regarding its proper role within the local and regional governing apparatus of California.

The Commission heard two equally compelling views of California healthcare districts that no longer operate hospitals:

- One segment questioned whether public healthcare districts without hospitals remain relevant – and more, whether they should continue to exist within the labyrinth of public, commercial, nonprofit and not-for-profit healthcare delivery in California. The Legislature, local grand juries, LAFCOs and healthcare analysts wondered if some of these districts are simply “money chasing a mission?” In other words, are they outmoded public institutions protecting their turf as they defend and hold firm to their traditional financial bases of property taxes?

- Alternatively, despite the great uncertainty about a long-term direction of healthcare in general and the Affordable Care Act and its potential replacement in particular, many healthcare districts without hospitals are indeed, carving out interesting and pioneering new roles in delivering preventive care. Some are receiving national attention as models of a new paradigm in healthcare. Are these districts onto something that has not yet jelled in public consciousness – a notion that healthcare districts can reduce out-of-control healthcare costs locally in the long run by investing upfront in healthier lifestyles – what one healthcare district executive calls “preventing the preventable?”<sup>35</sup>

Each of these questions drove the Commission’s 2016-2017 review of healthcare districts (the new name the Legislature gave hospital districts during the 1990s to reflect changes in healthcare). The Commissioners also considered related questions:

- When a healthcare district primarily exists to manage real estate or redistribute its property tax allocations as community healthcare grants to other entities, might its job be better fulfilled by county health departments or other local or regional health organizations?
- Do critics who maintain that healthcare districts without hospitals should be dissolved have too narrow a focus and lack understanding of shifts in the healthcare landscape?
- In an era of higher emphasis on wellness and preventive care are healthcare districts the appropriate entities to model and offer a new menu of healthcare services?

The Commission in November 2016 convened an advisory committee meeting that brought together nearly two dozen experts to discuss how healthcare

districts are rethinking their roles and relevance in an era that favors preventive care over traditional hospital care – the original reason for the existence of California healthcare districts. Participants discussed the role of LAFCOs in consolidating or dissolving healthcare districts and analyzed best practices and metrics to define their accomplishments. Commissioners initially described a phenomenon of “mission creep” that comes over agencies defending their turf and asked what makes healthcare districts special – whether in finance, management or governance – compared to county governments? Indeed, if California was to develop a healthcare system from scratch, might it best be done by counties instead of healthcare districts? The November meeting is discussed in greater detail later in this chapter and forms the basis of recommendations at the end.

## Nearly Half of Districts Still Operate Hospitals

Approximately one-half of California’s 79 healthcare districts still operate hospitals, mostly in rural areas with few competitors or other intensive-care alternatives. No one has suggested a need to dissolve those rural districts and their hospitals, which provide essential emergency services to visitors and tourists, as well to their own residents.

Debates about the mission and purpose of healthcare districts, instead, tend to center on suburban healthcare districts. Created in former rural areas that have suburbanized, they now operate in competitive healthcare markets. The Legislature’s 2015-16 session, for instance, considered whether to: force an East Bay healthcare district to dissolve (not passed); rein in its administrative overhead expenses (passed and signed by the Governor); and, require the Southern California Coachella Valley to expand its service boundaries to take in more lower-income residents (passed and signed by the Governor). This provides another example of the Legislature bypassing the LAFCO process.

In the face of institutional criticism executives of suburban healthcare districts without hospitals continue to tout their viability. Commonly, in formal Commission hearing testimony, remarks during an advisory committee meeting, in public comment and conversations with

Commission staff, healthcare district executives told the Commission:

- They are more nimble and flexible than county public health bureaucracies in defining and funding the healthcare priorities of their communities.
- They are helping to pioneer a new era of cost savings via proactive preventive care for children, adults and the elderly under the umbrella of “wellness.”
- They are often misunderstood in this new mission by critics who lack understanding about how much the healthcare landscape is changing and downplaying hospitalization.
- Voters generally support their districts’ local missions and the manner in which they channel their district property taxes to community groups as healthcare grants.

## California Healthcare Districts: A Brief Introduction and History

Alongside the proliferation of large hospital chains, private doctor’s offices, federally-qualified health centers and county health departments that dominate California’s healthcare landscape, 79 public healthcare districts – with and without hospitals – employ 32,000 people and operate in 40 counties. More than two-thirds of these districts are established fixtures in small towns and rural areas, governed by volunteer elected boards and administered by professional staffs. The typical rural healthcare district provides nearly one-third of its care to low-income residents.

Statewide, 37 of the 79 healthcare districts operate 39 district hospitals, the Association of California Healthcare Districts (ACHD) reported in August 25, 2016, hearing testimony. Forty-two districts no longer own or operate a hospital, or never did.<sup>36</sup> The 39 district hospitals make up just 10 percent of hospitals in the state. The rest of the hospital landscape in California includes 209 nonprofit hospitals, 90 investor-owned private hospitals, 50 hospitals run by health systems and 10 veterans hospitals, according to the California Hospital Association.<sup>37</sup>



Californians began to form hospital districts during the 1940s when the Legislature passed the Local District Hospital Law to deal with a shortage of local hospital beds and medical care in a growing state, particularly in rural areas. These new hospital districts steered property tax and fee revenues into a hospital building boom as the state added nearly 10 million new residents during the 1950s and 1960s.<sup>38</sup>

By the late 1970s and into the 1980s, however, these and other smaller hospitals struggled as public and private insurers increasingly implemented cost-saving strategies. A new managed-care and cost-minded approach to financing hospital care added to deficits. Beds lay empty as patients were discharged earlier. Growth in outpatient care due to better technology and pharmaceutical drugs kept those hospital rooms vacant. Since then, a growing emphasis on wellness and preventive care accelerated by the passage of the Affordable Care Act in 2010 continues to drive a trend of less hospitalization. Just as many counties earlier closed hospitals under these financial pressures, special districts have in recent years closed at least 16 hospitals and outsourced operations of five more to for-profit and not-for-profit chains, stated the ACHD in written testimony to the Commission.

The most recent closures include Doctor’s Hospital in San Pablo in April 2013. Six months after Doctor’s Hospital closed, San Diego County-based Fallbrook Regional Health District, in November 2014, closed its Fallbrook Hospital emergency room and stopped admitting patients due

to continuing financial losses. The district’s contracted hospital operator attributed losses - \$6 million in 2013 alone – to “modern health care’s growing emphasis on managed care contracts, which funnel patients to specific providers, and ongoing competition from other hospitals in the region.”<sup>39</sup> The West Contra Costa Healthcare District, which struggled through years of financial losses at the hospital – attributed in part to low reimbursement rates for Medi-Cal and Medicare – filed for bankruptcy in October 2016.<sup>40</sup>

Amid these trends, more hospital districts, including West Contra Costa Healthcare District and Fallbrook Regional Health District, have turned toward being general community health providers. A 2006 California Healthcare Foundation study noted that districts increasingly offer substance abuse and mental health programs, outpatient services and free clinics. They also run senior programs that include transportation to wellness and outpatient care. Others provide nurse training, physician recruitment, ambulance services, health education programs and a variety of wellness and rehabilitation activities.<sup>41</sup>

At the Commission’s August 25, 2016, hearing, Amber King, senior legislative advocate for ACHD, expanded on the 2006 list, testifying: “The range of services offered by healthcare districts are tailored to meet community needs and include prevention and public health programs, primary care, skilled nursing, ambulance, hospice and acute and emergency services. Despite their unique and



New 50-bed Hillcrest Hospital opened 1957 by the Petaluma Hospital District. Courtesy of Petaluma Health Care District.

varied nature, the mission of healthcare districts remains the same: to provide critical health services to the communities that created them,” testified Ms. King.<sup>42</sup>

### California Healthcare Districts at a Glance:

- Number of Districts: 79
- Districts that levy property taxes: 66
- Districts in rural areas: 54
- Districts without hospitals: 42
- Districts with hospitals: 37
- Number of hospitals: 39
- Districts that lease their hospitals: 5
- District hospitals that have closed: 16
- District employees statewide: 32,000
- Number of board members: 400

Source: Association of California Healthcare Districts. Written testimony to the Commission. August 25, 2016. Also, personal communication. August 1, 2017.

Another key development in the evolution of healthcare districts without hospitals is their role as grant-makers to community organizations. Critics question if people want to pay property taxes so health district executives can act as a “middleman” and disburse them in grants. Others also have questioned how the money is spent. A Senate Governance and Finance Committee analysis for AB 2471 (Quirk), which aimed, unsuccessfully in 2016, to force dissolution of Alameda County’s Eden Township Healthcare District, stated, “In recent years Eden Township Healthcare District has spent district funds on sponsorships of community organizations and events that appear to have relatively tenuous connections to community healthcare needs, including the Hayward Area Historical Society’s ‘Martini-Madness Gala,’ a Rotary Club ‘Lobsters for Literacy’ fundraiser, charity golf tournaments, and a community rodeo parade.”<sup>43</sup> The district, which doesn’t run a hospital, also reportedly spends more on administrative expenses than it allocates in grants.<sup>44</sup>

Jack Hickey, a director of Sequoia Healthcare District in San Mateo County, told the Commission his district funds a food bank that provides services to residents

outside the district – with less than 10 cents per dollar of local taxes returning to district residents. Mr. Hickey, a long-time board member who campaigns to dissolve the district, said it spent \$10 million subsidizing nursing programs that didn’t require the nurses to work inside the district.<sup>45</sup> (A June 2013 San Mateo County Grand Jury report issued similar criticisms).<sup>46</sup> During the Commission’s November 2016 advisory meeting on healthcare districts, a fellow Sequoia board member, as well as the district’s chief executive officer, countered the criticism by citing continued support of voters for district operations and policies.

### Healthcare District Bills and Outcomes: 2015-16 Legislative Session

During the 2015-16 legislative session lawmakers grappled several times with the issues of healthcare districts. Many involved an issue explored at the Commission’s August 25, 2016, hearing: legislative end runs around the local process, which requires LAFCO approval to dissolve and expand boundaries of districts. These issues clearly seemed to both frustrate and confound lawmakers, as nearly all were local issues with strains of local politics not always immediately apparent to legislators in Sacramento. The bills and their outcomes included:

- AB 2414 (Garcia), allowing the Desert Regional Healthcare District in Palm Springs to expand its boundaries into the eastern Coachella Valley without a full LAFCO review. Governor Brown signed the bill on September 21, 2016.
- AB 2471 (Quirk), expediting the dissolution of the Eden Township Healthcare District in Alameda County by ordering the LAFCO, under conditions specified in the legislation, to dissolve it. The bill was ordered to the inactive file on August 29, 2016, before reaching a final vote.
- AB 2737 (Bonta), bypassing LAFCO and the board of Eden Township Healthcare District to cap the district’s administrative expenses at 20 percent of its annual revenue. Governor Brown signed the bill on September 21, 2016.

Source: Legislative Information System. Bill analyses.

Directors of El Camino Healthcare District in Santa Clara County also questioned whether \$6.4 million in grants they approved in June 2016 were being put to good use considering failures by some of the same grantees to meet previous year’s expectations. The district grants fund mobile dental clinics and school therapists, as well as food giveaways and police-sponsored summer camp stays for at-risk youth.<sup>47</sup> Statewide, however, testimonials from community grantees abound in healthcare district annual reports and other publications about the importance of district grants to their operations. The ACHD, in August 25, 2016, written testimony also submitted successful grantmaking examples that included:

- \$738,700 in community-based mental health grants provided by the El Camino Healthcare District in 2015 and 2016.
- \$40,000 from Los Medanos Healthcare District from 2013 to 2016 to sponsor a breastfeeding program in response to low birthweights and higher infant mortality within the district.
- \$650,000 from Desert Healthcare District from 2013 to 2015 to help target and register approximately 90,000 area residents eligible for Medi-Cal and Covered California.
- \$35,000 from Fallbrook Health District in 2015 and 2016 to provide senior citizens free transportation to medical appointments, grocery stores, the food pantry and senior centers.

## Dissolution Has Proved Itself a Persistent Question

County grand juries have found healthcare districts that do not run hospitals an inviting target. Four grand jury reports over a decade successfully prodded the 2012 dissolution of the Mount Diablo Healthcare District in Contra Costa County. The district hadn’t run a hospital since 1996 and, according to a Contra Costa County LAFCO consultant, “the health care district spent in the past decade 85 percent of its property tax proceeds on overhead, elections and legal bills.” In March 2012, the county LAFCO voted 6-1 to subsume the Mount Diablo district’s responsibilities into a new subsidiary district run by the City of Concord and transfer its property tax allocation to the city, as well.<sup>48</sup>

Likewise, three grand juries over a decade criticized Pittsburg-based Los Medanos Community Healthcare District in Contra Costa County, which reportedly spent half of its 2010-2011 revenue on community and health programs and half on “administrative and operating expenses, including stipends for the board of directors, travel and election fees and a board retreat.”<sup>49</sup> In 2017, the district continues to exist and dispense grants in its community.

San Mateo County’s Peninsula Health Care District also is the subject of several grand jury reports since 2000. One in 2004 recommended that it and nearby Sequoia



Beach Cities Health District “Walking School Bus” Program. Courtesy Beach Cities Health District.

Healthcare District (also the subject of five grand jury examinations since 2000) merge their operations to cover the entirety of San Mateo County. No action resulted. The county grand jury in 2013 questioned whether Peninsula is, at its core, a commercial landlord, a real estate developer or a community health resource. The report suggested a closer examination by the county LAFCO and made no explicit call for the district's dissolution. In response, the district disagreed with the premise of the grand jury's question, writing that none of the three roles cited by the grand jury are

mutually exclusive, and all serve the needs of the district community.<sup>50</sup> The district's newest real estate project, a 124-unit assisted living and memory care center facility, is expected to open in early 2018.<sup>51</sup>

Healthcare districts generally have deflected criticisms of grand juries about their missions and prevailed with their own counterarguments about the necessity of their healthcare-centered real estate operations and grant programs. Yet the continuous public probing shows at the very least, a significant perception problem among

## The Poster Child for Controversy: Eden Township Health District

Perhaps no district in recent years has fended off more pressure to dissolve than Alameda County's Eden Township Health District, formed in 1948, headquartered in Castro Valley and no longer running a hospital. As previously noted, AB 2471 (Quirk), which proposed to dissolve the district, passed the Assembly in 2016 and reached the Senate floor before being moved to the inactive file. The 2015-2016 Alameda County Grand Jury, in a report issued June 1, 2016, questioned whether the district should continue to exist. Grand jurors stated that the district:

*"...provides no direct medical services and its forecasted grant awards to service providers account for a mere 12 percent of the district's total expenses. The Grand Jury found that 88 percent of the district's budget is spent on real estate, administration, legal and consulting fees. In effect, ETHD is essentially a commercial real estate management operation rather than an indirect (or direct) healthcare provider for citizens of the community."*

The grand jury report prompted a series of local actions that led the Alameda County LAFCO to conduct a special study – released in December 2016 – to help determine its future. (The county LAFCO conducted a similar study in 2013 and concluded the district should continue in its current form. Eden executives, too, contend that dissolving the district would eliminate the option of funding local nonprofits from a "readily available taxing authority").

The new LACFO-commissioned study has again determined that the health district "provides a service of value, including significant expenditure of funds for community healthcare purposes consistent with its mission as a healthcare district." The study notes the district distributed nearly \$12 million in grants to nonprofit community health organizations from 1999 to 2015 – largely funded by rent received from three district-owned medical buildings.

Local elected officials have weighed in with dissenting views. The mayor of San Leandro said she believes the district has lost sight of its core mission and wants the district dissolved and its real estate assets used to support two other struggling area hospitals. An Alameda County supervisor has expressed similar sentiment. Further complicating this ongoing healthcare district controversy is who would be responsible for \$17.2 million the district, if dissolved, still owes Sacramento-based Sutter Health after losing a recent prolonged legal battle over the operations of San Leandro Hospital.

Sources: County of Alameda. 2015-2016 Alameda County Grand Jury Final Report. Page 43. June 1, 2016. Oakland, CA. <https://www.acgov.org/grandjury/final2015-2016.pdf>. Accessed January 12, 2017.

Jamie Wilkins. October 25, 2016. The San Leandro Patch. "San Leandro seeks Public Input for Eden Health District." <http://patch.com/california/sanleandro/san-leandro-seeks-public-input-eden-health-district>. Accessed January 12, 2017

Darin Moriki. January 6, 2017. The East Bay Times. "Mixed Opinions on Eden Health District's Future." <http://www.eastbaytimes.com/2017/01/06/mixed-opinions-abound-on-eden-health-districts-management-operations>. Accessed January 12, 2017.

Darin Moriki. December 29, 2016. The East Bay Times. "Eden Health District operations on track, study finds." <http://www.eastbaytimes.com/2016/12/29/eden-health-district-operations-on-track-study-finds>. Accessed January 12, 2017.

the public in how they operate and what is defined as healthcare.

## Seeking a New Paradigm for Healthcare Districts

Mindful of the increasing political scrutiny and controversy regarding some of its member districts, the Association of California Healthcare Districts in 2016 engaged a

24-member expert task force to review how districts are perceived, where they are headed and how they might reposition themselves more effectively within a rapidly-changing healthcare environment that emphasizes preventive care. The task force approved four strategic recommendations on October 5, 2016, which ACHD shared with the Commission and others at the November 2016 advisory committee meeting. Those included:

- Updating the 1945 healthcare district enabling act and adding intent language to define today's

### Beach Cities: Is This a Future of Healthcare Districts?

The Beach Cities Health District, which serves residents of Hermosa Beach, Manhattan Beach and Redondo Beach, offers one hint of how districts might retool themselves. The district, established in 1955, has no hospital and calls itself “one of the largest preventive health agencies in the nation.” The district encourages and helps children walk to school, eat right and lose weight, provides relatively-low cost memberships at a district fitness center and helps older people remain living at home through personal visits and in-home care. The district’s innovative Blue Zones Project branding effort also encourages healthy habits at home and work and promotes local restaurants that offer nutritious menus. The district, which receives 73 percent of its revenue from fees and other sources beyond its \$3.1 million annual property tax base (2016), also makes grants to community partners.

Asked if critics who support closing districts without hospitals may be thinking narrowly and not understand shifts in healthcare, Dr. Michelle Bholat answered, “Yes.” In written comments provided to the Commission in November 2016, Dr. Bholat explained, “Beach Cities Health District successfully transitioned in 1998 from disease-focused care to preventive care health services – largely because research from the Centers for Disease Control shows 70 percent of chronic illnesses are preventable, and healthcare cost savings associated with keeping people healthy and out of hospitals are substantial. Currently, the U.S. spends roughly \$3 trillion annually on healthcare costs.”

The district counts a major success in reducing childhood obesity in Redondo Beach K-5 students from 20 percent of children in 2004 to 7 percent in 2016 by working closely with the district’s 21 public schools and parents. Parents attend district training and teach nutrition in schools, said Dr. Bholat. The district identifies gaps in Los Angeles County Department of Public Health Department services, uses science and data to target specific community needs and measures program impacts with data collection and analysis, she said.

Beach Cities, often considered a model for transitioning California healthcare districts to preventive care, operates a Community Services Department which connects children and underinsured adults to medical, dental and mental health services; a LiveWell Kids program that provides elementary school students with daily physical education, nutritional and gardening information and fresh fruits and vegetables; and a Center for Health and Fitness with 3,000 members and free visits for police officers, firefighters and lifeguards. Their Community Services Department also works with nearly 20 percent of residents 85 and older to stay healthy at home.

In June 2016, U.S. Surgeon General Vivek Murthy visited the district, and told representatives, “We tend to believe that America’s health problems are too big and intractable. You have proven that communities can take charge and reverse the trend.”

Sources: Beach Cities Healthcare District. “BCHD Overview.” <http://bchd.org/bchd-centers-programs/center-health-and-fitness>. Accessed July 22, 2016. Dr. Michelle Bholat. Board Member. Beach Cities Health District. November 8, 2016. Written comments to the Commission. On file. Personal conversation with Beach Cities Health District officials on December 7, 2016 and July 21, 2017.

mission of healthcare districts: achieving health and wellness for the communities they serve. (The ACHD told the Commission the 1945 act is woefully outdated and reflects a healthcare landscape that largely no longer exists. The statute also only broadly and vaguely defines “healthcare,” which contributes to districts being criticized for operating outside the realm of healthcare, they said. They aim to introduce legislation in 2018 to modernize the act).

- Enhancing the oversight of healthcare districts by working collaboratively with LAFCOs to ensure timely, credible and relevant Municipal Service Reviews of healthcare districts.
- Enhancing ACHD’s current Certified District program to ensure that full transparency and good governance practices are met, as well as increase educational opportunities for healthcare districts, district trustees, district chief executive officers and district board clerks.
- Educating policymakers, the public and other stakeholders about the important role healthcare districts already play within the greater health care system.

## **Advisory Meeting: What Makes Healthcare Districts Special? Are They?**

At the Commission’s November 2016 advisory committee meeting, participants helped the Commission understand the complexities of healthcare delivery and advised it in deliberations that informed its recommendations. District executives said healthcare districts manage healthcare as a single-purpose mission, making them more flexible than counties, which typically are strapped for funding and must balance many services beyond healthcare. Counties generally do not want more responsibility over healthcare, they said, noting that if healthcare districts went away and their property tax allocations were given to counties there is no guarantee that county supervisors would spend the money on healthcare. Already, district officials said, they are serving many residents neglected by their counties. Indeed, many healthcare districts were originally created to address needs that counties weren’t meeting, they said.

A Southern California healthcare district executive, citing voters’ general preference for close-to-the-ground government, suggested that public healthcare is better divided among many organizations than in a single county system “where it can get lost. That is what I worry about.”<sup>52</sup>

## **How to Avoid Redundancies in Services Provided by Counties and Special Districts**

Commissioners asked healthcare district representatives how they work with their counties to weed out redundancies in their collective healthcare work – a particularly important task, Commissioners said, if the Affordable Care Act is replaced and healthcare funding may become even more competitive. Bobbi Palmer, executive director of Fallbrook Regional Health District in San Diego County, said redundancies exist and continue due to lack of coordination. She said when she assumed command of the Fallbrook district in early 2016, she approached county officials “with a baseball bat and a smile, to say ‘we have needs that the county should be addressing.’” Now, county public health nurses, funded to provide the services, attend district wellness events and give vaccinations that would otherwise cost the district, Ms. Palmer said.

Dennis Zell, a board member for Burlingame-based Peninsula Healthcare District said his district only does work not being done by San Mateo County. The district performs a health needs assessment, he said, to determine where the needs are and what services exist, and then determine how the district can fill gaps. Mr. Zell said this includes seeking out nonprofit organizations, introducing them to county officials and in some cases, providing them seed money. He said Peninsula noticed a rash of teen suicides within the district, then contacted school districts to assess the problem and provided funding to districts and Stanford University to assist. “We did that in seven months,” he said. “Find a problem, find a solution and get it going.” Mr. Zell said the fact that Peninsula does not run a hospital is a positive, freeing the district to be an “engine of innovation” in government.

## **Making Healthcare Districts Better**

Commissioners asked of the assembled experts, “There has to be things the Legislature can do to make

healthcare districts better. What can we recommend to the Legislature to improve things? If the Legislature were to be helpful [to healthcare districts] what could it do?"

Among the responses:

- Update and clarify the statutory language that, since 1945, has defined the roles, responsibilities and practices of districts. Executives widely agreed that legal language more than seven decades old speaks to a healthcare world that no longer exists.
- Empower LAFCOs to do stronger, smarter and more relevant Municipal Service Reviews. "We need LAFCOs in place to push us to be better," said one.
- Curtail a growing practice in the Legislature to pass bills that override and circumvent the LAFCO process to address healthcare district concerns. Those decisions are better made at the local level.
- Encourage districts to use better metrics to improve performance and measure outcomes. And help them to incorporate the same results driven-accountability into their grant giving.
- Help districts address inequities within counties when considering how to measure and improve healthcare outcomes. Many less affluent coastal residents of San Mateo County, for instance, pay property taxes to the county, but do not live within boundaries of the county's two healthcare districts that receive those taxes. They have no access to tax-subsidized health benefits available to wealthier healthcare district residents.

### **Start with One Thing (and Share it)**

Commissioners also suggested during the advisory committee roundtable discussion that healthcare districts look to their counterparts in other localities for best practices. Said one Commissioner: there appears to be little information-sharing among the state's 79 healthcare districts. It was suggested to start, take a first step, by simply asking all 79 districts to answer a question such as, "What is the best practice on one thing?" Then the district's trade association or others could evaluate that "one thing" a year later to show what works and might be replicated on a larger scale.

Somewhat surprisingly to the Commission, the question got little traction and sparked scant discussion. Healthcare district representatives said they are interested in best practices, but noted all their districts are different and what works in a rural district likely doesn't translate to an urban or suburban district. One healthcare district board member cited the principle of local control and the importance of maintaining it against one-size-fits-all practices imposed by legislation. Another district chief executive said that since healthcare districts are locally funded and voters elect board members who hire staff, healthcare districts must be accountable first to their constituents. He said the primary responsibility of healthcare districts is to work within their areas and not focus on how the work is done elsewhere or how districts in the rest of the state might evaluate their work.

Another healthcare district board member, however, expressed support for a 58-county review of best practices if conducted by impartial public health professionals. The board member agreed on a need to aggregate best practices across healthcare districts, to get rid of programs that aren't working and focus money and energy on the four or five programs that work best.

Pressing the question, the Commission asked how healthcare district hospitals share information with one another about common, and often unforeseen, issues that some may be dealing with for the first time. A California Hospital Association representative said she often receives questions from member hospitals about how other hospitals are handling such issues. She recently coordinated, for example, conversations with healthcare district hospitals on how to conduct transgender patient registrations. The general manager of Lake County-based Redbud Healthcare District also noted, for example, that during the devastating wildfires that struck Lake County in 2016 he contacted the Feather River Healthcare District for advice about its actions in similar wildfire situations. The official said his district hospital (managed by Adventist Health System) often consults with other hospitals and belongs to a Northern California regional network set up for hospitals to share best practices.

## What Should LAFCOs Decide about Healthcare Districts?

Experts and district officials convened by the Commission widely supported LAFCOs as the oversight entities best suited to advise and recommend options to special districts, including healthcare districts. Healthcare district officials and Association of California Healthcare Districts representatives stressed again the principle of local control and noted that across-the-board and statewide best practice recommendations may not always work at the local level. The advisory committee consensus held that local communities and LAFCOs are always better at determining what works and defining appropriate outcomes, including those for healthcare districts without hospitals.

A representative of the California Association of Local Agency Formation Commissions (CALAFCO) acknowledged that LAFCOs' Municipal Service Review studies, give them an important role in advising their local special districts. The executive said many LAFCOs can hire consultants and appropriate subject matter experts for the process, particularly as it relates to healthcare districts. She repeated a common theme of the advisory committee discussion – the 1945 enabling acts which established the ability of voters to form healthcare districts are out-of-date, making it difficult to assess the districts. "They are very antiquated and have not evolved with healthcare changes," the executive said. She also defended local control at a time when the Legislature is increasingly introducing bills to regulate individual healthcare districts. She said county LAFCOs are the agencies best suited to continue the work they do in advising and reviewing California's healthcare districts.

A California Special Districts Association official likewise contended that LAFCOs are ideal for initiating local processes regarding special districts, including gathering local input, providing local analysis and giving local voters a final say. He told the Commission it is key to remember the local role that healthcare districts play in convening people and collaborating with local institutions to be responsive to community needs. Decisions should remain local, he said, kept in the hands of healthcare districts, empowering locals to do what they do best.

## RECOMMENDATIONS

The Commission has had vigorous discussions about the relevance and future of healthcare districts without hospitals. Among possible legislative proposals discussed was giving districts without hospitals three years to disband and to redistribute their property tax allocations elsewhere within their respective counties. Also extensively discussed was maintaining the principle of local control. If local residents continue to support their healthcare districts and their practices of allocating property taxes as community grant funds, that is a matter of local choice. LAFCOs, too, are an instrument of local policy, reflecting the will of local elected officials whom voters can keep or remove from office. If it is taken as a matter of faith, however, that these are local issues what then should be the role of the state and the Legislature regarding the institutional authority of special districts which it has created through various statutes over many decades and oversees? Recommendations supported by the Commission:

***Recommendation 12: The Legislature should update the 1945 legislative "practice acts" that enabled voters to create local hospital districts, renamed healthcare districts in the early 1990s.***

The Commission supports this recommendation, suggested by the Association of California Healthcare Districts and various others, to better define the mission of healthcare districts and will work with the association and others to support this legislative reform effort.

***Recommendation 13: The Legislature, which has been increasingly inclined to override local LAFCO processes to press changes on healthcare districts, should defer these decisions to LAFCOs, which in statute already have that responsibility.***

LAFCOs have shown successes in shaping the healthcare district landscape and should be the primary driver of change. Given the controversies over healthcare districts, the California Association of Local Agency Formation Commissions and statewide LAFCOs should be at the forefront of studying the relevance of healthcare districts, potential consolidations and dissolutions of districts. The Commission also supports the Association of California Healthcare District's commitment to build stronger bridges to LAFCOs statewide and help develop new



assessment tools for LAFCOs to analyze the relevance of districts during municipal service reviews.

To repeat a theme of Recommendation 1, the Legislature should retain its authority to dissolve healthcare districts or modify boundaries and administrative practices, but this authority should be limited to cases in which local political elites are so intransigent or negligent – or so beholden to local power structures – that some form of higher political authority is deemed necessary.

***Recommendation 14: The Association of California Healthcare Districts and its member districts should step up efforts to define and share best practices among themselves.***

A Commission advisory committee meeting discussion clearly showed that not enough thought or interest has been assigned to sharing what works best in rural, suburban and urban areas among members. The association should formally survey its members and collectively define their leading best practices and models for healthcare, as well as guidelines to improve the impacts of grant-making in communities.

# Readying California for Climate Change

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***“Looking over several emission scenarios and using a suite of global climate models, the Assessment projects that annual average temperatures will increase between 1.8 and 5.4 degrees Fahrenheit by the middle of this century, and between 3.6 and 9 degrees Fahrenheit by the end of the century. These increases in temperature will be accompanied by rising sea levels and declines in mountain snowpack, while the state will continue to see similar temporal patterns in precipitation, with more falling as rain than as snow. California will also see an increase in the frequency and severity of extreme events.”***

Louise Bedsworth, deputy director, Governor’s Office of Planning and Research. Testimony at the Commission’s October 27, 2016, hearing.

California’s ability to maintain its famed economic competitiveness and stature as a driving force of the global economy will soon hinge on much more than a legendary stock of private sector brainpower and know-how. The best and brightest of California’s public sector also must confront the impact of climate change, doing their part to govern to minimize disorder amid inevitable disruptions. When competitor nations and states stumble and develop reputations for instability due to sea level rise and flooding, wildfire, extreme heat episodes and drought, California must remain reliable, dependable and able to keep getting things done.

A surprising amount of these responsibilities will fall to California’s special districts. Their vigilance will be necessary to keep vital sectors of California’s \$2.6 trillion annual economy viable as temperatures and ocean levels rise, the Sierra snowpack dwindles and irregular precipitation patterns range between extended drought and superstorms.<sup>53</sup>

The widespread institutional inability to think coherently about climate change impacts represented a key finding in the Commission’s July 2014 report, *Governing California Through Climate Change*. Special districts, like other local governments, grapple with endless conflicting climate change assessments and scenarios – almost none of them scaled down to their particular locations – when trying to analyze what they might do. Most have no access to a definitive, centralized source of climate change impact information, though the Governor’s Office of Planning and Research (OPR) is building a one-stop clearinghouse of climate impact material for local governments statewide. That information resource is a result of 2015 legislation, SB 246 (Wieckowski) enacted by the Legislature and signed by Governor Brown in the wake of the Commission’s 2014 report.

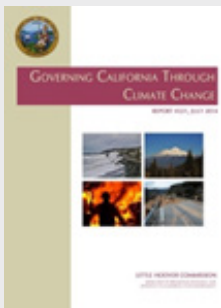
Some special districts are already at the forefront in preparing and investing for anticipated climate instability. These districts do not always call it climate change. Some call it a change in weather patterns and plan for it under that umbrella. Many simply plan for drought, a climate change condition which has already manifested itself across the Golden State. Their individual and collective efforts are encouraging – and should serve as models for other special districts that have yet to grapple with what’s coming.

Special districts are generally missing from the policy discussions, major conferences and research gatherings regarding local government preparations for climate change. These policy efforts tend to focus on cities and counties which make land use decisions – that is, decide how and where they will develop infrastructure and grow their residential, commercial and industrial neighborhoods. Yet many special districts also are missing in action because they are small and consumed with day-to-day operations. Like many local governments across California, they have little time or financial resources to look beyond the immediate, let alone consider longer-range climate scenarios that are at best uncertain.

Ample opportunity exists, however, for special districts to “engage in and support adaptation efforts, both in resource tool development, but also in contributing to adaptation and resilience efforts on the ground,” said Louise Bedsworth, deputy director of OPR, testifying at the Commission’s October 27, 2016, hearing. In testimony, Ms. Bedsworth also urged districts already preparing for climate impacts to document and share their experiences with the new Integrated Climate Adaptation and Resilience Program information clearinghouse within OPR. She, too, encouraged special districts to provide input to research projects being

conducted within the state’s fourth formal Climate Assessment. (The fourth assessment is a \$4.5 million research effort managed by the California Natural Resources Agency and the California Energy Commission to better understand climate risks and management options to help “the state to prioritize actions and investments to safeguard the people, economy and natural resources of California”).<sup>54</sup> Ms. Bedsworth also called on districts to step up information sharing within their trade associations as they individually integrate climate change considerations into their infrastructure investments. Finally, she urged more public engagement

## A Snapshot: The Commission’s 2014 Climate Change Adaptation Report



Governing California Through Climate Change released by the Commission in July 2014 after a year-long study process, made a case that California state government should bring the same focus to climate change adaptation that it brings to reducing emissions. The report contended that the foundations of California’s role in the global economy must continue with a minimum of disruption through wilder weather and rising seas – and cited a lack of definitive information and preparation, especially within local governments and special districts most likely to be on the front lines of preventing and addressing climate change impacts.

The Commission recommended:

- The Governor create a new agency or empower an existing agency to establish the best state science on anticipated impacts and help state and local decision-makers assess their risks based on that science.
- State government at all levels incorporate climate risk assessment into everyday planning and governing processes.
- The Legislature expand the mission of the Strategic Growth Council beyond reducing greenhouse gas emissions to focus equally on climate change adaptation.

The report also called for state government to aggressively enforce defensible space requirements to minimize wildfires and property damage, and the Governor to work with state agencies to clarify the impact of sea level rise on California’s Common Law Public Trust Doctrine before a rising ocean begins to condemn private property in coastal areas.

In response, the Legislature passed three bills, all signed by Governor Brown, to carry out specific recommendations:

- SB 246 (Wieczowski) designated the Governor’s Office of Planning and Research as the lead entity on climate adaptation and established both a central clearinghouse of information to help local governments plan for climate impacts and a science advisory council to provide scientific support.
- AB 1482 (Gordon) required the Natural Resources Agency, in coordination with the Strategic Growth Council, to coordinate across state agencies to be sure state funding maximizes key adaptation objectives.
- SB 379 (Jackson) required that the safety element of local general plans address local climate change adaptation and resiliency strategies.

with residents about what’s coming:

*“In many cases, special districts have direct relationships with local residents and businesses. These relationships provide the opportunity to support individuals and businesses to undertake actions that can increase their own resilience and that of the broader community.”*

The urgency of climate change demands that special districts act as leaders on adapting to its impacts. Special districts are the most common form of local government in California and are frequently on the front lines of water delivery, wastewater treatment and flood control. Without leadership of this critical government sector, disruptions will be unpleasant and expensive. Consider St. Petersburg, Florida, home to three big sewage spills since 2015, as heavy rains leaked into and overwhelmed an aging wastewater treatment system. “Climate change has arrived and this is what it looks like,” Mayor Rick Kriseman told the media in 2016 as he presided over millions of gallons of partially treated human waste flowing out of manhole covers onto city streets and into Tampa Bay.<sup>55</sup>

In California, scientists agree that climate change promises either too little water, as in the sustained,

severe drought that so recently gripped much of the state, or too much water, as in the type of wilder weather and big wet storms that overran California in 2017.

The robust discussion on special district reserves at the August 25, 2016, hearing prompted Chair Pedro Nava to ask the districts how climate change adaptation strategies were being included in district reserve policies. As a result of this question, the Commission scheduled a second hearing as part of this review on October 27, 2016, focusing on how leading-edge special districts are planning and investing for climate change. In keeping with the theme of appropriately investing special district reserve funds in long-term infrastructure, the Commission invited testimony from five districts with the massive infrastructure backbones that will be needed to dependably deliver water, treat wastewater and prevent flooding in a volatile climate.

Collectively, their stories make excellent case studies for how special districts are sizing up disruptive climate scenarios, assessing their vulnerabilities and investing in appropriate infrastructure to be flexible for too much or too little water. This chapter offers a wealth of examples and models for other districts to consider in their own strategy planning. Especially interesting is how some districts are creating regional partnerships to prepare for the worst. Special districts and their trade associations, too, are thinking ahead to regulatory changes necessary to move government rulemaking beyond a status quo

## **Also: A Brief Look at California Wildfires**

The Commission, at its August 25, 2016, hearing, similarly invited a rural fire protection district to discuss one of the most obvious, rising climate threats of all – wildfire. The Commission heard that many rural fire districts desperately want to step up to their climate change challenge, but are constrained by poor finances. North Tahoe Fire Protection District Chief Michael Schwartz testified that rising numbers of fire districts, especially in rural mountainous areas, face bankruptcy scenarios in the next few years – even as their regions face worsening firestorms due to a warming climate, drought and tree mortality crisis. “A lot of districts are on the verge of failure,” he testified. “They will run out of capital in the next year or two.”

Chief Schwartz told the Commission that growing fire district stresses stem from the customary revenue challenges in the wake of Proposition 13 restrictions on property taxes, but also increasingly from inability of districts to reach the two-thirds majorities needed to approve special new property taxes. “I don’t think I would even try it now,” Chief Schwartz said.

At its October 2017 business meeting, the Commission decided to delve deeper into forest management practices in light of the tree mortality crisis and launched a full study on this topic in 2017. The Commission anticipates adopting a report on forest management in late 2017 or early 2018.

that may no longer be relevant for water delivery and wastewater treatment as climate uncertainty deepens.

On a practical level, the Commission learned at its October 27, 2016, hearing that many of these districts are reducing their dependence on imported water by diversifying supplies and producing vastly more recycled water. Many are steering more stormwater runoff in wet years into groundwater recharge basins for use in dry years. In one case, a Southern California district pays farmers to replace water-intensive avocado crops with wine grapes, creating a win-win of reduced water demand and the economic development of wine tourism.

Clearly, some districts are already well along on the climate adaptation strategies and actions that many special districts must eventually implement for a changing climate – with an added benefit of generating thousands of engineering and construction jobs. The leading-edge actions and infrastructure spending strategies detailed at the Commission’s hearing offer a window, as well as a road map, for special districts that have yet to engage or prepare for what Governor Brown in 2013 described as “the world’s greatest existential challenge – the stability of our climate on which we all depend.”<sup>56</sup>

*“Water and wastewater agencies, such as EMWD (Eastern Municipal Water District, Riverside County), have been looking at climate-change related actions for years. We might not have grouped it under the “climate change” umbrella or even used those words to describe what we are doing, but we have long had an environmental stewardship and water use efficiency ethic.*

*“For adaptability, we have focused on the potential for and reality of longer, more intense droughts and heat waves, less snowpack and early runoff. We have made significant investments in developing climate-resilient water supplies and reducing per capita water consumption. The combination of local supplies and conservation directly reduces our District’s dependence on more greenhouse gas-intensive supplies.”*

Paul D. Jones II, General Manager, and Deborah S. Cherney, Deputy General Manager. Eastern Municipal Water District. November 14, 2016, letter to Little Hoover Commission Chair Pedro Nava.

## As Imported Water Dwindles, a Climate-Driven Rush to New Sources

California’s storied history is filled with powerful cycles of boom and bust development, during which boosters of agriculture, cities and suburbs formed special districts to find and deliver water from below ground or distant mountain reservoirs. Now, stung by historic drought in California and the Colorado River basin, special district water managers must contend with a world-class water delivery system clearly inadequate for the variability of a changing climate. The Association of California Water Agencies, a Sacramento-based association representing special districts and agencies that supply 90 percent of California’s water explained the climate problem that water managers face:

*“Less snow is falling in the Sierra Nevada and melting faster, with peak runoff levels occurring earlier in the year. The Department of Water Resources is projecting that the California snowpack will decline by 25 to 40 percent by 2050, thereby significantly reducing the amount of water that is stored at higher elevations for use during the summer and fall.”<sup>57</sup>*

Brandon J. Goshi, manager of water policy and strategy for the Metropolitan Water District of Southern California, offered a similar climate assessment in a November 22, 2016, letter to Little Hoover Commission Chair Pedro Nava:

*“The past ten years, and in particular, the unprecedented drought conditions of the past five years, have given us a glimpse of the water supply and demand challenges that climate change will pose. Local rainfall in Southern California has been sharply below normal for that period, and our source waters have already experienced the range of higher temperatures and reduced snowpack that is being foreseen by climate change scientists.”*

At the Commission’s hearing, executives of two special districts in the business of water delivery – one in Southern California, another in Northern California –

testified about their responses to this “new normal” within California’s climate. Each explained to the Commission how they are identifying and creating new water supplies to ease dependence on water imported from faraway high-country reservoirs.

### **The Rancho California Water District (Riverside County)**

The Temecula-based Rancho California Water District, created in 1965 with 5,000 customer accounts, serves 45,000 customers now in a rapidly-suburbanized part of eastern Riverside County. Residential and commercial users dominate the customer base. Yet the region’s traditional agricultural sector of citrus, avocados and wine grapes, while fewer than 5 percent of customer accounts, still accounts for 40 percent of water use, the district stated in written testimony.

Presently, the district’s groundwater basin supplies 43 percent of demand. Treated imported water from the Metropolitan Water District (MWD) – 500 percent more costly than local well water, according to the district’s testimony – supplies an additional 32 percent of local demand. Another 18 percent comes from district purchases of untreated water from MWD to recharge its groundwater aquifer. The remaining 7 percent comes from recycled water, a rising source locally and for water districts statewide.<sup>58</sup> Ultimately, at buildout of its still-developing service area, the district expects to supply double its current demand for water – a daunting challenge in an era of climate uncertainty.<sup>59</sup> Key to meeting that challenge, the district reported, is a 50-year Long Range Financial Plan that envisions \$2.4 billion for new and replacement infrastructure and facilities, according to the district’s written testimony.

At the October 2016 hearing, Jeffrey D. Armstrong, district general manager, detailed for the Commission three significant initiatives to broaden supply options. All showcase the ingenuity with which Southern California water districts are meeting the needs of growing populations with less water:

**Permanent Conservation.** “On the climate change side there’s really two things,” he told the Commission. “There’s the supply side. And then there is the demand management side that we’re doing.” Mr. Armstrong said

the district has reduced water demand by more than 20 percent through conservation alone. Though mandatory conservation targets have been lifted by the state, he said, “We still are asking our customers to conserve and be efficient. A lot of the changes that took place in the last year, I think, are permanent changes. Where in Southern California you see grass and medians converted to California-friendly landscapes and those then put on drip systems, when we look at some of those accounts, their water use dropped by 70 percent. I don’t think anybody’s going to change those back to grass. So some of those savings really are long term and continue,” Mr. Armstrong told the Commission.

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***“We are one of the agencies where every one of our customers does have a meter, including our agricultural customers. We know for every one of our agricultural accounts what type of crop they have planted on their grove or farm, and we know the amount of acreage that they have there. So we know the amount of water that should be used there to be efficient and we build water budgets for our agricultural customers and tell them what efficient water use is, and if they go over that they pay a higher penalty. We take those penalties and we hold those in reserves and we use those to roll back into efficiency programs to help our agricultural customers become more efficient. And one of those we’re doing right now is, we’re calling it a crop swap, where we have primarily avocados, wine grapes and citrus. Avocados use twice as much water as wine grapes. But some of those areas where avocados are planted are very suitable for wine grapes and we’re going to help fund the conversion from avocados to wine grapes. It reduces the water use in half and still maintains the economic benefits of agriculture in our community, the viability of the farming as well as tourism that comes from that.”***

Jeffrey D. Armstrong, General Manager, Rancho California Water District, addressing the Commission October 27, 2016.

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**Crop Swap.** In late 2016 the Rancho California Water District unveiled a program to pay farmers up to \$15,000 per acre to replace thirsty avocado crops with less water-intensive wine grapes, thanks to a \$2 million grant from the Department of Water Resources and \$1 million from the U.S. Bureau of Reclamation. The district estimates it will save nearly 4,000 acre-feet of water in the next decade, enough to meet demands of nearly 8,000 households.<sup>60</sup>

**Additional water storage options.** In 2010, the district built a \$10 million pipeline to buy untreated water in wet years and channel it into its Lake Vail reservoir for additional supply in dry years. Four years later, the district spent \$55 million in reserve funds to buy 7,500

acres of land surrounding the reservoir. The purchase allowed the district to remove legal restrictions that previously maintained a fixed lake level for boating and recreation. Mr. Armstrong told the Commission, “When we acquired the land, that removed the recreational rights. It allows us to use the full capacity of that lake and reservoir for water supply purposes, and we’ve done that during the drought. We really reduced the amount of water in that lake.... In terms of climate change, where we’re hearing about longer periods without rain followed by periods of greater rainfall, it really gives us opportunity to take advantage of that climate change because we can draw the capacity down and then when the bigger events happen we can fill the reservoir back up.”

## How Other Districts are Preparing for Significant Climate Impacts

- The **Los Angeles-based Metropolitan Water District** invested \$450 million to pay customers to remove lawns and replace them with drought-resilient landscaping.
- The **Eastern Municipal Water District** in Perris, Riverside County, reuses 100 percent of its wastewater through investments in recycled water. Recycled wastewater represents more than a third of the district’s water supplies and supports agriculture, commercial and industrial uses, as well as irrigation for public parks and outdoor spaces. The district also incentivized customers to remove four million square feet of turf and replace it with drought-proof landscaping.
- The **San Diego Water Authority** is raising the San Vicente Dam to create 100,000 acre- feet (32 billion gallons) of new storage capacity and reduce dependence on imported water. It also is constructing the Carlsbad Desalinization Project to provide an extra 56,000 acre-feet (18 billion gallons) of usable water annually.
- The **Santa Rosa-based Sonoma County Water Agency** invested \$843,000 in a comprehensive climate vulnerability assessment to identify climate change risks and develop adaptation options for its water supply, flood control and sanitation facilities.
- The **Soquel Creek Water District** in Capitola, Santa Cruz County, is developing a groundwater model to simulate climate change scenarios in preparation to spend up to \$70 million on an advanced water purification project for groundwater recharge.

Sources: Wendy Ridderbusch, Director of State Relations, Association of California Water Agencies, Sacramento, CA, September 13, 2016, Personal communication. Also, Paul D. Jones II, General Manager, and Deborah S. Cherney, Deputy General Manager, November 14, 2016, letter to Little Hoover Commission Chair Pedro Nava.

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***“Water agencies engaging in climate change planning must think carefully and thoughtfully about the right combination of funding to achieve a stable and reliable financing portfolio. Just as a family household puts money away in a savings account to purchase a new automatic dishwasher when the old one breaks down, a water agency will set aside funds in a designated reserve fund for a specific project. For instance, a water storage project, which could cost hundreds of millions of dollars to complete, from the initial feasibility studies all the way to completion. The funding is responsibly and separately saved for future use. In addition to utilizing reserves to help build water infrastructure the ability to maintain reasonable reserves is a critical factor in providing reliable service, mitigating rate increases and supporting an agency’s overall financial strength. Reserve levels directly affect an agency’s bond rating, and ultimately, its ability to access debt markets at favorable interest rates, ensuring the ability to finance and construct the infrastructure necessary to renew existing systems and expand service levels to meet future needs. And while our member agencies rely upon several different sources of state and federal income to augment these infrastructure funds, the reality is that the majority of funding of water in California is derived from the water districts themselves.”***

Wendy Ridderbusch, Director of State Relations.  
Association of California Water Agencies. Testimony  
at October 27, 2016, hearing.

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### **The East Bay Municipal Utility District (Alameda County)**

Unlike the Rancho California Water District with its rich natural underground reservoir, the Oakland-based East Bay Municipal Utility District (EBMUD) serves 1.4 million customers in Alameda and Contra Costa counties with almost no groundwater basins. The water district instead taps the Mokelumne River in the central Sierra Nevada for 90 percent of its supply. The district leads

its mountain water westward from the Pardee and Camanche reservoirs via three above-ground aqueducts across the Central Valley into the East Bay. But EBMUD, too, is diversifying its water sources as high-country winter snowpack dwindles and climate uncertainty looms. Alexander R. Coate, district general manager, testified to the Commission about several major initiatives to broaden supplies. The district, which in written testimony, called itself “a water industry leader in addressing climate change,” has, indeed, set a lesson for special districts statewide by preparing a formal climate change vulnerability assessment of risks to its system and customers. Among initiatives described in testimony:

**Diversifying.** In 2010, the East Bay Municipal Utility District opened – with its partnering agency, the Sacramento County Water Agency – the \$1 billion Freeport Regional Water Project south of downtown Sacramento to divert supplies from the American and Sacramento rivers during dry years. The project is the culmination of a 40-year district legal strategy to gain rights to additional Central Valley Project water to supplement its Sierra Nevada supplies. Mr. Coate told Commissioners the river water supplied up to approximately one-half the drinking water in its East Bay region in 2015.

**Conservation.** “Conservation is a way of life. We’ve been conserving for decades,” Mr. Coate told the Commission. “California’s known for its droughts and we’ve embraced that approach. In 2005, 2006 and 2007, we were selling 200 million gallons of water per day. That’s the same amount of water we were selling in the early 1970s, except we had 30 percent more people that we’re providing it to. And since 2005, 2006 and 2007, our customers have conserved and conserved again. We’re the only business that is out there trying to get people to use less of their product. It’s a very unique business model. The last year of the drought, just a year ago, our customers were using 128 millions of gallons per day,” he said.

**Regional partnerships:** Mr. Coate also described to the Commission the Bay Area Regional Water Supply Reliability partnership, which aims for collective readiness for climate impacts. “We’re also very focused on partnerships, on leveraging those,” he said. “They work well, and in the Bay Area right now we’re are partnering with a total of eight water agencies that represent six million customers on a regional reliability study and using



funding from the U.S. Bureau of Reclamation focused not necessarily on building a lot of new facilities, but looking at how we can interconnect and network our facilities and make improvements within our facilities so that we can share resources, both infrastructure resources and water resources to improve the reliability for our customers.”

Mr. Coate testified: “That’s particularly helpful for emergencies when somebody might be in need and another agency would be able to provide resources.”

Mr. Coate urged the state to provide districts the flexibility to meet climate impacts, not with “one-size-fits-all mandates,” but with their own individual and regional approaches. “Flexibility allows us to come up with approaches where we can figure it out. We have been for decades. We were very prepared for this drought,” he said, “and able to have no impact to the economy and still keep our customers with water.”

Mr. Coate, asked for recommendations the Commission might make to the state, also noted, “We really can use additional information, research information. We have an understanding that climate change is happening, but the error bars on the models are pretty big. So we’re working in, kind of using a sensitivity analysis approach. It’s like putting brackets around things. But research could narrow that and help us understand what’s going to happen in our region, more specifically so.

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***“We’re the only business that is out there trying to get customers to use less of their product.”***

Alexander R. Coate. General Manager, East Bay Municipal District, addressing the Commission October 27, 2016.

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## **The Wastewater World Already is Complicated; Now Comes Climate Change**

Nonstop, behind the scenes of California’s daily living, 66 independent special districts and 37 dependent county districts collect billions of gallons of wastewater and treat it for re-use or disposal into rivers, bays and the Pacific Ocean. Sanitation district managers, overseeing vast expanses of costly infrastructure – miles of small

## **How East Bay Municipal Utilities District (EBMUD) is Vulnerable to Climate Change**

- “Changes in the timing, intensity, location and amount of precipitation could have impacts on the reliability of EBMUD’s water supply. Droughts may become more frequent. In addition, storm tracks are predicted to move northwards, which could decrease average precipitation for EBMUD.”
- An increase in temperature can lead to an increase in customer demand for water.
- Forested areas within the district could lead to increased water demand for fire suppression.
- Higher average water temperatures in district reservoirs in the Sierra Nevada could require more water to maintain a cool pool for fish.
- More intense storms and wildfires near district reservoirs could increase sediment and nutrient levels in water storage areas, requiring more treatment.
- Water shortages and drought may lead to more frequent and severe water rationing.
- Costs may increase to bring in supplemental supplies or develop still more projects to diversify supplies.

## **What the District is Doing About it**

- Planning to adjust its water supply portfolio as impacts of climate change manifest.
- Identifying a wide range of supplemental supply, recycled water and conservation projects.
- Incorporating climate change considerations into all master plans.
- Collaborating with other agencies to assess vulnerabilities and adaptation strategies.

Source: East Bay Municipal Utility District. Urban Water Management Plan 2015. “Appendix J: Climate Change Vulnerability Assessment.” Pages J1-J5. Oakland, CA. file:///C:/Users/wasserjd/Downloads/UWMP-2015-\_BOOK-FINALweb\_secure%20(1).pdf. Accessed September 28, 2016.

lateral pipelines leading to bigger trunk lines leading to regional pumping stations and treatment plants – widely expect their agencies to “experience the first significant infrastructure impacts of climate change” with all the attendant costs and regulatory challenges – as one district manager testified in 2013 to the Assembly Select Committee on Sea Level Rise and the California Economy.<sup>61</sup> One national estimate suggests “the total estimated cost of wastewater agencies to adapt to climate change in the U.S. is between \$123 billion and \$252 billion above existing wastewater system infrastructure upgrade, renewal and replacement programs.”<sup>62</sup>

At the October 27, 2016, hearing, the Commission learned about the formidable wastewater treatment complexities inherent within a central expectation of climate change – long periods of too little water mixed with short explosive bursts of too much water.

### **The East Bay Municipal Utilities District (Wastewater Division)**

Mr. Coate, who also oversees collection and treatment of wastewater for 680,000 customers, said his chief climate adaptation concerns are the forecasts for powerful Pacific storms and precipitation deluges that get into wastewater systems, overwhelm them and cause untreated discharges into the ocean. Mr. Coate, in written testimony for the

Commission’s October 27, 2016, hearing, stated:

*“During and after heavy storms, rain and groundwater enter underground sewer pipes through cracks, increasing the volume of water in the system, and eventually causing overflows. This is called “infiltration and inflow” and is a common occurrence in cities across the country with older infrastructure. Climate change is expected to impact the level of infiltration and inflow via the frequency and magnitude of more extreme wet weather storm events and rising groundwater levels due to sea level rise.”*

The concern is reasonable. After a 2013 superstorm in Detroit, 110 million gallons of raw sewage flowed into the Detroit River, overwhelming the city’s aging sanitation system.<sup>63</sup> St. Petersburg’s similar issues were noted earlier in this chapter. California has its own problems: 250,000 gallons of untreated wastewater entered the Los Angeles River and polluted the Pacific Ocean when a spring 2011 storm dumped up to 10 inches of rain over parts of Los Angeles region.<sup>64</sup>

Mr. Coate also testified about a unique adaptive response to these concerns in his district’s service area, which may be worth considering in some form in other regions with pre-1950s development patterns:

### **Wastewater Facilities Will Be Hardest Hit by Climate Change**

*“Wastewater treatment facilities will be among the hardest hit by climate change, in part because treatment plants are generally located at the low point in each watershed to make efficient use of gravity for conveyance purposes. This means that in coastal areas, wastewater facilities are often located along the coast or within an estuary and have ocean or bay outfalls with a direct hydraulic connection to their facility. Inland facilities also typically have geographically low-lying plants and outfalls within river valleys and floodplains. As the sea level rises – an expected 0.6 to 1.4 meters for the California coast – and storm surges increase in coastal areas, facility outfall elevations may need to be increased or may require pumping in order to discharge. Inundation of facilities, including higher coastal groundwater levels causes more inflow of brackish or salty water that, in turn, requires higher volumes or treatment levels and makes water recycling more energy intensive. Increased inland flooding events will put critical infrastructure and service at risk of failure.”*

Jessica Gauger, Manager of Legislative Affairs. California Association of Sanitation Agencies. October 11, 2016, letter to Commission Chair Pedro Nava.

**Mandatory sewer lateral repairs at point of sale.** On November 28, 2014, a regional private sewer lateral ordinance went into effect within EBMUD’s wastewater service area, requiring inspections when a property is sold or undergoing a remodel of more than \$100,000, of private lateral sewer lines that connect the property to the district system. When a sewer line needs repair, the buyer or seller – or both – must pay to have it fixed. Many of these aging and broken pipes act as conduits for stormwater to enter and overwhelm the district’s treatment plant and spill partially-treated sewage into San Francisco Bay. The ordinance, in effect in Alameda, Albany, Emeryville, Oakland, Piedmont, Kensington, El Cerrito and Richmond Annex, results from a 2009 order by the U.S. Environmental Protection Agency and San Francisco Bay Regional Water Quality Control Board to fix the district’s older, cracked sewer lines.<sup>65</sup> The City of Berkeley, since October 2006, has implemented similar requirements for inspections and repairs as part of real estate transactions.<sup>66</sup>

### **Sanitation Districts of Los Angeles County**

In Southern California, extended drought and water shortages have created the opposite problem for sanitation district managers: too little water creates an additional, costly range of complexities for wastewater treatment. Nonetheless, years of drought also has triggered a surge in recycled water production throughout Southern California, and is creating an entirely new water supply to supplement imported water. In testimony, Philip L. Friess, head of the technical services department of the Sanitation Districts of Los Angeles County, a unique collaboration of 24 individual sanitation districts serving 78 cities and 5.5 million people, described a wastewater agency and region leading the nation in addressing key anticipated water-supply impacts of climate change.

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***“Today, the Sanitation Districts are one of the top producers of beneficially reused recycled water in California and the United States.”***

Philip L. Friess, head of technical services department, Sanitation Districts of Los Angeles County, in written October 27, 2016, testimony to the Commission.

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Organizationally, each of the 24 districts in this regional collaboration is an independent special district with their own ability to issue debt and set customer rates for their individual infrastructure needs. Collectively, as a regional super-district, they also finance, maintain and operate a regional wastewater collection and treatment system run by a single Whittier-based headquarters staff. Individual districts each collect property taxes, charge fees for wastewater services, keep a share of reserve funds – equal to six months of operations and maintenance expenses, plus one year of debt service – and are overseen by individual boards made up of mayors of cities included in the district.

### **When Faraway Imported Water Runs Short**

Mr. Friess told the Commission, “With regard to recycled water, the Sanitation Districts recycled water program is of great importance to Southern California’s efforts at climate change adaptation. Recycled water is considered a drought-proof local water supply because it is available consistently, whether it rains or not, and helps make local communities in Southern California more resilient to the impacts of climate change on water supply.” He further testified, “Recycled water currently comprises 7.5 percent of Los Angeles County’s overall water supply. And area water managers are seeking to implement new water recycling projects to increase the amount of recycled water in the water supply, and I’ll highlight two of those.”

Both highlighted projects involve forward-looking regional partnerships of special districts, the kind that increasingly will be necessary to alleviate the impacts of climate change in years and decades ahead:

**An end to imported water recharging groundwater basins.** The Sanitation Districts of Los Angeles County, with more than a half century of recycling treated wastewater for groundwater recharge, is partnering on its newest recycled water project with the Water Replenishment District of Southern California (WRD) and the Los Angeles County Flood Control District. A \$110 million Groundwater Reliability Improvement Project facility, designed to produce an additional 19 million gallons of treated wastewater daily for groundwater recharge, marks an historic shift in ending the use of imported water for that purpose. Mr. Friess, in written testimony to the Commission, cited remarks by the

replenishment district's board chair, Willard H. Murray, Jr., at its 2016 groundbreaking. Mr. Murray, highlighting the momentous break with a distant water supply becoming increasingly unreliable as the climate changes, said: "The Los Angeles region has a long and sometimes colorful history of importing water to quench our thirst. With this project WRD will be turning a corner in our water history. WRD's future will be built on water recycling, drought-proofing our water supplies and ending our reliance on imported water."

## How Climate Change Investments Stimulate Job Creation

Climate change investments on the scale of \$2.7 billion and \$110 million to reduce dependence on imported water and increase use of recycled water have more than conservation and environmental ramifications; they are job and income generators. These economic benefits largely stay in the region and ripple outward to support businesses involved in construction, architecture, engineering, scientific research and development services, reported a 2011 study of Los Angeles-area projects by the Los Angeles-based Economic Roundtable.

The study, mindful of the region's "increasing pressure to reduce reliance on imported water by using what we have more efficiently," sampled the multiplier impacts of \$1.2 billion in recent area water efficiency projects involving recycled water, stormwater and groundwater management. The study estimated that every \$1 million invested generated 12.6 to 16.6 year-long jobs depending on the type of project. That compared with new housing construction (11.3 jobs per \$1 million invested) and motion picture production (8.3 jobs per \$1 million).

Study author and senior researcher Patrick Burns stated, "Los Angeles needs to use the water it has more efficiently, and a dividend from doing this is that we will open doors for job seekers, including young adults eager to gain skills in the emerging field of water-use efficiency."

Source: The Economic Roundtable. December 6, 2011. "Water Use Efficiency and Jobs." Los Angeles, CA. <https://economicrt.org/publication/water-use-efficiency-and-jobs>. Accessed December 28, 2016.

**Treated wastewater to inland groundwater basins, not discharged to the ocean.** Likewise, the Sanitation Districts of Los Angeles County also is partnering with the Metropolitan Water District (MWD) on a proposed water purification facility at the districts' Joint Water Pollution Control plant in Carson. The aim: to divert up to 150 million gallons daily of wastewater currently discharged into the Pacific Ocean via 60 miles of pipeline to groundwater recharge basins in Los Angeles and Orange counties. "That's a \$2.7 billion capital cost plant," Mr. Friess told the Commission at the October 2016 hearing. "The water it produces will be about \$1,600 per acre foot. And if that's approved (by the MWD board of directors) that would be about eight to 10 years in the future." Mr. Friess added, "They have finished the feasibility study. They are in design for a demonstration facility to kind of fine tune the design parameters. I think the approval to move forward with the full-scale project hopefully would occur next year (2017)."

The Commission has learned that similar water reuse efforts are well underway in neighboring Orange County, where the Orange County Sanitation District and Orange County Water District have jointly partnered since 2008 on the Groundwater Replenishment System. The joint groundwater system produces enough new water for nearly 850,000 residents in north and central Orange County and recharges 130 million gallons of water per day. It is described by the water district as "the world's largest project of its kind."<sup>67</sup>

## Humans vs. Wildlife: The Regulatory Conflicts of Too Little Water

As the use of recycled water grows exponentially in years ahead, this trend, too, will be on a collision course with climate change and extended periods of drought. Producing recycled water means districts discharge less treated wastewater into streams and rivers – which has an unintended consequence of altering the watery habitats of sensitive species. For wastewater districts, extended drought sets up conflicting regulatory demands from federal, state and regional government agencies over human needs for recycled water versus habitat's need for instream flow. Explained Mr. Friess to the Commission, "As aquatic species experience greater stress, the need to maintain minimum flows to the

streams to sustain them is garnering increased interest from the resource agencies. And these trends may reduce the availability of recycled water that we can use for water supply purposes at the same time the drought conditions are sharply increasing the demand for the recycled water.”

#### **A new regulatory framework for adaptive management.**

“One aspect we’d like to highlight is the need for the state to explore how the regulatory framework for water quality and water quantity should adapt to climate change, as well,” Mr. Friess testified to the Commission. “The issue is that the regulations to protect water quality and plants, fish and wildlife are all based on preserving what is, or what was, at some point in time. However, it can be expected that even with reductions in greenhouse gas emissions, many of the impacts of climate change are going to occur anyway. Therefore the question that has to be addressed,” said Mr. Friess, “is whether the status quo can be preserved, whether an adaptive approach has to be taken to resetting the baseline for what it is we’re trying to protect. This would require a new approach by regulatory agencies, one that is very difficult,” he said. “But if we don’t move in this direction the danger is we’re going to spend a lot of resources trying to maintain the old normal, even when that baseline is no longer tenable.”

### **A Rising Ocean and 1,000-Year Storms: What Awaits Flood District Managers?**

As a coastal state, California faces the impacts of sea level rise and, according to widespread scientific consensus, increasingly severe storms with potential to overwhelm flood defenses. Prolonged historic rainstorms of the type that poured more than 50 inches in and around Houston as a result of Hurricane Harvey in August 2017<sup>68</sup> – and 15 inches in 10 hours onto South Carolina in October 2015 (described as a 1,000-year storm)<sup>69</sup> – point to what California might face in years ahead.

A November 2013 Department of Water Resources (DWR) report, “California’s Flood Future,” states that Orange, San Mateo and Santa Clara counties have the largest populations exposed within 100-year floodplains, those areas that have a 1-in-100 (or 1 percent) probability of flooding in any given year. In Los Angeles, Orange and Santa Clara counties, 60 percent of residents –

approximately 15 million people in all – are similarly exposed within 500-year floodplains. The department also reports that \$575 billion worth of structures are exposed within 500-year floodplains statewide – 40 percent of them in Los Angeles, Orange and Santa Clara counties.<sup>70</sup>

Protecting them – and millions more people and buildings statewide – are flood control districts. Each has an immense responsibility to think ahead and limit flooding scenarios that could cripple the state’s \$2.6 trillion economy and damage its global standing as a reliable trade partner. Typically, throughout California, flood control districts are dependent county districts or divisions housed within departments of public works overseen by county boards of supervisors. But independent special districts also perform flood control operations. Representatives of two of these independent districts testified at the Commission’s October 27, 2016, hearing about infrastructure investments to defend their populations and regional economies from climate-induced superstorms and rising seas.

#### **Fresno Metropolitan Flood Control District**

In April 1956, following a series of destructive 1950s floods, voters by a margin of 5-1 in the cities of Fresno and Clovis, and the County of Fresno, established an independent regional flood control district to hold back waters from the nearby Sierra foothills that frequently inundated their flat, lowland geography. Two decades later the 400-square-mile district added groundwater recharge to its portfolio – a far-seeing move that gives it unique advantage for the irregular precipitation trends which scientists consider a likely impact of climate change.

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***“Among the major floods our region has endured are the floods of 1872, 1884, 1925, 1937, 1938, 1950, 1955 and 1969. It is remarkable to consider how much of our history has been shaped by the benefits and also the destructive power of water.”***

Alan Hofmann, general manager, the Fresno Metropolitan Flood Control District, in written testimony for the Commission’s October 27, 2016, hearing.

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The district, governed by six appointed representatives of the cities and one representative from the county, has used its property taxes (which account for 41 percent of revenue),<sup>71</sup> bonding authority, developer fees, 2006 Proposition 1E grants and other resources, including reserves, to build a system particularly resilient to fluctuating rainfall and snowmelt. The district has constructed one of the few systems statewide that can simultaneously control flood water in wet years and steer it to facilities to recharge its underground aquifer for drinking water supplies in dry years.

“I would note that our system recharges over 70 percent of the rainfall that is captured within it,” district general manager Alan Hofmann told the Commission. “Most of the times you would say, ‘there’s too much rain,’ and the first thing you’re looking at is ‘how can we get rid of it?’ We take a different approach to stormwater, to say, ‘there’s too much, where *else* can we put it?’”

In written testimony, the district reported that “on a yearly average, approximately 17,000 acre-feet of locally-generated stormwater runoff generated with the urban drainage areas can be retained.” At 325,851 gallons per acre-foot, that is approximately 5.5 billion gallons annually for an underground aquifer classified as “high priority critical overdraft” by the 2014 Sustainable Groundwater Management Act. The cities of Fresno and Clovis also have rights to imported surface water for groundwater recharge.

**Dual-purpose infrastructure for flood control and groundwater recharge.** Mr. Hofmann said the district collects Sierra Nevada snowmelt and rainwater in four large detention basins in higher elevations of the foothills and leads water to nearly 80 detention or “ponding” basins for groundwater recharge beneath the Fresno-Clovis metropolitan area. Storm drains in the two cities similarly steer water to neighborhood detention basins, which are planted in grass and often also serve as recreational facilities and soccer fields during the dry season. The groundwater recharge system, he said, was largely conceived and built in the pre-Propositions 13 and 218 era, and would be difficult to replicate today with the need for two-thirds votes for special taxes.

The flood control district, though engineered to protect residents against a 200-year storm event, still doesn’t consider itself entirely safe from the historic storms that

a changing climate may bring to California. “Fresno gets its share of thunderstorms, high-magnitude short-duration storms,” Mr. Hofmann told the Commission. He stated in written testimony that the district, which still sees localized flooding during those storms, has begun discussions “on the implementation of a higher capacity standard for basins that could accommodate such a standard to capture and store more stormwater.”

One identified possible way to help finance an expansion, in addition to district revenue, is the Proposition 1 water bond passed by California voters in 2014, Mr. Hofmann told the Commission.

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***“So what are we doing to deal with climate change or different stormwater patterns? We take a different approach because we’ve been doing this for years. This is our purpose (as a special district). We regularly look at rainfall patterns. We recognize that when we look at the historical 30-year averages, the average annual rainfall has actually increased from nine inches back in the 1960s to today about 11 or 11 and a half inches. So we’ve continued to modify our design standards in our ponding basins and in our collection systems because that’s our sole purpose. It’s pretty easy to do that and not be held back by bureaucracy or political impediments. We can, what we say, get things done.”***

Alan Hofmann, general manager, the Fresno Metropolitan Flood Control District, testifying at the Commission’s October 27, 2016, hearing.

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## **Santa Clara Valley Water District**

The Commission’s 2014 *Governing California Through Climate Change* report paid particular attention to climate vulnerabilities in Santa Clara County, stating that many of “Silicon Valley’s storied technology campuses risk inundation as water levels rise in San Francisco Bay.” The Commission report cited a December 20, 2012, *Scientific American* article about the endangered county’s sea level rise challenges that stated bluntly: “Facebook is just one of the well-known companies in Silicon Valley’s

technology mecca that will face the effects of climate change in years ahead. Others located near the water here include Google, Yahoo!, Dell, LinkedIn, Intuit, Intel, Cisco, Citrix and Oracle.”

The Santa Clara Valley Water District, which has responsibilities for flood control alongside its traditional role of providing water to nearly two million of the region’s residents, stands on the front lines of keeping San Francisco Bay from spilling into the below-sea-level offices of these companies, as well as the Bay Area’s largest wastewater treatment plant.<sup>72</sup> At the Commission’s hearing, Melanie Richardson, the water district’s interim chief operating officer – watersheds – described an ambitious \$850 million plan to get ahead of climate-induced sea level rise well before it is too late. The district’s plan, a first of its kind in the Bay Area, provides an important example for special districts statewide in the power of partnerships to prepare and build now for coming climate change impacts.

**Multi-government partnerships for mega-projects.**

The district, in partnership with the U.S. Army Corps of Engineers and California State Coastal Conservancy, has begun a major levee-construction and wetlands restoration program to protect populations and companies that represent a thriving key sector of the California and national economy. Collectively, the three agencies aim to fortify 18 miles of the county’s San Francisco Bay shoreline against up to three feet of sea level rise for the next 50 years.

“Right now the entire Santa Clara County shoreline is protected by salt pond levees that are not really engineered for flood protection, and therefore the entire coastline is vulnerable to not only the 100-year coastal flooding event, but to sea level rise,” Ms. Richardson told the Commission. “The shoreline study (formally known as the South San Francisco Bay Shoreline Study) is the first study of its kind in the Bay area to develop a specific plan to provide flood risk management in light of sea level rise in the bay.”

Added Ms. Richardson, “The study is proceeding in phases because 18 miles of coastline is a lot to do all at once.”

A first four-mile phase of levee construction and restoration of 2,900 acres of tidal marsh habitat is scheduled to begin construction as early as 2018 and

take approximately three years to finish, Ms. Richardson told the Commission. That phase will bring protection to the north San Jose shoreline between Alviso Slough and Coyote Creek, an area of homes, tech companies and the county’s largest wastewater treatment plant, all about 11 feet below sea level and considered most at risk to sea level rise. The first-phase cost is \$174 million, said Ms. Richardson, with the federal government paying 40 percent (\$71 million). The remaining 60 percent (\$103 million) is funded jointly by the Santa Clara Valley Water District and the California Coastal Conservancy. Their 60 percent share includes \$42 million for the levee and related structures, \$58 million for wetlands restoration and \$3 million for recreation.

Santa Clara County property owners, as well as property owners throughout the nine-county Bay Area, also are helping finance this massive sea level rise project, said Ms. Richardson. A 2012 Santa Clara Valley Water District parcel tax approved by more than two-thirds of county taxpayers – the Safe Clean Water and Natural Flood Protection Program, or Measure B – provided \$15 million for design and construction of the first phase, as well as \$5 million for studies of the remaining 14 miles. In addition, Measure AA, the \$500 million, 20-year Clean and Healthy Bay parcel tax passed by more than two thirds of Bay Area voters in June 2016, will contribute \$60 million over time toward the entire 18-mile flood and sea level rise protection project, Ms. Richardson testified. Ms. Richardson told the Commission that conversations are underway with the U.S. Army Corps of Engineers regarding the next phases. “Prior to starting the next phase of the shoreline study in other economically impacted areas, our district is out in front analyzing conditions in the Palo Alto, Mountain View and Sunnyvale shorelines to determine where the next piece that makes the most economic sense should be worked on,” she testified.

When discussing the entire \$850 million price tag to protect the Silicon Valley region against an uncertain future, Ms. Richardson pointed to the financial power of partnerships. “That’s why it’s so important for us to have participation by our federal partners,” she said. “It’s a very expensive project for local entities to undertake alone.”

## RECOMMENDATIONS

Locally and regionally, special districts are clearly thinking about an uncertain future, whether they call it changing weather patterns or climate change. The dozen approaches outlined show a handful of special districts getting ready for what's coming and no doubt, their executives occasionally lie awake at night thinking about the many what ifs that accompany their responsibilities. These forward motions by California districts might, in some or even most cases, be among the most advanced nationally for climate change adaptation. Yet, there is clearly more that trade associations for these districts – and also state government – can do to help and also to stay out of their way with regulatory overreach. Among options considered by the Commission and recommended here:

***Recommendation 15: The Legislature should place a requirement that special districts with infrastructure subject to the effects of climate change should formally consider long-term needs for adaptation in capital infrastructure plans, master plans and other relevant documents.***

Most special districts, especially the legions of small districts throughout California, have their hands full meeting their daily responsibilities. Many have few resources and little staff time to consider long-range issues, particularly those with the heavy uncertainty of climate change adaptation. Making climate change a key planning and operational consideration would formally and legally elevate issues of adaptation and mitigation, especially for districts where immediate concerns make it too easy to disregard the future.

***Recommendation 16: The California Special Districts Association (CSDA), in conjunction with its member districts, should document and share climate adaptation experiences with the Integrated Climate Adaptation and Resilience Program's adaptation information clearinghouse being established within the Governor's Office of Planning and Research (OPR). Similarly, CSDA and member districts should step up engagement in the state's current Fourth Assessment of climate threats, a state research project designed to support the implementation of local adaptation activities. The CSDA also should promote climate adaptation information sharing among its members to help districts with fewer resources plan for climate impacts and take actions.***

The OPR clearinghouse promises to be the definitive source of climate adaptation planning information for local governments throughout California. An OPR representative at the Commission's October 2017 hearing invited more district participation in state climate adaptation processes. It is critical that special districts and their associations assume a larger participatory role – both within state government and among their memberships – to expand the knowledge base for local governments statewide.

***Recommendation 17: The state should conduct a study – by either a university or an appropriate state department – to assess the effect of requiring real estate transactions to trigger an inspection of sewer lines on the property and require repairs if broken.***

Every California property owner has the responsibility to adapt to climate change. This begins at home with maintenance and upgrading of aging sewer laterals. Requiring inspections and repairs during individual property transactions is an optimum way to slowly rebuild a region's collective wastewater infrastructure in the face of climate change. At the community level, repairs will help prevent excess stormwater during major climate events from overwhelming wastewater systems and triggering sewage spills into public waterways.

The Oakland-based East Bay Municipal Utility District has instituted an ordinance that requires property owners to have their private sewer laterals inspected if they buy or sell a property, build or remodel, or increase the size of their water meter. If the lateral is found to be leaking or damaged, it must be repaired or replaced. The state should consider implementing this policy statewide.

***Recommendation 18: State regulatory agencies should explore the beginnings of a new regulatory framework that incorporates adaptable baselines when defining a status quo as climate impacts mount.***

With climate change what has happened historically will often be of little help in guiding regulatory actions. State regulations designed to preserve geographical or natural conditions that are no longer possible or no longer exist already are creating problems for special districts. Wastewater agencies, for example, face conflicting regulations as they divert more wastewater flows to water recycling for human needs and less to streams historically home to wildlife that may or may not continue



to live there as the climate changes. While it is not easy for regulators to work with moving targets or baselines, climate change is an entirely new kind of status quo that requires an entirely new approach to regulation.

***Recommendation 19: The California Special Districts Association, and special districts, as some of the closest-to-the-ground local governments in California, should step up public engagement on climate adaptation, and inform and support people and businesses to take actions that increase their individual and community-wide defenses.***

Special districts are uniquely suited to communicate with and help prepare millions of Californians for the impacts of climate change. Nearly all have public affairs representatives increasingly skilled at reaching residents through newsletters, social media and public forums. District staffs grapple constantly with new ways to increase their visibility. Many will find they can build powerful new levels of public trust by helping to prepare their communities for the uncertainty ahead.

***Recommendation 20: The California Special Districts Association and special districts should lead efforts to seek and form regional partnerships to maximize climate adaptation resources and benefits.***

Water, wastewater and flood control districts are already bringing numerous agencies to the table to pool money, brainpower and resources for big regional projects. The East Bay Municipal Utility District has arrangements with many Bay Area and Central Valley water agencies to identify and steer water to where it is most needed for routine demands and emergencies alike. The Metropolitan Water District and Sanitation Districts of Los Angeles County also increasingly pool their joint resources to steer more recycled water to groundwater recharge basins for dry years. Likewise, the Santa Clara Valley Water district and other state and federal agencies are collectively planning and funding 18 miles of levees to protect the region from sea level rise. These partnerships among special districts and other government agencies clearly hint at what will be increasingly necessary as climate impacts begin to mount.

# Appendices

## Appendix A

### Public Hearing Witnesses

The list below reflects the titles and positions of witnesses at the time of the hearing.

#### *Public Hearing on Special Districts*

*August 25, 2016*

*Sacramento, California*

Michael Coleman, Principal, CaliforniaCityFinance.com

Jon Coupal, President, Howard Jarvis Taxpayers Association

Amber King, Senior Legislative Advocate, Association of California Health Care Districts

John Leopold, Chair, California Association of Local Agency Formation Commissions, Santa Cruz County District 1 Supervisor and Santa Cruz County Local Agency Formation Commission member

Stephen Lucas, Executive Officer, California Association of Local Agency Formation Commissions and Butte County Local Agency Formation Commission

Pamela Miller, Executive Director, California Association of Local Agency Formation Commissions

Kyle Packham, Advocacy and Public Affairs Director, California Special Districts Association

Michael Schwartz, Fire Chief, North Tahoe Fire Protection District

#### *Public Hearing on Special Districts*

*October 27, 2016*

*Sacramento, California*

Jeffrey D. Armstrong, General Manager, Rancho California Water District

Louise Bedsworth, Deputy Director, Governor's Office of Planning and Research

Alexander R. Coate, General Manager, East Bay Municipal Utility District

Philip L. Friess, Department Head, Technical Services, Sanitation Districts of Los Angeles County

Alan Hofmann, General Manager, Fresno Metropolitan Flood Control District

Melanie Richardson, Interim Chief Operating Officer – Watersheds, Santa Clara Valley Water District

Wendy Ridderbusch, Director of State Relations, Association of California Water Agencies

## Appendix B

### Meeting Participants

The list below reflects the titles and positions of participants at the time of the meeting.

#### *Advisory Committee Meeting on Special Districts*

*November 16, 2016*

*Sacramento, California*

Peggy Broussard Wheeler, Vice President, Rural Healthcare and Governance, California Hospital Association

Ken Cohen, Executive Director, Association of California Healthcare Districts

Arthur J. Faro, Board President, Sequoia Healthcare District, San Mateo County

Barbara Glaser, Senior Legislative Advocate, California Hospital Association

Colin Grinnell, Chief Consultant, Senate Government and Finance Committee

Jack Hickey, Board Member, Sequoia Healthcare District, San Mateo County

Barry Jantz, Chief Executive Officer, Grossmont Healthcare District, San Diego County

Amber King, Senior Legislative Advocate, Association of California Healthcare Districts

Sheretta Lane, Vice President of Finance and Policy, District Hospital Leadership Forum

Misa Lennox, Associate Consultant, Assembly Local Government Committee

Lee Michelson, Chief Executive Officer, Sequoia Healthcare District, San Mateo County

Pamela Miller, Executive Director, California Association of Local Agency Formation Commissions

Kyle Packham, Advocacy and Public Affairs Director, California Special Districts Association

Bobbi Palmer, Executive Director, Fallbrook Healthcare District, San Diego County

Mona Palacios, Executive Officer, Alameda County Local Agency Formation Commission

Lou Ann Texeira, Executive Officer, Contra Costa County Local Agency Formation Commission

***Roundtable Discussion on Special Districts  
June 22, 2017  
Sacramento, California***

Debby Cherney, Deputy General Manager, Eastern Municipal Water District

Steve Heide, Finance Manager, Chino Valley Independent Fire District

José Henríquez, Executive Officer, El Dorado Local Agency Formation Commission

Gay Jones, Board Member, California Association of Local Agency Formation Commissions, Sacramento Metro Fire District, Board Member and Sacramento LAFCO Commissioner

Jill Kanemasu, Acting Division Chief, Local Government Programs & Services Division, Office of State Controller Betty T. Yee

George Lolas, Chief Operating Officer, Office of State Controller Betty T. Yee

Amber King, Senior Legislative Advocate, Association of California Health Care Districts

Steve Lucas, Executive Officer, Butte Local Agency Formation Commission

Jimmy MacDonald, Consultant, Senate Government and Finance Committee

Scott Morgan, Deputy Director of Administration and State Clearinghouse Director, Governor's Office of Planning and Research

Pamela Miller, Executive Director, California Association of Local Agency Formation Commissions

Kyle Packham, Advocacy and Public Affairs Director, California Special Districts Association

Sarah Rubin, Program Manager, Public Engagement, Institute for Local Government

Wendy Ridderbusch, Director of State Relations, Association of California Water Agencies

Herb Schultz, CEO, Desert Healthcare District

Gareth Smythe, Executive Fellow, Governor's Office of Planning and Research

Christina Valencia, Chief Financial Officer, Inland Empire Utilities Agency

## Appendix C

### Cover Photo Credits

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<http://pixel-ca-dwr.photoshelter.com/index>. Accessed on August 30, 2017.

Also, courtesy of iStock photos. <http://www.istockphoto.com/>. Accessed on August 30, 2017.

# Notes

- 1 Jill Kanemasu, Acting Division Chief, Local Government Programs & Services Division, Office of the State Controller Betty T. Yee. May 24, 2017. Written communication.
- 2 Kyle Packham. Advocacy and Public Affairs Director. California Special Districts Association. Sacramento, CA. July 20, 2017. Written communication.
- 3 Kyle Packham. Advocacy and Public Affairs Director. California Special Districts Association. Sacramento, CA. August 25, 2016. Written testimony to the Commission.
- 4 Wendy Ridderbusch. Director of State Relations. Association of California Water Agencies. Sacramento, CA. December 12, 2016. Written Communication.
- 5 Peter Detweiler. Former Chief Consultant. Senate Local Government Committee. Sacramento, CA. July 5, 2016. Personal Communication.
- 6 Kyle Packham. Refer to endnote 3.
- 7 Kyle Packham. Advocacy and Public Affairs Director. California Special Districts Association. Sacramento, CA. August 25, 2016. Oral testimony to the Commission.
- 8 Chris Swann. Ranger supervisor. Mokelumne River Watershed and Recreation District, East Bay Municipal Utility District. November 18, 2016. Personal communication.
- 9 U.S. Census Bureau. American FactFinder. Local Governments by Type and State: 2012: United States – States. 2012 Census of Government. Washington, D.C. On file.
- 10 Jurg Heuberger, Executive Officer. Imperial County Local Agency Formation Commission. May 1, 2017. “Executive Officer’s Report to the Local Agency Formation Commission.
- 11 Kyle Packham. Advocacy and Public Affairs Director. California Special Districts Association. Sacramento, CA. December 13, 2016. Written communication. On file.
- 12 Alex MacLean. January 19, 2017. “Special Districts discuss consolidation.” The Sonora Union Democrat. Sonora, CA. <http://www.uniondemocrat.com/localnews/4998806-151/special-districts-discuss-consolidation>. Accessed January 24, 2016.
- 13 Calpella County Water District, Millview County Water District, Redwood Valley County Water District, Willow County Water District, and Russian River Flood Control & Water Conservation Improvement District. May 17, 2017. “Letter to Governor Brown Requesting Assistance for Voluntary Consolidation of Water Districts in the Ukiah Valley.”
- 14 Kyle Packham. Advocacy and Public Affairs Director. California Special Districts Association. Sacramento, CA. December 22, 2016. Written Communication.
- 15 Jill Kanemasu. Refer to endnote 1.
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# Little Hoover Commission Members

**Chairman Pedro Nava** (*D-Santa Barbara*) Appointed to the Commission by former Speaker of the Assembly John Pérez in April 2013 and reappointed by Speaker of the Assembly Anthony Rendon in 2017. Government relations advisor. Former state Assemblymember from 2004 to 2010. Former civil litigator, deputy district attorney and member of the state Coastal Commission. Elected chair of the Commission in March 2014.

**Vice Chairman Sean Varner** (*R-Riverside*) Appointed to the Commission by Governor Edmund Brown Jr. in April 2016. Managing partner at Varner & Brandt LLP where he practices as a transactional attorney focusing on mergers and acquisitions, finance, real estate and general counsel work.

**David Beier** (*D-San Francisco*) Appointed to the Commission by Governor Edmund G. Brown Jr. in June 2014. Managing director of Bay City Capital. Former senior officer of Genentech and Amgen. Former counsel to the U.S. House of Representatives Committee on the Judiciary. Serves on the board of directors for the Constitution Project.

**Iveta Brigis** (*D-Los Gatos*) Appointed to the Commission by Governor Edmund G. Brown Jr. in April 2017. Open Sourcing People Operations Program lead at Google Inc. since 2014, and looks after re:Work, Google's initiative to open source data-driven HR practices.

**Senator Anthony Cannella** (*R-Ceres*) Appointed to the Commission by the Senate Rules Committee in January 2014. Elected in November 2010 and re-elected in 2014 to represent the 12th Senate District. Represents Merced and San Benito counties and a portion of Fresno, Madera, Monterey and Stanislaus counties.

**Joshua LaFarga** (*NPP-Wilmington*) Appointed to the Commission by Speaker of the Assembly Anthony Rendon in June 2017. Director of public and government affairs and as recording secretary and executive board member at LiUNA! Local 1309.

**Assemblymember Chad Mayes** (*R-Yucca Valley*) Appointed to the Commission by former Speaker of the Assembly Toni Atkins in September 2015. Elected in November 2014 to represent the 42nd Assembly District. Represents Beaumont, Hemet, La Quinta, Palm Desert, Palm Springs, San Jacinto, Twentynine Palms, Yucaipa, Yucca Valley and surrounding areas.

**Don Perata** (*D-Orinda*) Appointed to the Commission in February 2014 and reappointed in January 2015 by the Senate Rules Committee. Political consultant. Former president pro tempore of the state Senate, from 2004 to 2008. Former Assemblymember, Alameda County supervisor and high school teacher.

**Assemblymember Bill Quirk** (*D-Hayward*) Appointed to the Commission by Speaker of the Assembly Anthony Rendon in 2017. Elected in November 2012 to represent the 20th Assembly District. Represents Hayward, Union City, Castro Valley, San Lorenzo, Ashland, Cherryland, Fairview, Sunol and North Fremont.

**Senator Richard Roth** (*D-Riverside*) Appointed to the Commission by the Senate Rules Committee in February 2013. Elected in November 2012 to represent the 31st Senate District. Represents Corona, Coronita, Eastvale, El Cerrito, Highgrove, Home Gardens, Jurupa Valley, March Air Reserve Base, Mead Valley, Moreno Valley, Norco, Perris and Riverside.

**Janna Sidley** (*D-Los Angeles*) Appointed to the Commission by Governor Edmund Brown Jr. in April 2016. General counsel at the Port of Los Angeles since 2013. Former deputy city attorney at the Los Angeles City Attorney's Office from 2003 to 2013.

**Helen Torres** (*NPP-San Bernardino*) Appointed to the Commission by Governor Edmund Brown Jr. in April 2016. Executive director of Hispanas Organized for Political Equality (HOPE), a women's leadership and advocacy organization.

“Democracy itself is a process of change, and satisfaction and complacency are enemies of good government.”

Governor Edmund G. “Pat” Brown,  
addressing the inaugural meeting of the Little Hoover Commission,  
April 24, 1962, Sacramento, California

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# Marin Local Agency Formation Commission

## Regional Service Planning | Subdivision of the State of California

### AGENDA REPORT

December 14, 2017

Item No. 10 (Consent / Information)

December 8, 2017

**TO:** Marin Commissioners  
**FROM:** Rachel Jones, Interim Executive Officer  
**SUBJECT:** **CALAFCO Annual Report to the Membership**

The Commission will receive CALAFCO's annual report on current and pending activities of interest to the 58-member LAFCOs. The annual report is part of a journal prepared by the Executive Director and highlights, among other items, current legislative themes and priorities as well as case studies involving special district consolidations. The annual report is being presented to the Commission for information only.

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California Association of Local Agency Formation Commissions (CALAFCO) was established in 1971 to assist members in fulfilling their prescribed regional growth management duties. Key services include facilitating information sharing among members by organizing annual conferences and workshops as well as providing technical assistance through training classes and e-mail list serves. CALAFCO's adopted budget is currently \$0.443 million and primarily supported by annual membership dues and supplemented by revenues generated at trainings and conferences.

### Information

This item is for Marin LAFCO ("Commission") to review the annual report prepared by CALAFCO to its 58-member LAFCOs. Items of interest include all of the following:

- Financial outlook for CALAFCO and discussion on membership fees
- Preview of upcoming CALAFCO training and educational programs
- Sonoma LAFCO case study on annexing islands in the City of Santa Rosa
- Alameda LAFCO case study on Healthcare District

### Commission Review

This item has been placed on the agenda as part of the consent calendar for information only. The Commission is also invited to discuss the item and provide direction to staff on any related matter as needed.

### Attachments:

- 1) CALAFCO Annual Report

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San Rafael, California 94903  
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County of Marin

Dennis J. Rodoni, Regular  
County of Marin

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County of Marin

Carla Condon, Vice Chair  
Town of Corte Madera

Sashi McEntee, Regular  
City of Mill Valley

Matthew Brown, Alternate  
Town of San Anselmo

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North Marin Water District

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Las Gallinas Valley Sanitary

Lew Kious, Alternate  
Almonte Sanitary District

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October 2017



## ANNUAL CONFERENCE EDITION

Remembering Our Friend and  
Founding Father John T. Knox

2017 Report to the Membership

Message from the Chair

LAFCo Tracks From  
Around the State

The Legal Corner

Associate Members' Corner

Special Remembrance of June Savala



## Fondly remembering one of LAFCos Founding Fathers and a dear friend – John T. Knox

*Written by: Lou Ann Texeira, Executive Officer, Contra Costa LAFCo*

The vision and ability to see well into the future by a man born in Nevada and raised in California is what created Local Agency Formation Commissions (LAFCos) 54 years ago. That man was former State Assembly Member **John “Jack” T. Knox**. With great sadness we said goodbye to our dear friend on April 13, 2017.

Knox was a liberal democrat, who represented western Contra Costa County in the State Assembly from 1960 to 1980 and served as Assembly speaker pro tem for four years. He worked tirelessly for 20 years on monumental and historic legislation, including the landmark *California Environmental Quality Act (CEQA)*, the *San Francisco Bay Conservation and Development Commission*, the *Knox-Keen Health Care Service Plan*, the *District Reorganization Act of 1965*, and, of course, the *Knox-Nisbet Act of 1963*, which established Local Agency Formation Commissions.

Knox was born in Reno and moved to California at age 5. He earned a Bachelor of Arts degree from Occidental College in Los Angeles in 1949 and a law degree from Hastings College of Law in San Francisco in 1952. He then set up a private law practice in Richmond.

He joined the State Assembly in 1960 after a special election to replace Masterson, who had resigned. “*He was very proud of being a politician, and that wasn’t a dirty word to him,*” says son John H. Knox. “*He was a master negotiator; he got Governor Ronald Reagan to sign the CEQA, if that tells you something.*”

*Continued on Page 5*

# The Sphere

## CALAFCO Journal

October 2017

The Sphere is a publication of the California Association of Local Agency Formation Commissions.

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To submit articles, event announcements, comments or other materials noteworthy to LAFCo commissioners and staff, please contact the Editor at 916-442-6536 or [info@calafco.org](mailto:info@calafco.org).

The contents of this newsletter do not necessarily represent the views of CALAFCO, its members, or their professional or official affiliations.

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## A MESSAGE FROM THE CHAIR OF CALAFCO



**Jim Curatalo**  
Chair of the Board  
CALAFCO

The past year has been very busy and exciting for CALAFCO and it has been my honor to serve as your Chairman during this time. Working with our Executive Director Pamela Miller and my fellow Board Members has been a very positive and rewarding experience. In every important decision we have sought out and utilized valuable input from our Northern, Southern, Coastal, and Central regions. We have maintained regional representation in all committees and working groups and given every perspective and concern the utmost consideration. As a result, we have continued to improve the services we provide to our members and strengthen the overall effectiveness of our organization.

One of the highlights this year has been CALAFCO's involvement in the Little Hoover Commission's study on special districts. CALAFCO was invited to testify before the Little Hoover Commission (LHC) during the August 25, 2016 public hearing on special districts in California as a follow up to the Commission's May 2000 report, *Special Districts, Relics of the Past or Resources for the Future?* Pamela Miller, our Executive Director, did a fantastic job sharing our viewpoint on the unique relationship between local agency formation commissions (LAFCos) and special districts.

Pamela shared how much progress has been made in the past sixteen years in the evolution of LAFCos and their respective relationships with special districts. LAFCos have worked diligently to keep pace with the changing California landscape and there are many success stories to tell. Like other local government agencies throughout the state including special districts, LAFCos also face a number of challenges. Her testimony highlighted the progress, challenges and opportunities for the future for LAFCos and their relations with special districts. In addition, her testimony resulted in a number of recommendations being placed in the LHC final report on special districts aiming to improve the effectiveness of LAFCo's.

I am looking forward to the Annual Conference and appreciate all the hard work that staff puts into making it a great event. I would also like to thank Carolyn Emery, Executive Officer, of Orange LAFCo for all her work as the Conference Program Committee Chair and Dr. William Kirby for his work as the Conference Committee Chair along with the committee of hard working and talented people they led.

On the legislative front I am hard pressed to remember a more active year. Our role as an educational organization has served us well as we have been at the table with the Governor's staff, key state agencies and with legislative leaders to provide input on critical pieces of legislation about water, provision of services and key processes such as special district representation on LAFCo's throughout the state. I suspect that the coming year will also be active and our organization is well positioned to represent our member LAFCos.

Two bills in particular that CALAFCO encouraged the Governor to sign are Senate Bill 448 by Senator Wieckowski which simplifies LAFCo's legal dissolution process for inactive districts and Assembly Bill 979 by Assemblyman Lackey which strengthens LAFCos by easing the process to add special district representatives to the 28 LAFCos where districts have no voice. Both of these bills were signed by the Governor.

These accomplishments have been great and have certainly helped in the service of our members; however, as we move forward into 2018, we will continue to face challenges. While we are presently in good financial condition and excellent stewardship of our financial resources

continues to be a hallmark of CALAFCO, we must recognize that a more secure and permanent source of revenue, one which allows us to meet our fixed costs, would provide more stability for CALAFCO.

*"In every important decision we have sought out and utilized valuable input from our Northern, Southern, Coastal, and Central regions."*

It has truly been an honor to serve as the CALAFCO Chair and it has been my pleasure serving alongside all of the dedicated individuals that serve on the CALAFCO Board and with our Executive Director Pamela Miller. I wish everybody a great experience at the Conference and for a great year to come.

Thank you,

*Jim Curatalo*

## A Message from the CALAFCO Executive Director



**Pamela Miller**  
Executive Director

### The Power of Perception

The power of perception should not be underestimated, especially when it comes to reputation. The truth about an agency or service can matter little if the perception of the agency or service is bad or negative. This is how a bias is created and can result in a trust deficit that takes years to undo.

The notion of becoming conscious of our own perceptions – our bias if you will - is abstract for some, I'll admit. In order to understand them, we must consider the highly subjective nature of our perceptions and how they are formed and informed in the first place. The exploration of perceptions involves a bit of science mixed with some psychology and sociology (social context).

Over the past two years (this past one in particular), I found myself deeply involved in conversations with many people about their perceptions of local government agencies and in particular, LAFCos. Some perceptions were very positive while others were great cause for concern. The reality is there are a wide range of perceptions throughout the state about LAFCos, and what I've come to believe (based on my own perceptions) is those perceptions are now our reality, whether we like it or not. The question for us is, how do we choose to respond?

### Are perceptions fact or fiction?

Perceptions begin when the human brain receives data from the body's five senses. The mind then processes and applies meaning to the sensory information. As humans, we then apply our worldviews to these sensory inputs yielding our interoperations and perceptions. When it comes to perception and the senses such as sight, touch, or sound, there is no such thing as objectivity. The immediate application is made from our past experiences and what we know from those – not necessarily from the data at hand.

According to Neuroscientist Beau Lotto, "*We can't help but to see things according to history – our own history and that of our ancestors because we are defined by ecology. Not our biology, not by our DNA, but by our history of interactions.*"

So people form perceptions of local government agencies based on their own personal experiences with them, what they hear in the news, what they hear from others, what they read, what they observe, and what they feel based on any one (or a combination) of those things.

### The power to choose a response

Fortunately, we as the local government agency, have the power to choose how we respond to any given perception about us. The fact is that there is a space – a brief moment – between the stimulus and the response – and it is in that space that we have the power to choose our response.



Viktor Frankl was a Jewish psychiatrist who spent three years in a Nazi concentration camp during World War II. He wrote about his experiences in his 1959 book, “Man’s Search for Meaning”. In finding a way to deal with the unspeakable horror he experienced during his captivity, he realized he had but one freedom left: his power to choose – his power to determine his response to the unimaginable circumstances and conditions in which he lived.

He wrote, “*Every day, every hour, offered the opportunity to make a decision, a decision which determined whether you would or would not submit to those powers which threatened to rob you of your very self, your inner freedom; which determined whether or not you would become the plaything of circumstance...*”

Determining whether or not you would become the plaything of circumstance...that is a very powerful thought. The high level of awareness developed by Dr. Frankl served him well. And, I believe, through it, he offers a powerful lesson for us.

As I reflect on my own efforts this past year to change perceptions of LAFCo by changing the conversation, I found there were several things I needed to do. I offer them for consideration as strategies for all of us to think about as we work to create the kind of perception of LAFCo we want; as we work to reframe the conversations that are occurring across the state about LAFCos; and as we work to better tell out stories – both individually and collectively.

### **Steps to change the conversation and the perception**

#### ✓ **Become aware of the perceptions and the conversations**

We must first become aware of and acknowledge that which we want to change, regardless of whether we agree with it or not. This includes checking our own assumptions about the conversation and perceptions. Sometimes we must concede a point temporarily in order to show our commitment to an improved outcome.

#### ✓ **Take ownership**

If we truly want to change the conversation and perception, it will first require a change in our own behavior. That cannot be done unless we take ownership of the perceptions others have about us. As we often heard as kids, it doesn’t matter who is right or wrong, just that the matter be settled and mitigated.

#### ✓ **Determine what we want to be known for**

Some would call this a branding statement, purpose statement or mission statement. The bottom line is you must decide what you want your LAFCo to be known

for – and we must determine collectively what we want LAFCo to be known for. And, we must be willing to check in on ourselves and ascertain whether or not we are demonstrating the behaviors aligned with the desired reputation. We must accept that our actions have implications that alter others perceptions.

#### ✓ **Reframe the discussion**

Just as Dr. Frankl was able to reframe his perspective once he became aware of his ability to do so through the power of choice, so too can we make the same choice once we have an awareness into the discussion. We can ask ourselves, “What do we want the conversation to be?” “What do we need to do in order to move the conversation from here to there?” “How do we tell our story in a way that will resonate with others and change the perception?” Like a river, discussions often follow the easiest route until we create a ripple of new conversation.

#### ✓ **Deliver, deliver, deliver**

Once we’ve determined what we need to do in order to shift the conversation, we need to be deliberate and diligent in making that happen. Once we set objectives and make commitments, delivering on them is critical to maintaining integrity and changing perceptions. Remember that changing people’s minds is difficult. We must be consistent and relentless in walking our talk.

#### ✓ **Learn to tell your story**

We must learn to be good storytellers. Each of us owns the responsibility of telling our story. Who is better at telling our story than us? Yet most of us are allowing others to tell the LAFCo stories – and most are not the kind of stories that support what we believe we want to be known for. Nor do they represent the positive things that are occurring in each LAFCo or for us collectively throughout the state.

#### ✓ **Take charge**

Do not allow others to define who we are and determine our possibilities. Don’t punt when the conversation or action is difficult, be the leader who acts, not the agency that punts.

#### ✓ **Practice patience with diligence**

The perceptions we are dealing with today were not created overnight and so they will not change overnight. Rebranding strategies take time, intention, commitment, perseverance and patience.

Now is the time for all of us to become master storytellers and be the force behind the power of perception.

## John T. Knox

*Continued from cover*

Knox's long-time committee consultant – Tom Willoughby - tells us that “*Knox quickly got hooked on local government issues.*” Knox wasn't interested in small issues or small ideas – he wanted to rewrite how local government works and save the San Francisco Bay.

In Willoughby's 1979 speech to CALAFCO, he detailed the creation of LAFCo, with all its twists and turns. Willoughby explained the evolution of the *Knox-Nisbet Act of 1963*, beginning with the 20-member Blue Ribbon Commission which focused on urban problems, and specifically the fact that “*metropolitan areas in California were developing in a leap frog, unplanned, haphazard fashion.*” Governor Pat Brown instructed the Blue Ribbon Commission to “*take a new and fresh look at the structure of local government in metropolitan areas... and to abandon inflexible ideas and start thinking in terms of meeting the needs of our communities... we must focus on the welfare and happiness of the man in the middle of the metropolis.*”

The Blue Ribbon Commission report was issued in December 1960. In those days, the legislature met every other year in general session and for only six months (January to June). In the even numbered years, the legislature met briefly only to pass the budget.

During the 1961 legislative session, very little happened with Commission's report. Willoughby notes that “*in those days, metro government was met with resistance.*” The Commission's report circulated for 18 about months. The first real opportunity to implement the report recommendations occurred in the new general session in 1963. A package of four bills was introduced, known as the “Governor's metropolitan area program.” Knox's bill would create a LAFCo, a state level agency to approve or disapprove the formation of new cities and districts. A companion bill was introduced by Senator Nisbet (San Bernardino County) to create a LAFCo in each county of the State to approve or disapprove annexations to cities and districts. Both bills were met with resistance from the County Supervisors Association and the League of Cities. Finally, after a vigorous fight on the Assembly floor and in the Senate, both in committee and on the floor, both bills passed. Willoughby attributes much of the success of the passage of these bills to the County

Supervisors Association and League of Cities lobbying staff.

Between the 1963 and 1965 sessions, decisions were made to rewrite both the formation and annexation procedures into one, which we have today. Subsequently, Knox also authored the District Reorganization Act.

After leaving the State Assembly, Knox joined the San Francisco office of the Los Angeles based firm Nossaman, Krueger & Marsh (later became Nossaman, Gunther, Knox & Elliott) as an attorney and lobbyist, where he worked until his retirement in 2008. Knox continued to work as a local statesman and helped secure funding for regional parkland preservation and highway improvements.

In 2007, Knox was awarded the first-ever CALAFCO Lifetime Achievement Award for his significant contributions to LAFCos. Following Knox's death earlier this year, Contra Costa LAFCo presented a resolution to son John H. Knox and grandson Alex Knox, extending heartfelt condolences and recognizing and honoring the life and legacy of John T. Knox.

In honor of the 50<sup>th</sup> anniversary of the creation of LAFCos, John personally wrote an article for *The Sphere*. About LAFCos he said:

*“The new agency was my “baby,” and I wanted it to succeed. I met with LAFCo representatives to draft follow-up legislation that fine-tuned the original bills. These began with a bill that replaced the awkward two statutes to a single statute – and followed on in 1965 with the District Reorganization Act.*

*With this overall result, I discovered the often overlooked legislative area of local government legislation was indeed interesting – and I enjoyed it more with each passing year.*

*Largely through the hard work of members and staff, LAFCos became accepted and respected local institutions. It has been my privilege to work with those individuals.*

*As for the next fifty years – Godspeed!!”*

*Continued on the next page*

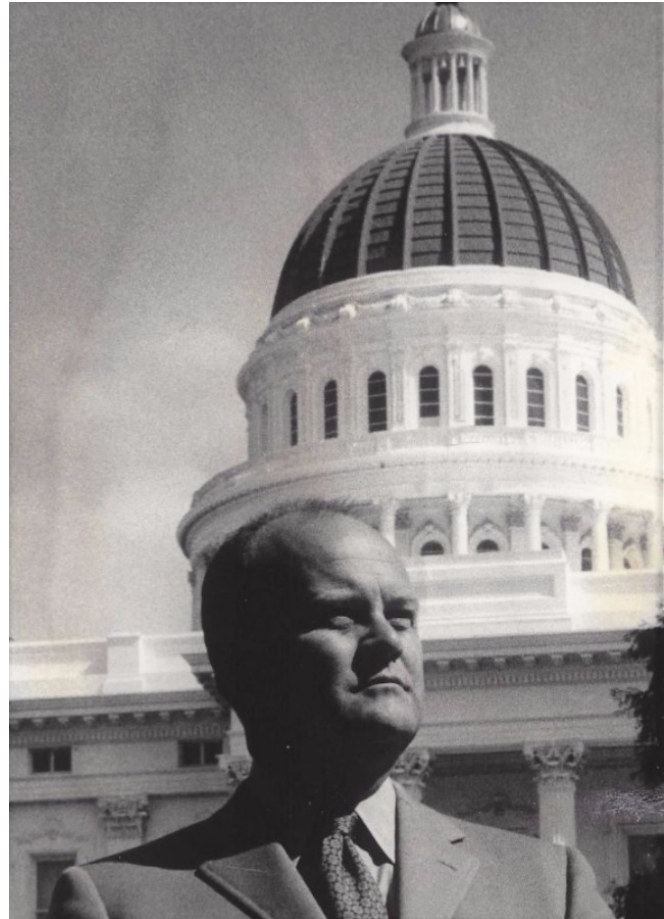
On April 3, 2017, our friend passed away at Kaiser Permanente Hospital in Richmond, California after a long illness. He will be missed by all of us, and his legacy continues to live on through the actions LAFCo take daily.

**Wisdom from Jack:**

- “Never go out on a limb unless you take a lot of nice folks with you.”
- “Always remember to include two percent for double-cross.”
- “Be good, but if you can’t be good, be careful.”

**Special Acknowledgements:** We sincerely thank Tom Willoughby for his contributions to this article. Tom was the chief consultant to the Assembly Local Government Committee when Assembly Member Knox was chairman. Tom had a hand in every piece of LAFCo legislation that Knox authored. Their professional collaboration created the statutes we use every day. Tom’s 1979 speech to CALAFCO is available on the CALAFCO website.

We also thank Peter Detwiler who put us back in touch with Tom Willoughby. Peter served an informal internship with Tom in 1971 when he was a senior at Saint Mary’s College. Peter says what he learned in those few months from Tom launched his professional career. Most of us know Peter in his service as the long-time chief consultant to the Senate Governance & Finance Committee, where he had a significant impact on state legislation. Committee consultants are fundamental to the legislative process and Peter was one of the best! Thank you, Peter!



*John T. Knox*  
*September 30, 1914 – April 3, 2017*

## **Alameda LAFCo Completes Special Study of a Local Healthcare District**

*By: Mona Palacios, Executive Officer, Alameda LAFCo*

The Eden Township Healthcare District (ETHD), also known as the Eden Health District, was established in 1948 by a vote of the residents of the Eden Township in Alameda County to build a community hospital. It was organized pursuant to Local Health Care District Law. The ETHD boundary encompasses 130.6 square miles and includes the unincorporated communities of Castro Valley, Ashland, Cherryland, Fairview, and San

Lorenzo, as well as the cities of San Leandro and most of Hayward.

In 1954, the Eden Hospital opened and was operated by the ETHD until 1998 when the District’s voters approved the sale of the hospital to Sutter Health, a California nonprofit corporation. In 2004, ETHD purchased the San Leandro Hospital and leased it to Sutter Health. After a protracted law suit over provisions contained in the lease agreement, ownership of the San Leandro Hospital transferred to Sutter Health which then transferred ownership of the facility to the Alameda Health System, a public authority that operates Alameda County’s public hospital system under an independent Board of Trustees.

The Association of California Healthcare Districts (ACHD) notes there are 79 healthcare districts in California of which 38 districts operate a hospital, five own but do not operate their hospital, and 41 do not own or operate a hospital but rather provide other types of services including direct health care services and community grant-making. ETHD no longer owns or operates a hospital, but owns and operates medical office buildings. The District also provides grant funding and sponsorships to community organizations within the ETHD boundary using net revenue from the leasing of its medical office buildings and other investments. The District collects no property tax or assessments.

In addition to ETHD, Alameda County has two other healthcare districts: the City of Alameda Healthcare District, formed in 2002, which owns, but no longer operates its hospital facility; and the Washington Township Healthcare District which continues to own and operate its hospital.

Alameda LAFCo has reviewed and updated ETHD's sphere of influence (SOI) numerous times, including a municipal services review in 2012 with subsequent SOI updates in 2013 and 2014. In 2016, ETHD was the subject of legislation intended to force dissolution of the district (AB 2471, Quirk) and a Grand Jury report was highly critical of the District. At the request of the City of Hayward, Alameda LAFCo initiated a special study of the District in 2016. At no time was an application to dissolve the District submitted to LAFCo. Recently, the Little Hoover Commission (LHC) issued a report on special districts and LAFCos in which it highlighted ETHD as "the poster child for controversy."

Alameda LAFCo's special study focused on ETHD's governance structure and boundary, financial viability, and level and adequacy of services. The study offered conclusions and findings, and evaluated various governance options. The study did not evaluate the financial viability of hospitals in Alameda County nor did it rate the value of hospital-based services compared to non-hospital based health services.

LAFCo's special study of ETHD was completed by Berkson Associates through an inclusive public process. The Commission solicited community input by holding numerous public meetings in locations throughout the district. The Commission heard from ETHD Board members and staff, affected agency elected officials and staff, state

legislators, community members, grantees, hospital representatives, and other interested individuals during the course of the study.

In summary, the special study concluded that:

- Dissolution of the district without continuing its services was not warranted.
- The District could improve the efficiency and effectiveness of its operations.
- Dissolution and naming a successor agency to continue services could reduce certain costs and improve decision-making.

Questions that LAFCo labored over included:

- ✓ Does the District provide a community service that meets the needs of District residents and property owners?
- ✓ Is the District's boundary logical?
- ✓ Are the services provided adequate and within the District's mission, as well as the California Health and Safety Code under which it is organized?
- ✓ Does the District have the financial ability to provide services, including any future obligations?
- ✓ Are services provided in an efficient, accountable, and transparent manner?
- ✓ What are the benefits and costs of the District's services being provided by another entity?
- ✓ If the District's services should be provided by another entity, should that entity be another public agency, a private not-for-profit, a joint powers authority, or some other type of organization?
- ✓ If the District's services should not be continued, who should be the successor agency to wind up the District's affairs?

On a split vote (three ayes, two noes, two absent), the Commission voted not to initiate dissolution of the District. Subsequently, the Commission unanimously adopted a sphere of influence amendment for the District that imposes several conditions identified in the special study including, but not limited to, requirements to collaborate with Alameda County on the provision of grant services, participate in county-wide health needs assessment efforts, and complete a risk analysis of investment options. LAFCo employed its conditioning authority to strengthen the District's transparency, responsiveness to community needs, and efficient provision of services.

## ***Local Cannabis Policies and LAFCo- New Boundary and Agricultural Preservation Implications***

*Written by: Humboldt LAFCo*



Virtually everyone will be affected by legalized recreational marijuana in California in 2018. New cannabis policy means new policy questions to consider for Humboldt LAFCo.

In Humboldt County – arguably ground zero of the cannabis industry – the Board of Supervisors continues to refine where a host of cannabis-related activities will be allowed, from cultivation, processing and manufacturing, to distribution and sales. New policies also aim to set up a permitting structure, providing oversight of these commercial activities.

Conversely, some cities within the County have placed tighter restrictions – and in many cases an outright ban – on cultivation, sales, and dispensing of cannabis within city limits. Within the urban-agricultural interface, especially in unincorporated areas near city neighborhoods, residents have raised concerns about proposed cannabis farms and processing centers, prompting some cities to take a closer look at future annexation areas.

The County is currently considering regulation changes to address potential conflicts with cities that prohibit cannabis businesses, including requiring a public hearing and a special permit before allowing cannabis businesses within 1,000 feet of any city limits or within a city’s sphere of influence as defined by LAFCo. This suggested policy has created new interest in spheres, with local citizens and municipalities alike.

For Humboldt LAFCo, both current and proposed cannabis regulations pose potential new boundary and agricultural/open space preservation policy considerations. The California Department of Food and Agriculture has classified cannabis as an agricultural product. As such, its cultivation is appropriate on Agriculture (AG) zoned land. So, such questions come to mind as, “What are the preservation implications of annexation of territory used for cannabis agriculture into a governing body who has disallowed cannabis cultivation?”, and “Will annexation obstruct the agricultural uses of the property?” Layers of oversight, future use and

jurisdiction further muddy the waters of “legal non-conforming” and add an element of uncertainty.

Cannabis regulation adds a new layer to boundary considerations in Humboldt County. As the State, County, Cities and local communities continue to refine policies on commercial cannabis activities, Humboldt LAFCo will need to do the same. In these challenging times there is an opportunity here for all local jurisdictions to work together so that orderly development can proceed in the most beneficial way for all interests.

## **The Biggest Island in Santa Rosa is Annexed!**

*Written by: Mark Bramfitt and Carole Cooper*

The elimination of islands has been on the state’s and LAFCos’ “radar” for many years for a variety of reasons but especially because their existence limits the efficient and effective provision of services to residents and causes confusion not only for the public but also for public service workers, whether they are responding to emergencies or repairing pipes in a roadway. The casual observer may think that getting rid of islands is simple – after all, they may assert, a specific section of the Cortese-Knox-Hertzberg Act provides streamlining opportunities. Unfortunately, that ideal does not always match the on-the-ground reality.

Until the Sonoma Local Agency Formation Commission (LAFCo) acted in August 2017 to approve annexation to the City of Santa Rosa of five islands within the City’s southwestern quadrant, there were 51 islands of unincorporated territory within the City. This situation evolved over many years in the past, as opportunities for development of Sonoma County’s largest city were presented. Further, health and safety issues prompted City and County cooperation to extend municipal sewer and water services to certain unincorporated areas but without annexation, while the City grew around them, and the Commissions in various decisions at different times did not object. The islands vary in size from a two-parcel island of two-thirds of an acre to what is referred to as “Roseland,” an island of 620 acres.

*Continued on Page 17*



## CALAFCO 2017 Annual Report to the Membership

### Dear CALAFCO Members:

The CALAFCO Board of Directors is proud to report the progress of our Association during the past year, which was another very full year. CALAFCO continues as a strong, vibrant educational resource to our members and as an advocate for LAFCo and LAFCo principles to statewide decision makers. This past year was marked with a successful Annual Conference in Santa Barbara, Staff Workshop in Fresno, an ever-increasing presence across the state as an advocate for LAFCo and LAFCo principles to statewide decision makers, and a mixed-bag of legislative efforts that included sponsoring two legislative bills (both signed into law), co-sponsoring one bill with the CA Special Districts Association (CSDA) (also signed into law), responding to a host of LAFCo-related bills, and testifying at hearings and meetings of the Little Hoover Commission (LHC).

The Association continues to be on sound financial ground. We are pleased to report that all 58 member LAFCos have renewed their membership for the 2017-18 fiscal year, and today we have six (6) Gold Associate members and twenty-four (24) Silver Associate members. The FY 2017-18 adopted budget increases member service levels and maintains a healthy reserve.

Our achievements are the result of the dedicated efforts of the many volunteer LAFCo staff from around the state who contribute their time and expertise. The Board is grateful to the Commissions who support their staff as they serve in the CALAFCO educational and legislative roles on behalf of all LAFCos. We are also grateful to the Associate members and event Sponsors that help underwrite the educational mission of the Association and allow us to keep registration fees as low as possible.

### *Board of Directors set two-year Strategic Plan*

Early in 2017 your Board of Directors conducted a day-long strategic planning workshop. During the workshop we conducted a full review of the

Association's performance in meeting the 2016 objectives as outlined in the organization's 2015-2016 Strategic Plan. We reported our "dashboard report card" to you, the membership, shortly thereafter.

We also had a lengthy discussion about how we conduct our legislative affairs and considered whether or not to change our 501(c)3 status to allow for more extensive lobbying. In the end, we unanimously decided to support our current mission as an educational organization.

With that in mind, we carefully considered roles and responsibilities of the Board, staff and committees, the long-term financial sustainability of the organization, empowering and educating our members, and looking at what is putting our member LAFCos and the Association at risk. These issues became the benchmark of the three areas of the Strategic Plan.

Once adopted in May, it was shared with you, our members, and can be found on the CALAFCO website. This document serves as the blueprint for the work being done this year.

### EDUCATIONAL SERVICES AND COMMUNICATION

CALAFCO educational and information sharing-services continue to be the Board's top priority for member services. Under this umbrella, the Association focuses its resources in four areas: the Staff Workshop, Annual Conference, CALAFCO University courses, and electronic resources including the web site, quarterly reports and the member list-serves.

#### *2017 Staff Workshop*

We continued the tradition of quality education programming with the Staff Workshop held in Fresno in April and the Annual Conference in San Diego in October. The Workshop, hosted by *Fresno* LAFCo, brought together 92 LAFCo staff and guests from around the state and seven Associate members.

This was the first Staff Workshop conducted in the new model of no theme. The program once again included a solid mix of technical and skill-building sessions. We began with a Mobile Workshop that



visited the famous Forestiere Underground Gardens, followed by a trip to Fresno State's Winery and a presentation of its world renowned Department of Viticulture and Enology.

Workshop sessions included general sessions on ethics and integrity, SGMA and our infamous legislative update. This year's program had a wide range of breakout session offerings including topics on disadvantaged unincorporated communities (DUCs), CEQA, MSRs, water system consolidations, cannabis, out of area service agreements, avoiding lawsuits, healthcare districts, BOE mapping and LAFCo 101.

We would like to thank the Program Planning Committee members and Chair **Kris Berry** (Placer LAFCo), our host, **Fresno LAFCo**, led by **David Fey** and his entire team and all who worked to make this an outstanding Staff Workshop. We also acknowledge and thank the sponsors of this year's Staff Workshop: **Best Best & Krieger, Baker Manock & Jensen, Granville Homes, HdL Coren & Cone**, and in-kind sponsor **Enzo Olive Oil**.

The 2018 Staff Workshop is set for April 11-13, 2018 at the Four Points Sheraton in San Rafael. Our host for this workshop will be **Marin LAFCo**.

### 2017 Annual Conference

Approximately 250 LAFCo commissioners, staff and guests are expected at the 2017 Annual Conference in San Diego.



This year marks the first year of the new Conference model for which a local

LAFCo no longer acts as host. CALAFCO has assumed the role and responsibilities of host for the Conference.

Nestled in the beauty of Mission Bay, the Bahia hotel offers the perfect location for us to convene this year's Conference to learn with and from one another.

The program is rich in content with general and breakout sessions focusing on how LAFCos can increase their effectiveness.

The Mobile Workshop will be an exciting adventure. We will visit the Carlsbad Desalination Plant, the largest and most technologically advanced desal plant in the nation. Also on tap is a tour of the adjacent Encina Power Station, a major supplier of electricity for the region. We will also learn about the new power plant project underway. The Mobile Workshop will end with lunch at the beautiful Marina Village.

This year's Conference has a wide variety of topics and a fabulous lineup of speakers. General session topics include the presentation of a public poll on the perceptions of LAFCo followed by a presentation from marketing experts on helping us better tell our LAFCo stories. We will also hear how to avoid an ethical crisis (this is not your typical ethics session) and get a full legislative update. Breakout session topics include LAFCo funding, healthcare districts and LAFCos, Commission decision making (and how some make those really hard decisions), how LAFCos are dealing with local agencies' fiscal health (and the impacts of that to LAFCos), understanding expectations of Commissioners and Executive Officers, and unincorporated island programs.

The LAFCo 101 session is once again open for attendance to those who are not attending the full conference at a deeply discounted rate. This allows agencies to send staff and elected officials to this very special 2-hour session on understanding and applying the basics of LAFCo.

This year our luncheon keynote speaker is **John Simpson**, General Manager, Water Resources Division at Marine Corps Installations West/ Marine Corps Base Camp Pendleton. We will learn about the unique Santa Margarita River Conjunctive Use Project, which partners the Federal Government (Camp Pendleton) and local water agencies.

We acknowledge and thank the Conference Committee Chair **Bill Kirby** (Placer LAFCo), the Program Committee Chair **Carolyn Emery** (Orange LAFCo), and all who are working on the Program Committee to make this an outstanding Conference.



We wish to also thank all of our sponsors for this year's Annual Conference, without whom this special event would not be possible: *Best Best & Krieger, Cucamonga Valley Water District, CV Strategies, Lewis Group of Companies, HdL Coren & Cone, Project Resource Specialists, Imperial LAFCo, Colantuono Highsmith & Whatley, Inland Empire Utilities Agency, Mesa Water District, RSG, and Los Angeles LAFCo.*

Next year's Conference will be hosted by CALAFCO and held at Tenaya Lodge in Yosemite, October 3 – 5.

### *CALAFCO University*

The first CALAFCO U session of the year was held in Sacramento on June 26. The topic was *When Opinions Collide – Exploring the unique perspectives of LAFCo Commissioners, Legal Counsel and Staff.* The session explored the legal aspects of Commission decisions and looked at several LAFCo case studies when staffs' opinions and recommendations were different than that of the final Commission decision. In total, 28 LAFCo staff and Commissioners attended, giving the session very high ratings.

The final session for 2017 is set for **December 4** in Orange County. The topic, which will also be repeated in Sacramento on **January 22**, is *LAFCo's Evolving Mission: New Laws, Requirements and Transparency.* The session will focus on several important topics including recent legislation passed that LAFCos must now implement, informing LAFCos on all website transparency requirements, and an in-depth discussion regarding the Little Hoover Report, which will be presented by the Chair of the Little Hoover Commission, *Pedro Nava.*

### *Accreditations*

CALAFCO's educational activities continue to be accredited by the American Planning Association to provide AICP credits for certified planners. This benefit is provided at no cost to LAFCo staff and helps them maintain their certifications. In addition, both the Conference and Workshop have sessions for LAFCo counsel that have been accredited for MCLE credits by the California Bar.

### *Web Site*

The CALAFCO web site is a vital resource for both LAFCos and the community with questions about local government in California. The site consistently attracts between 5,500 and 6,500 visits per week. The vast majority of the visits are for the reference and resource materials found on the site and referral information to member LAFCos.

The new website was launched at the end of 2016 and is more robust and user-friendly. The library has been expanded and we continue to add new content based on your feedback.

### *List-Serves*

The list-serves maintained by the Association continue to be an important communication and information sharing tool among LAFCo staff. In total, we maintain eight list serves to help members share information, materials, and expertise. The List-Serves for executive officers, analysts, clerks and counsel discussions remain the most popular and serve to foster the sharing of information and resources. It is important for you to advise CALAFCO when your staff changes so the list serves can be kept up to date.

### *Quarterly Updates*

After each Board meeting, the Association's Executive Director creates and distributes through the list serves a Quarterly Report on the activities of the Board and Association. As The Sphere is an annual newsletter, these Quarterly Reports contain more information, a special feature highlighting Associate Members and local LAFCo updates. These bulletins provide informational updates in a timelier manner and at less cost to the Association.

### *White Papers*

On December 31, 2016, CALAFCO published a White Paper titled *Sustainable Groundwater Management Act and LAFCos.* CALAFCO wishes to thank *David Church* (SLO LAFCo), *John Marchand* and *Mona Palacios* (Alameda LAFCo) and *Best Best and Krieger* for their work on this White Paper.

Additionally, CALAFCO partnered with the *American Farmland Trust* (AFT) on a joint collaboration White Paper on Agricultural Land Preservation. We want to acknowledge the volunteers working this paper: *Christine Crawford*







(Yolo LAFCo), *David Fey* (Fresno LAFCo), *Elliot Mulberg* (Associate Member), *Neelima Palacherla* (Santa Clara LAFCo), *Serena Unger* of the AFT, and the team at *Best Best and Krieger*. The final draft is still under consideration and the paper is expected to be published before the end of November.

Finally, CALAFCO has moved forward with beginning the project of mapping all of the disadvantaged unincorporated communities (DUCs) throughout the state at the census block group level. This mapping will be incorporated in a White Paper on the same topic (DUCs), which will be worked on in 2018.

## LEGISLATIVE PROGRAM

The Board began this legislative year with the intention of keeping a light legislative platform because we wanted to ensure the Association was focusing on risk factors and to keep room for responding to the unexpected pieces of legislation we knew would come our way which would require our involvement. Further, the Little Hoover Commission report was still outstanding and we anticipated resources would be needed there as well. These turned out to be an insightful decisions, and in the end, CALAFCO had a very successful legislative year.

The CALAFCO Legislative Committee (Committee) began work in November 2016 and met regularly through June 2017. Based on a very narrow scope of legislative priorities set by the Board, the focus this year was on a limited Omnibus bill and sponsoring legislation that fixed limitations to annexing territory already receiving services (§56653). CALAFCO was approached by CSDA to co-sponsor a bill that would streamline the seating of special districts on LAFCo, which we agreed to do with the provision that CSDA take the lead on getting the bill passed.

CALAFCO ended the year tracking a total of twenty-two (22) bills, sponsoring three (3) bills and taking formal positions on eleven (11) bills.

Thorough legislative updates are provided in each Quarterly Report. In this Annual Report we will report on the top six bills of the year. For a complete list of CALAFCO bills, please visit the CALAFCO website Legislation section. Information is updated daily.

The reduced legislative focus included sponsoring a very small Omnibus bill. What began as one-item Omnibus bill, *AB 1725* evolved into a five-item bill. With twelve proposals submitted by LAFCo staff, a large number of items had to be left off the bill this year. Two were removed from the list as either too controversial for an Omnibus bill or not appropriate for CALAFCO to take the lead. The remaining items will be considered for next year's Omnibus bill. We are grateful for the efforts of Committee member *Paul Novak* (LA LAFCo) and Assembly Local Government Committee (ALGC) consultant *Misa Lennox* for their efforts on shepherding this bill, and to all of you who did the work of submitting proposals for insertion into the Omnibus. *AB 1725* was signed by the Governor on September 28 and takes effect January 1, 2018.

The other CALAFCO sponsored bill this year was *AB 464* (Gallagher). Signed by the Governor on July 10, 2017, this bill makes a fix to §56653 based on the court finding in the case of *The City of Patterson v. Turlock Irrigation District*. The court found that because the services were already being provided via an out of area service agreement, the application for annexation was deemed incomplete because it was not a new service to be provided. By making the fix in statute, any pending/future annexation for a territory that is already receiving services via an out of area service agreement will not be in jeopardy. CALAFCO attempted to get this fix last year in another bill but ultimately we were unsuccessful. We wish to thank Board member *Bill Connelly*, *Scott Browne* and *Steve Lucas*, (all of Butte LAFCo), for all of their work on this piece of legislation.

*AB 979* (Lackey) is the bill co-sponsored with CSDA. Signed by the Governor on September 1, 2017, the bill amends §56332.5 to streamline the process for seating special districts on LAFCo by mirroring current statute §56332 (the process for electing special district representatives into the special district seats). Keeping the process voluntary, it allows for voting by mail whether or not the district wants to have special districts

represented on LAFCo. Further, it will allow for the consolidation of that question with the independent special district selection committee appointment to a countywide redevelopment agency oversight board pursuant to Health and Safety Code 34179 (j)(3). We wish to thank our partner, *CSDA*, for all of their working in securing an author and shepherding this bill through the legislative process.

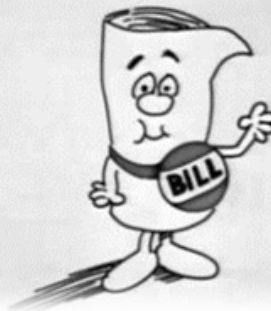
CALAFCO was also actively involved in *SB 448* (Wieckowski), which was ultimately signed by the Governor on September 27, 2017, after six (6) different sets of amendments. CALAFCO began with a position of *Oppose*, which later was changed to *Support*. We spent many hours in discussions with the author's office and stakeholders on the amendments. The bill as signed does several things. First, it requires the State Controller (SCO) to post and update annually a list of special districts on their website, specifically identifying independent special districts. Certain districts (as defined in §56036), are required to file their audits with their local LAFCo at the same time they file with the SCO. The bill adds §56042 and creates the category of inactive district (and clearly defines this new term therein). Further, it requires the SCO to identify all inactive districts and notify the district and the LAFCo of the inactive status. The LAFCo is then required to dissolve the inactive district (providing it meets the defined criteria) through a streamlined process (one noticed public hearing and no protest process). We wish to thank those who were part of the subcommittee on this bill with *Pamela Miller* including Board member *Anita Paque* (Calaveras), *Mona Palacios* (Alameda) and *George Spiliotis* (Riverside).

*AB 1728* is a bill authored by the ALGC and was created in response to the ongoing focus on healthcare districts (HCDs). The bill was introduced after the Committee's March 8, 2017 hearing on the same. CALAFCO took a position of *Support* on the bill which was signed by the

Governor on September 23, 2017. The bill requires all HCDs to adopt an annual budget in a public meeting, on or before September 1 of each year, that conforms to generally accepted accounting and budgeting procedures for special districts; to establish and maintain a website that lists contact information for the district; and adopt annual policies for providing assistance or grant funding, if the district provides assistance or grants.

Gut and amended late in the year, *AB 1361* (E. Garcia) sought to completely bypass LAFCo and allow Indian Tribes to contract with water agencies to provide water services to tribal owned land without annexation or a LAFCo approved out of area service agreement. CALAFCO immediately took an *Oppose* position and began to work with the author's office and sponsor. After several discussions, some of CALAFCO's recommended amendments were accepted, but most of our concerns remained unaddressed. In the end, the bill signed by the Governor on October 3, 2017, still allows for these agreements and does involve LAFCo, although minimally. While the district needs to file an application with LAFCo to extend the service, the LAFCo is required to approve the application; and while LAFCo may impose terms and conditions, they may not impair the provision of service. There is a sunset date of January 1, 2023 on this new section and the allowance applies only to Tribal lands in trust as of January 1, 2017. CALAFCO may be approaching the author's office requesting clean-up legislation for 2018. We want to thank *Harry Ehrlich* (San Diego), *George Spiliotis* (Riverside), *Steve Lucas* (Butte), *José Henriquez* (El Dorado) and *Kathy Rollings McDonald* (San Bernardino) for their work with *Pamela Miller* on this bill.

The CALAFCO Board also wishes to thank all of the people who volunteer to be a part of the Legislative Committee and to all of the LAFCos who respond to our call for legislative action by writing letters to Sacramento. Your response, both directly to Sacramento and with your respective State Legislators, really does make a difference.



## CALAFCO AS A RESOURCE

### *The Little Hoover Commission*



As reported last year, the Little Hoover Commission (LHC) contacted CALAFCO in the summer of 2016 as it planned to hold an informational hearing on special districts. This hearing was a follow-up to the Commission's 2000 report on the effectiveness of special districts. Following the August hearing at which CALAFCO testified, the LHC held a second hearing in October 2016 on the issue of climate change. This hearing focused on how special districts are changing the way they deliver services as a result of adaptation to climate change.

The Commission then held a roundtable discussion in November 2016 on healthcare districts. In attendance representing CALAFCO were Executive Director **Pamela Miller** and Executive Officers **Lou Ann Texeira** (Contra Costa) and **Mona Palacios** (Alameda). Many healthcare districts present shared the challenges they face in delivering services, and the LHC questioned district transparency, collaborative data and best practices sharing, and the ability for LAFCo to effectively oversee these districts. In particular and related to LAFCo, several Commissioners questioned whether or not LAFCos were up to the task of properly overseeing these districts, and CALAFCO assured the Commission they were. This assurance was echoed by many districts in the room, along with representatives from the Special Districts Association (CSDA) and the Association of CA Healthcare Districts (ACHD).

The Commission was scheduled to adopt a draft report at their February 2017 meeting. Having seen the draft staff recommendations, CALAFCO supported the draft. However, during their meeting, several Commissioners decided the recommendations were "too status quo" and felt the recommendations did not go far enough to incite change. Their discussion turned into something of a brainstorming session with additional ideas for study being generated. As a result, the Commission did not adopt the report and recommendations, and instead embarked on another six months of study.

Shortly thereafter, CALAFCO and CSDA met with the Chair, Vice Chair and Executive Director of the LHC to discuss our concerns and provide further education on LAFCo. The LHC discussed the matter again at their April meeting. During this meeting, Assemblymember Chad Mayes (also a LHC Commissioner) who was in attendance, advocated for LAFCo by suggesting that perhaps additional funding is needed for them to be more effective in fulfilling their legislatively prescribed role. In early summer, CALAFCO Executive Director **Pamela Miller** met personally with several LHC Commissioners in an attempt to educate and inform them on LAFCos, to answer questions they had and to address their concerns.

It became clear in early March that CALAFCO needed to put together a working group to assist in dealing with the concerns raised by the LHC, to develop strategies for response, to generate additional recommendations for the Commission's consideration, and to help with the creation of a piece of collateral material to better assist CALAFCO in telling the LAFCo story. A call for volunteers netted an all-star working group consisting of Board members **Gay Jones** (Sacramento) and **Bill Connelly** (Butte), Commissioner **Michael Powell** (El Dorado), and Executive Officers **Steve Lucas** (Butte), **Kris Berry** (Placer), **Carolyn Emery** (Orange), **Keene Simonds** (then of Marin) and **José Henriquez** (El Dorado). This group worked for several months crafting additional recommendations and an educational and informative piece of collateral material for the LHC. CALAFCO wishes to thank this group for their great work and **CV Strategies** for creating very professional material for our use.

In June the LHC held yet another roundtable discussion on special districts and LAFCos. In attendance representing CALAFCO were



Executive Director **Pamela Miller**, Board member **Gay Jones** (Sacramento) and Executive Officers **Steve Lucas** (Butte) and **José Henriquez** (El Dorado).

During this meeting attendees had a chance to address what was intended to be the Commission's final set of draft recommendations. CALAFCO supported the majority of the recommendations (although at least one of our additional recommendations did not make it into the report),



and expressed concern over several of the recommendations. We followed up this meeting with a final letter to the LHC, documenting our thoughts and opinions on the draft report.

During their August meeting, literally one year after the first hearing, the Commission adopted their final report and recommendations. Of the twenty (20) recommendations, eight (8) directly relate to LAFCo. The LAFCo-related recommendations address funding, authority and process. Several of the recommendations are either in process or have been completed. Others will require legislative action which needs to be initiated by CALAFCO, and still others require action on the part of individual LAFCos.

While it's debatable which are the most critical of recommendations, perhaps the two biggest are a call for a one-time funding infusion for LAFCos to conduct more in-depth studies of districts and for the Legislature to keep LAFCo decisions local and stop bypassing LAFCo process.

For CALAFCO, one thing became very clear as a result of this year-long process, and that is both CALAFCO and our member LAFCos do not tell our story well enough. Buried deep beneath perceptions are the stories of the good work this Association and our member LAFCos are doing. This is certainly an area of focus for CALAFCO in the coming year.

Shortly after the LHC adopted the report, CALAFCO updated the membership with the final report and conducted a briefing conference call for all of our members.

All of the documents relating to the Little Hoover Commission study and CALAFCO's documents are posted on the CALAFCO website.

#### *The Assembly Local Government Committee's Oversight Hearing on Healthcare Districts*

On March 8, 2017, The Assembly Local Government Committee (ALGC) held an oversight hearing on healthcare districts (HCDs). In addition to the three HCDs that testified, several LAFCos were also present. Telling their HCD stories were Commission **Don Tatzin** (Contra Costa) and Executive Officer **Mark Bramfitt** (Sonoma). Attorney **Michael Colantuono** also testified,

providing a legal overview of the relationship between LAFCos and HCDs.

Subsequent to the hearing CALAFCO formed a working group to address issues between LAFCos and HCDs. The group, which is still doing work, includes Board members **Bill Kirby** (Placer) and **Anita Paque** (Calaveras), Executive Officers **Mark Bramfitt** (Sonoma), **Martha Poyatos** (San Mateo), **Kathy Rollings McDonald** (San Bernardino), **Mona Palacios** (Alameda), and **Keene Simonds** (San Diego) and Analyst **Robert Barry** (San Diego). The working group met via conference call several times this year and generated a number of recommendations for the ALGC staff to consider. They also suggested two legislative changes for the CALAFCO Legislative Committee (Committee) to consider. After lengthy discussion, the Committee provided feedback to the working group on their proposed changes, which will now be given further consideration by the working group. All of the suggestions were offered to the ALGC staff, CSDA and ACHD.

#### FINANCIAL POLICIES AND REPORTING

The Association continues to stand on a strong financial base. The Board maintains policies and current filings which are in compliance with all federal and state requirements for 501(c)(3) organizations. The CALAFCO Policy Manual, IRS Form 990 and other key Association documents are available on the CALAFCO web site. The Association also maintains its records with the national non-profit reporting organization, GuideStar ([www.guidestar.com](http://www.guidestar.com)). In 2017 CALAFCO once again earned the *GuideStar Exchange Gold Seal* in recognition of its transparency and completeness in documentation.

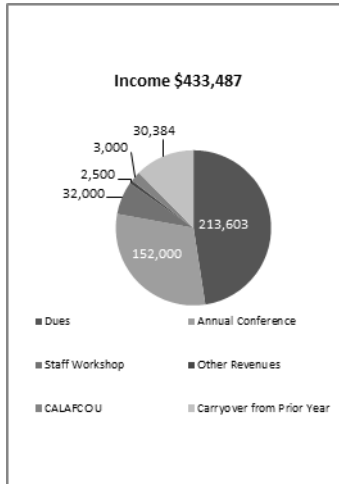
All financial records are reviewed quarterly by an outside CPA with reports to the Treasurer and the Board. The Board also reviews the annual IRS Form 990 tax filing prepared by the CPA and staff.

#### *2017-18 Budget*

The Board continues to manage the financial resources of the Association closely. This year marked the second and final year of a planned two-year increase in member LAFCo dues. The adopted budget for fiscal year (FY) 2017-18 provides for minor changes from the 2016-17 budget. The close

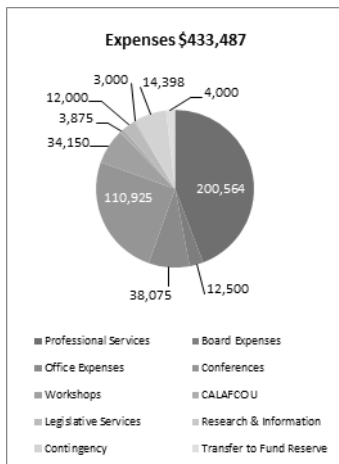


of the fiscal year showed a slightly greater year-end balance than anticipated in the adopted budget, allowing the Association to once again avoid the use of reserves. The budget adopted in May 2017 was revised and adopted as such in August by the Board. The adopted FY 2017-18 budget is \$433,487, which includes a carry-over net balance of \$30,384, contingency fund of \$14,398, and a \$4,000 transfer to Fund Reserve.



**Restricted Fund Reserve**

Since 2005 an important goal established by the Board has been to grow and maintain a Fund Reserve to support member services in uncertain economic times and to avoid the need to tap members for additional funds, as had been done in the past. The reserve balance at the close of the 2016-17 fiscal year was \$158,754, about 63% of the annual operations budget outside of the Conference, Workshop and CALAFCO U. The reserve is not part of the annual budget and requires a vote of the Board to use its funds. The



Association has not used the fund reserve since the early 2000s.

CALAFCO maintains its funds with the Local Agency Investment Fund (LAIF). While the interest rate has remained low again this year, we have not lost any of the principal in our savings or investments. The current Policy calls for having a minimum of 25% held in reserves. At the beginning of the current fiscal year, the Board approved the transfer of \$4,000 to Fund Reserves, making the current total held \$162,754.

All financial reports, including budgets and annual tax filings, are available to the membership on the CALAFCO website as well as on GuideStar's website.

**ASSOCIATION MANAGEMENT**

*Board Member Activity*

Earlier in the year the Board received the resignation of Board member Larry Duncan (Butte), representing the northern regional special district seat. Director Duncan lost his local seat as a result of a recall in his district. His vacancy will be filled at this year's caucus.

*New Associate Members*



We are have welcomed several new Associate members to the Association this past year. Joining CALAFCO as Silver members were *Santa Ynez Community Services District* and *Peckham & McKenney, Inc.* Both of these new members were featured in one of our Quarterly Reports to the membership. We are proud to feature our Associate Members in these reports and look forward to continuing that practice in the future.

*A Final Thank You*

We wish to thank *Kris Berry* (Placer) who served the past two years as Deputy Executive Officer (DEO) representing the Central region. We welcome *Christine Crawford* (Yolo) who will step in as the Central region's DEO effective October 27, 2017.

Finally we want to recognize the leadership of our Executive Director *Pamela Miller* and Executive Officer *Steve Lucas* (Butte LAFCo). Added to that is our appreciation for all the contributions of Executive Assistant *Jeni Tickler* in the CALAFCO office, DEOs *David Church* (San Luis Obispo), *Kris Berry* (Placer) and *Carolyn Emery* (Orange), Legal Counsel *Clark Alsop* (BB&K), and CPA *Jim Gladfelter* (Alta Mesa Group). These people, along with many other volunteers, Associate members, and members of the Board have all worked together this year to bring many achievements and a strong Association to you, our member LAFCos and Associate members.

*The CALAFCO Board of Directors*

## The Biggest Island in Santa Rosa is Annexed!

*Continued from Page 8*

The City has supported annexation of islands if residents initiated these efforts and demonstrated that they had at least majority consent. Thus, if applications came to Sonoma LAFCo, they were by petition, after the City acted to pre-zone the territory and make an environmental determination, but very rarely by resolution of the City Council. The City's position was – and continues to be – that it did not/does not want to force people to annex their properties. Additionally, City funding to manage such efforts without direct commitment from owners of territory proposed to be annexed has generally been very limited.

In 2005, faced with a proposal submitted by petition that would have created both an illogical boundary and a small island – an annexation boundary created by the City in an attempt to support successful completion – to include those who wanted to be within the City but not those who didn't, Sonoma LAFCo said, "No" for the first time. The Commission declared that it would no longer accept applications for annexation in the southwest quadrant of the City unless the City proposed a plan for overall annexation of the islands in that area.

In 2013, after no applications for annexations in southwest Santa Rosa and after years of discussion involving elected officials and highest-level staff from both jurisdictions who focused on issues associated with Roseland, but did not get anywhere primarily due to cost issues, the City Council and County Board of Supervisors independently identified the annexation of the Roseland area on their "priority for action" lists. Many had seen the Roseland area as the "orphan child" – not "in" the City but still part of the larger community. Although not meeting the requirements of state law as a disadvantaged unincorporated community, Roseland's average annual income is generally less than that in many areas within the City. As was noted later, "This was a bill that was owed and past due."

The officials formed the Joint City/County Roseland Annexation Committee to discuss issues and, more specifically, to negotiate a pre-annexation financial agreement that would allow the City to potentially serve the area at the same

level as it serves territory within the City boundary *and* without reducing those service levels. Later in that year, an unfortunate incident in which a Sheriff's Deputy fatally shot a teen-aged boy gesturing toward him with what appeared to be an AK-47 provided additional incentive for action, even though the incident occurred farther away, outside the islands considered for annexation.

In 2014, the Sonoma County Transportation Authority granted the City \$647,000 to develop a specific plan in the area, as part of the State's Sustainable Communities Strategy, to reduce greenhouse gas emissions through compact transit-oriented development; annexation was identified as a component. LAFCo staff, involved from the outset, convinced both the City and County that an annexation area must include not only Roseland but also the four other islands in the City's southwest quadrant.

After the annexation area was determined, extensive community outreach ensued over the course of a year, with community workshops held, a steering committee of residents and stakeholders launched, and a technical advisory committee established. Continually updated information was provided on the City's website and at whatever type of meeting or gathering that City staff and consultants could attend. Elected officials as well as City, County, and LAFCo staff attended meetings with residents of Roseland and the four smaller islands, where some residents did not support annexation, in an effort to consider the neighborhoods' needs, explain the annexation process, and outline the implications for annexation. As a result of these discussions, residents of one island negotiated both a reduction in proposed zoning density and establishment of a "heritage" district for their area.

Subsequently and more specifically,

- The City and County negotiated a "side" agreement to the Master City-County Property Tax Exchange Agreement (in place since 1989), to help offset the financial obligations associated with annexation. The County agreed to provide both one-time and annual payments to the City to support provision of services; the final agreement was based on a model proposed by LAFCo staff.
- The City approved a Specific Plan for the area, adopted land-use amendments, pre-zoned all the parcels consistent with its

General Plan and certified an Environmental Impact Report, including adoption of a Statement of Overriding Considerations.

- The County committed to continue to invest in health and human services, economic development, homeless services, and park development for the foreseeable future.
- LAFCo approved a resolution incorporating staff-recommended conditions to resolve issues associated with potential detachment of territory from a fire protection district and a sanitation district, transfer of easements and rights-of-way, and adjustments to Regional Housing Needs Assessment allocations.

The Commission's approval of this reorganization culminated a four-year concerted effort and hundreds of hours of discussions and negotiations involving elected officials and staff from many agencies. The endeavor included extensive outreach, widespread participation by and education of members of the communities involved, ongoing cooperation among the City, the County, and LAFCo, and, it should be noted, the willingness of the Commission to persevere in its determination to include, in an annexation boundary, all the unincorporated islands in the City's southwest quadrant.

After a protest hearing conducted at its meeting of October 4, 2017, the Commission determined that there was insufficient protest to preclude the reorganization from moving forward. As a result, as of November 1, the City of Santa Rosa will welcome an estimated 7,400 new residents.

## District What? (or "Regeneration, Government Style")

*Written By: José Henríquez, Executive Officer, El Dorado LAFCo*

Fans of the British TV series *Doctor Who* know that the time travelling aliens known as Time Lords can "regenerate" into a new body when critically injured, and in doing so gain a new physical appearance and personality. From a practical, real-world perspective, this is a useful device for introducing a new actor for the lead role of its main

character, the Doctor. A flash of special effects and a new actor replaces the previous one. That is one way to continue making a nearly 55-year old show.

While the reader may say, "That's nice for television," it can also happen in real life – at least in government. Unincorporated communities can become cities. When two or more special districts join forces politically and structurally, they become a new district. A different and very unique type of regeneration is about to occur in El Dorado County.

Located in the southern Tahoe Basin and encompassing most of the village of Meyers, the Tahoe Paradise Resort Improvement District (TPRID) was formed in 1965 to take over the maintenance of a park and the surrounding open space area for the benefit of the community. It is an independent special district governed by California Public Resources Code §13000, et seq. This section of California Law is a legal dead end. The code has not been updated since the Legislature barred the creation of new resort improvement districts in 1965. As a result, the statute is frozen in time, lacking clear links to subsequent statutes affecting local governments in the State, such as the Brown Act, Public Records Act, the Planning and Zoning Law, and Propositions 13, 62, and 218. For example, resort improvement district (RID law) still states that its Board of Directors can set the District's property tax rate. The outdated law becomes an injury that grows critically worse with each passing year, making it harder to deliver public services because of the lack of modern legal procedures.



Despite the limitation of operating under an extinct form of government, TPRID's management structure has gamely carried on for decades, albeit in a legal ad hoc manner. Tahoe Paradise Resort Improvement District is managed by a five-member board of elected directors; one of which is a member of the County Board of Supervisors, an anachronistic feature of RID law. TPRID is mostly funded by a government pass-through scheduled to expire in 2030. This legal deadline is critical, because for Tahoe Paradise it means searching for a new source of revenue to continue funding its park operations, a task that becomes much more

daunting when there is no legal tie to Proposition 218.

While Cortese-Knox-Hertzberg allows for converting districts from one type or another, the regular process is considered to be too complicated and time consuming for many districts. This may be a primary reason as to why so many RIDs (and municipal improvement districts – MIDs – another type of outdated district) are still in existence. To switch from one principal act to another requires an applicant to formally apply to LAFCo for a reorganization that proposes the dissolution of the existing RID and the formation of a new district. The five-step LAFCo procedures take about a year to complete. Because these reorganizations propose forming new special districts, they need majority-voter approval [Government Code §57077(b)(I)]. The latter in particular adds a level of uncertainty since voters could override the conversion effort by disapproving the formation of the new district.

Local officials wanted the Legislature to create a simpler way to convert RIDs. In 2010, Senate Bill 1023 (Wiggins) was signed into law. It encourages RIDs and MIDs to convert to a more modern style of public agency with an updated principal act by turning them into community services districts (CSDs). If a LAFCo approves or conditionally approves the process within SB 1023, there is no protest hearing and no election, cutting down the process time – and uncertainty – significantly.

SB 1023 specifically states that all rights, responsibilities, powers, revenues and obligations transfer in the conversion. It allows for the new entity to take ownership and possession of the converting district's personal and real property. Any invested district funds are transferred to the new district. The new district will continue to operate as an independent special district with locally elected representatives to serve on its board. With all of these advantages, it seemed as if undergoing the conversion would be an easy call.

However, converting TPRID to a CSD would force the District to operate under CSD rules that are too cumbersome for TPRID's operations and funding. This is when the El Dorado LAFCo's Commission

and staff lobbied successfully to Senator Wiggins to allow for another option that would accommodate local circumstances. For just the Tahoe Paradise RID, SB 1023 allows El Dorado LAFCo to convert the Tahoe Paradise RID into a recreation and park district.

Conversion was not assured. With so many unique circumstances, and many years of internal struggle, conversion was one of many challenges that came before the TPRID Board, and was probably the lowest priority. Issues included management and director turnover, delayed repairs, uncertain revenues, the closure of a couple amenities and contentious monthly meetings as rumor spread that the County of El Dorado was looking to “take over” the Tahoe Paradise Park. As it tackled so many difficult issues, it seemed like the Tahoe Paradise's attitude on conversion was “I don't want to go,” echoing the Tenth Doctor's last words before he regenerated.

So, the first question – the oldest question in government, hidden in plain sight – then became



how to motivate someone or something beyond its initial disinclination to

take action. El Dorado LAFCo staff's solution was to remain engaged with the District, its volunteers, its Board and other influential regional stakeholders. Staff made several presentations and attended several Board meetings, heard concerns and answered questions from the public. Staff also met with TPRID's newly elected or appointed Board members and County Supervisors to brief them on the benefits of conversion. Lastly, as an added enticement to undergo conversion, El Dorado LAFCo agreed to waive its own processing fees.

The efforts paid off. With little fanfare, the TPRID Board applied to LAFCo this past June and LAFCo staff processed the petition in record time (without the use of a TARDIS, even). Conversion was approved at LAFCo's September meeting for the petition to be complete before the January 1, 2018 sunset date. At that point, Tahoe Paradise Recreation and Park District will be only the second out of twelve eligible districts in the State to have regenerated into a new form.





### Upland Marijuana Tax Decision Causes Furor

*Written by: Michael G. Colantuono, President, Colantuono, Highsmith Whatley, PC*

On August 28, 2017, the California Supreme Court decided *California Cannabis Coalition v. City of Upland*, a case involving an initiative to legalize medical marijuana dispensaries and to impose a \$75,000 per year “annual Licensing and Inspection fee,” which the City of Upland concluded was a general tax. Although a careful reading reveals the decision to be narrow, some of its language led early commenters to predict that local special taxes might be allowed on a simple majority vote, rather than the two-thirds voter approval required by 1986’s Proposition 62 (applicable to counties and general law cities) and 1978’s Proposition 13 and 1996’s Proposition 218 (both applicable to charter cities, too.)

We conclude the case leaves the two-thirds-voter-approval requirement for local taxes in place and makes only a very modest change to earlier understandings of Proposition 218 and the law of initiatives.

The details: Upland, like many cities, prohibits medical marijuana dispensaries. The California Cannabis Coalition circulated an initiative proposal to allow three dispensaries in the City. It collected signatures of more than 15% of City voters on a petition calling for a special election. As the Elections Code allows, the City Council deferred action on the initiative pending a City staff report on its effects.

The report concluded the City’s cost to license and inspect a dispensary would be only \$15,000 per year and that the \$75,000 fee therefore included a \$60,000 general tax — i.e., a tax to fund any lawful purpose of the City. Under a provision of Proposition 218 (article XIII C, § 2(b)), general taxes may only appear on general election ballots when city council seats are contested. The City Council therefore set the measure for the 2016 general election — two years later. The Coalition

sued to compel an earlier, special election. The trial court agreed with the City that the measure imposed a general tax and could not be set for a special election.

The Court of Appeal reversed and — without deciding whether the measure imposed a tax — concluded Proposition 218’s general-election rule for general taxes does not apply to initiatives. With pro bono representation by the Howard Jarvis Taxpayers Association, the City obtained Supreme Court review. While the case was pending in the Supreme Court, Upland voters defeated the Measure 64% to 26%.

The Supreme Court affirmed the Court of Appeal. It also did not decide whether the measure imposed a tax, but concludes it was not subject to the general-election rule even if it is a tax, because that rule applies only to taxes proposed by the City Council, not by initiative: “we conclude that the requirement in article XIII C, section 2, subdivision (b) — mandating that general taxes be submitted to the voters at a regularly scheduled general election — applies only to local governments and not to the electorate’s initiative power ... .” The Court’s essential rationale is that limits on the initiative power are disfavored and must be plainly stated and the general-election rule is a procedural requirement that applies when a government agency legislates, but not when voters act by initiative.

The Court goes on, however, to make clear the two-thirds-voter-approval requirement for special taxes — taxes which may be spent only for a stated purpose — **does** apply to initiatives: “In article XIII C, section 2, subdivision (d), for example, the enactors adopted a requirement providing that, before a local government can impose, extend, or increase any special tax, voters must approve the tax by a two-thirds vote. That constitutes a higher vote requirement than would otherwise apply. ... That the voters explicitly imposed a procedural two-thirds vote requirement on themselves in article XIII C, section 2, subdivision (d) is evidence that they did not implicitly impose a procedural timing requirement in subdivision (b).”

However, language in the opinion leads some to argue the decision imperils the two-thirds rule for special taxes. First, two Justices who disagreed with the majority’s reasoning characterize the language just quoted as less than definitive: “the majority opinion contains language that could be read to

suggest that article XIII C, section 2(d) [the two-thirds rule] should be interpreted differently from section 2(b) [the general election rule].” However, this was a rebuttal to the majority, not a holding that could undermine its conclusion.

Other parts of the opinion refer to the general-election rule by citing the entire section of which it is a part — article XIII C, section 2. That is unhelpfully ambiguous, as section 2 includes both the general election rule (2(b)) and the two-thirds vote requirement (2(d)). Moreover, the Court expressly leaves open the impact of its conclusion (that Proposition 218’s procedural rules generally do not apply to voters acting by initiative) on the measure’s article XIII D — governing assessments on property and property related fees, including many retail water, sewer and trash fees. As Propositions 13 and 62 use language very similar to that of Proposition 218, these questions arise under all three measures.

Still more alarming for Proposition 218’s advocates is the Court’s expressly refraining from deciding whether a city council or board of supervisors could adopt an initiative tax proposal without submitting it to voters at all — as is now common in land use disputes.

We expect courts to conclude that a City Council cannot adopt an initiative tax without voter approval because the Court’s language preserving the two-thirds rule describes it as a procedural restriction voters imposed on themselves. If voters cannot tax themselves without two-thirds voter approval it seems governments cannot either. Further litigation may be needed to resolve the question.

The parties may seek rehearing to clarify some of the decision’s ambiguities, but the central holding is clear — initiative petitions can force a special election on a general tax if they bear the signatures of 15% of voters of a jurisdiction. Also clear, in our judgment, is the Court’s conclusion the two-thirds-voter-approval requirement for local special taxes remains in force.

A few observations: First, the initiative power holds a special place in California’s democracy and courts are reluctant to limit it: “we presume such limitations do not apply to the initiative power absent evidence that such was the restrictions’

intended purpose.” The concurring Justices aptly name this a “clear statement” rule — unless a restriction on initiatives is clearly stated, courts will not enforce it.

Second, while it is often sensible for a local government to refuse to proceed with a plainly unlawful initiative, courts would prefer they did not. Courts would rather local governments incur the legal fees necessary to let judges — not elected legislators — decide which initiatives are lawful. Judges view it as their duty to protect initiatives from hostile legislators.

Third, the decision reinforces a distinction between procedural rules for city councils and boards of supervisors and substantive rules intended to limit local government authority generally. The former will not apply to initiatives, the latter commonly will. The hard part, of course, is sorting out dispensable process from mandatory substance.

And, the opinion treats the two-thirds rule as procedural, but nevertheless binding on voters acting by initiative given the apparent intent of Proposition 218 to impose the rule on voters.

Finally, the decision and the furor it provoked in the “Twitterverse” and elsewhere demonstrate how passionately Californians care about the initiative power, the power to tax, and who has the ultimate say as among voters, legislators and courts.

What next? Rehearing is possible and a petition is due by September 12<sup>th</sup>. There is also discussion of a constitutional amendment to reinforce the two-thirds rule. 2018 brings a hotly contested election to maintain (without the high voter turnout of Presidential elections) Democrats’ legislative supermajorities and a contest for the House of Representatives fought in 7 Republican and 4 Democratic California seats. Such a ballot measure might be a useful tool to frame that larger contest.

We conclude that *Upland* is less than might appear on initial reading. Few taxes are proposed by initiative and fewer still get signatures of 15% of all votes to trigger a special election. Under Proposition 218, a tax measure qualifies for a general election if signed by about 2% of voters — a tiny number in most places.

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“VOTERS EXPLICITLY IMPOSED A PROCEDURAL TWO-THIRDS VOTE REQUIREMENT ON THEMSELVES IN ARTICLE XIII C, SECTION 2, SUBDIVISION (D).”

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## Around the State

### A Year of Change at Riverside LAFCo



For an agency that had not seen any staff changes in ten years and whose least tenured employees had been here for 15 years, any change is a big deal. Change can also be exciting. If that's the case, then we must be really excited because numerous personnel changes have occurred over the past several months.

The last day of 2016 was the last day at Riverside LAFCo for *Elena Medina*, our Commission Clerk/Executive Assistant. Elena's retirement capped a 32 year career in public service. In addition to her 20 years at LAFCo, Elena worked for Riverside County for 12 years in various assignments, including Executive Secretary to Supervisor Norton Younglove. Elena is now free to spend more time with her husband, children and grandchildren.

Our Secretary, *Elizabeth Valdez* was promoted to Commission Clerk and was pulling double-duty for several months. In late September, we welcomed aboard our new Secretary, *Rebecca Holtzclaw*. Rebecca previously worked at the Registrar of Voters and at Western Municipal Water District. While at the District, one of her tasks was to assist in planning and staffing of the Special District Selection Committee dinner meetings.

In July, we bid farewell to long-time analyst *Adriana Romo*. After 15 years at Riverside LAFCo performing a variety of analytical and administrative duties, Adriana accepted the position of Deputy Executive Officer at Los Angeles LAFCo. Recruitment for this vacant Analyst position will start in October.

In other news, Riverside LAFCo will be issuing an RFP for a County-wide Water and Wastewater MSR sometime in October. The MSR will include reviews of 11 cities and 32 special district providing

water and/or wastewater services in three sub-regions of the County.

### Alameda LAFCo Update



Alameda LAFCo  
Local Agency Formation Commission

On September 22, 2017, Alameda LAFCo held a full day strategic planning retreat to review and update its current strategic plan. Facilitated by Pamela Miller of Miller Management & Consulting Group (also CALAFCO's Executive Director), the Commission spent the day in frank conversation about accomplishments, challenges, formal and informal authority, and the future direction of Alameda LAFCo. The process enabled the Commission to acknowledge strides it has made to improve transparency and responsiveness of local government, engage the public, and educate local legislators. With the wide range of issues identified and areas in which Commissioners expressed a desire take action, Alameda LAFCo will be working in the coming months to complete the review and update of its mission statement, and adopt a new three-year strategic plan.

**Commissioners:** In May 2017, Commissioner *Ayn Wieskamp* was elected as Alameda LAFCo Chair and Commissioner *Scott Haggerty* was elected Vice Chair. Commissioners *Jerry Thorne* and *Georgan Vonheeder-Leopold* were each reappointed for another four year term. Commissioners *John Marchand* and *Sblend Sblendorio* continue to serve on the CALAFCO Board of Directors representing the Coastal Region as the city and public members, respectively. Commissioner *Sblendorio* serves on the CALAFCO Legislative Committee and the Conference Committee. He was Chair of the 2016 Annual Conference in Santa Barbara. Commissioner *Marchand* serves on the CALAFCO Achievement Awards Committee.

**Projects and other activities:** Alameda LAFCo has been busy over the past year with a variety of projects. Highlights include conducting a special study of a healthcare district, processing sphere of influence amendments to address governance and transparency issues for the healthcare district and a fire protection district, addressing a city's unapproved extensions of water and sewer services outside city boundaries, and educating local legislators about LAFCo's role and responsibilities.



## Bay Area LAFCo Clerks Gather

*Written by: Bay Area Clerks*

The Bay Area LAFCo Clerks (BALC) met for the first time in almost a year for a breakfast meeting at Ruby's Can't Fail Cafe in Emeryville on August 23. Alameda, Contra Costa, Napa, San Mateo, Santa Clara, and Solano Counties were represented.

**Sandy Hou** reported Alameda LAFCo completed a special study of one of their health care districts, resulting in an amendment of its sphere of influence with conditions. She also noted that they finally got started using the county's FileNet program for electronic document management with the assistance of a youth intern for scanning and indexing.

**Kate Sibley** noted Contra Costa LAFCo is in the process of preparing a municipal service review on health care districts and that a decision is pending whether to dissolve one of the districts due to a bankruptcy.

**Kathy Mabry** reported Napa LAFCo is making progress towards annexing the 18 unincorporated islands within the City of Napa. She also shared that they have completed scanning of all their files using Laserfiche document imaging and that the Commission agreed to retain paper copies only for resolutions and a few other types of documents.

**Jean Brook** shared San Mateo LAFCo just adopted a resolution on a municipal service review of their health care districts, and noted that one of them is applying to extend services for a new assisted living and memory care facility opening in 2018.

**Emmanuel Abello** shared Santa Clara LAFCo was included in the recent Civil Grand Jury report, which the Commission felt had many inaccuracies and showed a lack of understanding of the role of LAFCos. He also shared that they are currently recruiting for an assistant analyst.

**Michelle McIntyre** from Solano LAFCo discussed the Bay Area Greenprint mapping tool and encouraged the group to visit [www.bayareagreenprint.org](http://www.bayareagreenprint.org) to identify tools on the website that could be improved or are currently missing. The group plans to reconvene in the East Bay in February 2018.



## CALAFCO Associate Member Corner

CALAFCO deeply appreciates our Associate Members and we thank you for your partnership and support.

We are proud to welcome two new Associate members to the Association this past year. Joining CALAFCO as Silver members are **Santa Ynez Community Services District** and **Peckham & McKenney, Inc.**

### *Santa Ynez Community Services District*



SANTA YNEZ  
COMMUNITY SERVICES DISTRICT

Founded in 1971, **the Santa Ynez Community Services District** provides wastewater collection and transportation and street lighting, serving approximately 688 wastewater connections. Effluent collected by the District is treated at the City of Solvang wastewater treatment plant. For more information about the District, visit their website at [www.sycsd.com](http://www.sycsd.com), or contact the General Manager Jeff Hodge at [jhodge@sycsd.com](mailto:jhodge@sycsd.com).

### *Peckham & McKenney, Inc.*



**Peckham & McKenney, Inc.** provides executive search services to local government agencies throughout the Western United States and is headquartered in Roseville, California. The firm was established as a partnership in 2004 by Bobbi Peckham and Phil McKenney, who serve as the firm's Recruiters and bring over 50 years' combined experience in local government and executive search. To learn more about them, visit them at [www.peckhamandmckenney.com](http://www.peckhamandmckenney.com), or call them at 866-912-1919.

## A Special Memoriam – June Savala (1957-2017)

*Written by: The staff of LA LAFCo*

The LAFCo community mourns the loss of a great colleague and friend, **June Denise Savala**. June passed away the morning of September 6, 2017, surrounded by her mother, daughters and sister, from complications associated with pancreatic cancer. Although her life was shortened, June lived a wonderful life. She cherished every day with her grace and warm smile.

June was born on February 20, 1957. A graduate of Lennox High School in Los Angeles, she went on to serve in the United States Navy from 1975 to 1980. The Navy awarded June an Honorable Discharge upon her retirement.

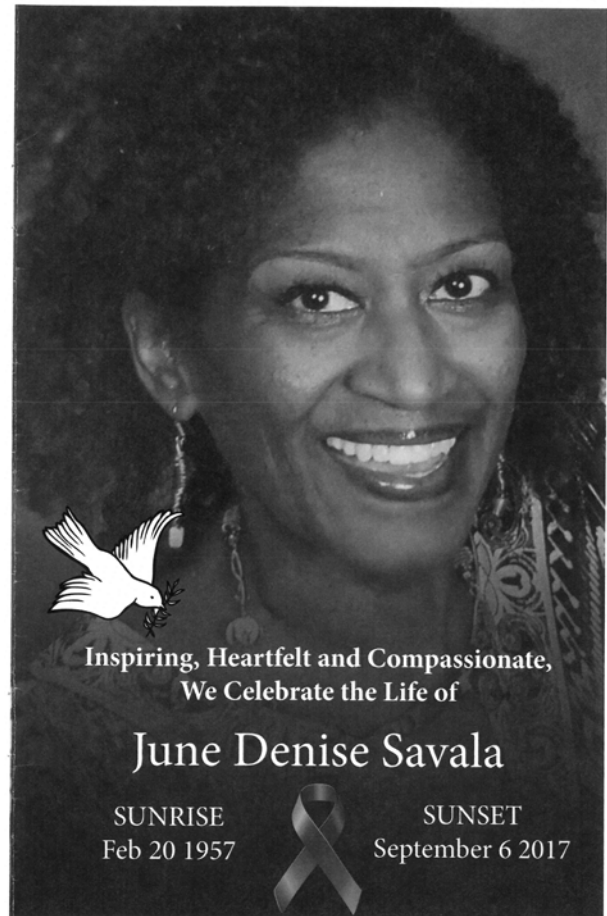
June commenced her career in Los Angeles County in 1980. She worked for the Board of Supervisors Executive Office for 14 years. In 1994, she was hired by Los Angeles LAFCo, where she worked for 22 years. She retired from LAFCo in late 2016. LAFCo employees Amber de la Torre, Doug Dorado, and Alisha O'Brien had the privilege of working with June for over fifteen years.

At LAFCo, June worked hard and well. She began as an Executive Assistant, was promoted to Assistant Executive Officer, and was later promoted to Deputy Executive Officer. During her time at LA LAFCo she worked with five different Executive Officers. She also served as Interim Executive Officer on two occasions, in 1995 and in 2010. June served as the CALAFCO Deputy Executive Officer from 2010 to 2012, on the Host Committees for the 2008 Annual Conference and the 2016 Staff Workshop, and organized several CALAFCO U seminars. Her extraordinary service earned her CALAFCO's "Outstanding LAFCo Professional" Award in 2011.

June was a consummate professional who enthusiastically and willingly supported colleagues at LA LAFCo, at other LAFCos, and the CALAFCO Board and staff. She consistently demonstrated a wealth of wisdom, judgment, and deliberation. June's humility, graciousness, kindness, and warmth endeared her to all of us as a trusted advisor and friend. Upon learning of June's passing, José Henríquez, Executive Officer of El Dorado LAFCo, said that he is "deeply saddened," and that "surely the LAFCo family is diminished

with her passing." For LA LAFCo staff, June will not be forgotten, as her legacy lives on within us.

June is survived by her mother, Gloria Savala; her daughters LeiLani Cofield and Junique Culpepper; son-in-law Duane Cofield; sister Sherri Collins; brother Bernard Savala; sister Nelda Thomas; grandson Kingston Cofield; and great niece Tamoia Donlow.





## CALAFCO on the Road Again...

Written by: Pamela Miller,  
CALAFCO Executive Director

This past year I did not get out and see as many of you as I would have liked. The Little Hoover Commission and State Legislature kept me tied to Sacramento and very busy! The good news is that I did get out on the road and visit with at least a few of you.

In keeping with a practice I began last year of writing about those travels, here are a few notes about my visits with our member LAFCo's over the past year.

At the end of January I made my annual pilgrimage to visit the *Southern region* and attend that region's annual meeting. With all six LAFCo's in that region present, it was a good way for me to visit with each of them, learn about what they are working on and share CALAFCO updates.

The following day I joined Executive Officers *Kathy Rollings McDonald* (San Bernardino), *George Spiliotis* (Riverside), *Paul Novak* (Los Angeles) and Legal Counsel *Clark Alsop* to present a LAFCo 101 to city, county and special district staff and elected officials from Riverside and San Bernardino counties. In all, 61 people were in attendance.

Early February found me at *Sacramento LAFCo* honoring retiring Executive Officer *Peter Brundage*.

At the end of May, CALAFCO Executive Officer *Steve Lucas* and I travelled to *Tehama LAFCo* to visit with the new Executive Officer *Kristen Maze*.

In early August, *Steve Lucas* and CALAFCO Board Chair *James Curatalo* attended the *San Diego LAFCo*. This was the last LAFCo meeting for retiring Executive Officer *Michael Ott* as well as several other San Diego LAFCo staff. In my absence (I was enjoying the beauty of Tahiti) they presented certificates of appreciation on behalf of CALAFCO to *Mike Ott*, *Harry Ehrlich* and *Ingrid Hansen*.

I'm looking forward to visiting *San Francisco LAFCo* with CALAFCO Deputy Executive Officer *David Church* on November 9.

As part of the Association's Strategic Plan, my goal is to visit with at least four LAFCo's per year. I'm hoping this coming year provides a bit more flexibility and opportunity for me to get out and visit you in your neighborhood. Please don't wait for me to ask if I can come visit – I will happily accept any invitation that is extended.

I look forward to packing up, hitting the road, and visiting more of you very soon!



# Thank You to All of Our Associate Members

## CALAFCO GOLD ASSOCIATE MEMBERS



## CALAFCO SILVER ASSOCIATE MEMBERS

- Berkson Associates*
- City of Fontana*
- City of Rancho Mirage*
- County Sanitation Districts of L. A. County*
- Cucamonga Valley Water District*
- Dudek*
- E. Mulberg & Associates*
- Fresno County Fire Protection District*
- Goleta West Sanitary District*
- Griffith & Matsuda, a Professional Law Corp.*
- HdL Coren & Cone*
- LACO Associates*
- Lamphier-Gregory*
- Marjorie Olsson Blom Consulting*
- Meijun, LLC*
- P. Scott Browne*
- Peckham & McKenney, Inc.*
- Planwest Partners, Inc.*
- Policy Consulting Associates*
- QK*
- Rancho Mission Viejo*
- Rosenow Spevacek Group (RSG)*
- Santa Ynez Community Services District*
- Ukiah Valley Sanitation District*

# LOOKING AHEAD....



## **CALAFCO University**

December 4, 2017  
Orange County  
and  
January 22, 2018  
Sacramento

***LAFCo's Evolving Mission: New Laws,  
Requirements and Transparency***

## **CALAFCO 2018 Staff Workshop**

April 11 – 13  
Four Points by Sheraton  
Hosted by Marin LAFCo

## **CALAFCO 2018 Annual Conference**

October 3 – 5  
Tenaya Lodge  
Yosemite, CA

## **CALAFCO 2019 Annual Conference**

October 30 – November 1, 2019  
Hyatt Regency  
Sacramento, CA

## **CALAFCO 2020 Annual Conference**

October 21 – October 23, 2020  
Hyatt Regency  
Monterey, CA



# The Sphere

*CALAFCO Journal*

CALIFORNIA ASSOCIATION OF LOCAL AGENCY  
FORMATION COMMISSIONS

1215 K Street, Suite 1650  
Sacramento, CA 95814

[www.calafco.org](http://www.calafco.org)



CALAFCO provides educational, information sharing and technical support for its members by serving as a resource for, and collaborating with, the public, the legislative and executive branches of state government, and other organizations for the purpose of discouraging urban sprawl, preserving open-space and prime agricultural lands, and encouraging orderly growth and development of local agencies.

**Sharing Information and Resources**

## The Year In Pictures - Scenes from CALAFCO Activities

### CALAFCO Annual Conference 2016

*Santa Barbara, CA*



### CALAFCO Annual Staff Workshop 2017

*Fresno, CA*



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# Marin Local Agency Formation Commission

## Regional Service Planning | Subdivision of the State of California

### AGENDA REPORT

December 14, 2017

Item No. 11 (Business Hearing)

December 8, 2017

**TO:** Marin Commissioners

**FROM:** Rachel Jones, Interim Executive Officer

**SUBJECT: Proposal for Annexation of 1501 Lucas Valley Road to the Marin Municipal Water District (LAFCO File No. 1324)**

The Commission has received an application by the affected landowner (Andre Souang) requesting approval to annex approximately 61.3 acres of unincorporated/improved territory (164-280-35) located at 1501 Lucas Valley Road to Marin Municipal Water District (MMWD). The affected territory is improved with an existing single-family residence that was recently acquired by the applicant with the intention of serving as a primary residence going forward. The applicant is proposing annexation to MMWD to provide a reliable source of domestic water service given concerns regarding the continued use of an onsite well. The Commission extracted this proposal from an earlier and larger application involving a concurrent sphere amendment and annexation request to the Las Gallinas Valley Sanitary District, which was conditionally approved with amendments on February 12, 2015 and ultimately recorded on September 12, 2016.

Local Agency Formation Commissions (LAFCOs) are responsible under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (“CKH”) to regulate the formation and development of local governmental agencies and their municipal services areas. This includes approving or disapproving proposed changes of organization, such as boundary changes, consistent with adopted policies and procedures pursuant to California Government Code (G.C.) Section 56375. LAFCOs are authorized to exercise broad discretion in amending as well as establishing conditions in approving changes of organization as long as they do not directly regulate the land use.

### Background

Marin LAFCO (“Commission”) has received a proposal from landowner Andre Souang requesting the second set of approval to ultimately establish public water service by way of the Marin Municipal Water District (MMWD) at 1501 Lucas Valley Road. Water service would require only an annexation to MMWD. The affected territory comprises one entire unincorporated lot approximately 61.3 acres in size that includes an existing 2,000 square foot single-family residential estate originally constructed in 1960 and designated A-1. The applicant acquired the affected territory with the exception of making it a permanent residence in the near future. The County of Marin Assessor’s Office identifies

**Administrative Office**  
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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

**Dennis J. Rodoni, Regular**  
County of Marin

**Judy Arnold, Alternate**  
County of Marin

**Carla Condon, Vice Chair**  
Town of Corte Madera

**Sashi McEntee, Regular**  
City of Mill Valley

**Matthew Brown, Alternate**  
Town of San Anselmo

**Jack Baker, Regular**  
North Marin Water District

**Craig K. Murray, Regular**  
Las Gallinas Valley Sanitary

**Lew Kious, Alternate**  
Almonte Sanitary District

**Jeffrey Blanchfield, Chair**  
Public Member

**Chris Skelton, Alternate**  
Public Member

403

the subject parcel as 164-280-35.

### Other Affected Agencies

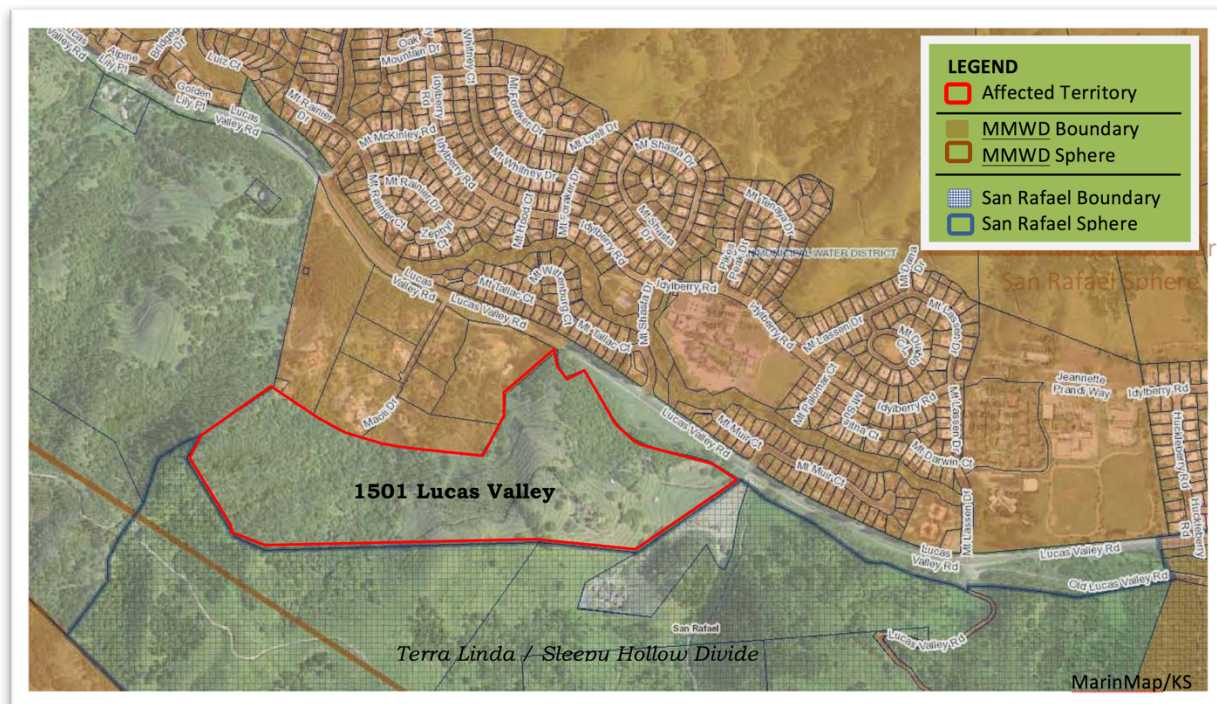
The affected territory lies entirely within the unincorporated area. It also lies within the boundaries of the following special districts subject to Commission oversight:

- County Service Area 31 (Fire / Unincorporated Marin County)
  - Marin County Flood Control District
  - Marin Healthcare District
  - Marin-Sonoma Mosquito Abatement District
- \* The affected territory also lies within the Dixie Elementary School District and the San Rafael High School District; it also lies within County Supervisorial District No. 1 (Damon Connolly).

### Discussion

The stated purpose of the proposal – i.e., the approval to establish public water service through MMWD – is to remedy performance concerns with the affected territory’s onsite well. These performance concerns were identified by the applicant in the course of a post purchase assessment of the existing residence in consultation with contractors in the course of readying the home for a pending move-in. Additionally, development opportunities for the affected territory are limited to the intensity requirements under County zoning and requires a minimum lot density of 60 acres which would not allow for any additional divisions or densities.

Affected Territory at 1501 Lucas Valley Road in Relationship to MMWD:



## Commission Focus

Staff has identified two central policy items for the Commission in considering the merits of the proposal under CKH. These policy items ultimately take the form of Commission determinations and orient the membership to consider – and in order – stand-alone merits of the (a) timing of the annexation itself, and (b) applying discretionary boundary amendments or approval terms aimed at perfecting the action relative to member preferences in administering LAFCO law in Marin County.

The timing of the boundary change to annex the affected territory to MMWD appears appropriate relative to the analysis of the 16 factors required for consideration under CKH albeit with the imposition of certain amendments and conditions (emphasis).<sup>1</sup> The majority of the prescribed factors focus on the impacts of the proposed boundary change on the service and financial capacities of the affected agencies. No single factor is determinative and the intent is to provide a uniform baseline for LAFCOs in considering boundary changes in context to locally adopted policies and practices. A summary of key statements and conclusions generated in the review of the mandated factors for the proposal follows with a complete analysis provided in Appendix A.

- MMWD’s public water service has available capacities to accommodate projected service demands for the affected territory’s single-family residence without impacting existing District constituents. No extension of the public water main is needed to accommodate service to the existing single-family residence given its immediate proximity to MMWD’s water system along Lucas Valley Road.
- The current use of the affected territory is tied to a single-family residential estate, which is a principally allowed use under the A60 zoning assignment established by the County. The subject lot is the minimum size required under the existing zoning assignment and provides reasonable assurances the annexation of the affected territory to MMWD in-and-of-itself will not facilitate new or additional land that will alter or impact projected service demands.<sup>2</sup>
- There is a present need for public water service to the affected territory’s single-family residence given the current onsite well is not a reliable water source. Annexation to MMWD would provide a permanent domestic water solution for the affected territory’s residence and is the most cost-effective alternative available to the landowner.
- Annexation will not result in adverse impacts on adjacent areas given the affected territory is substantially surrounded by MMWD’s existing jurisdictional boundary and already developed to the maximum extent allowed by the County. The remaining lands adjacent to the affected territory are undeveloped and publicly owned as part of the Terra Linda/Sleepy Hollow Divide.<sup>3</sup>

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<sup>1</sup> There are 15 standard factors that apply to all boundary changes with a 16<sup>th</sup> factor applying to boundary changes involving special districts under Government Code Section 56668.

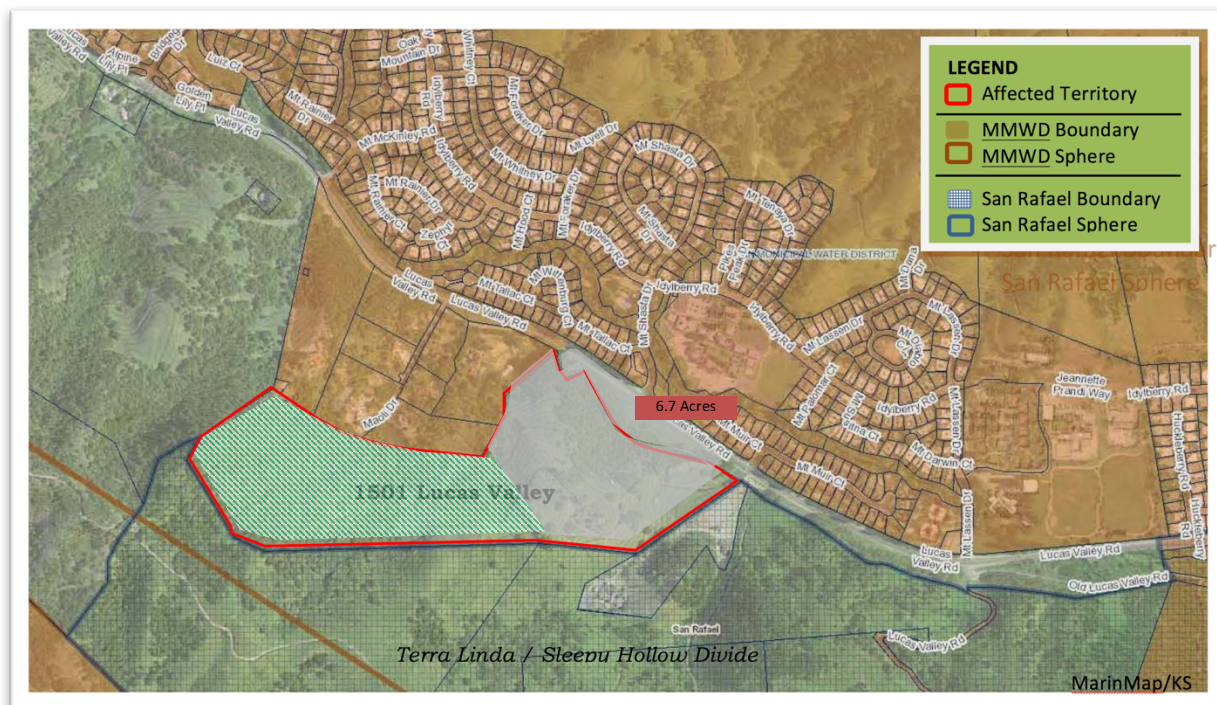
<sup>2</sup> The A60 zoning allows one second unit with approval of a Second Unit Permit. Second residences are allowed for the owner, lessee, or family member engaged in agricultural use of the land, provided there is at least 60 additional acres of land (MCC 22.08.040.D). In this case, there is not enough land for a second residence given the lot is 61 acres in total size. (Agricultural worker housing is allowed with a conditional Use Permit (MCC 22.32.023) so long as there is active agricultural commerce on the property.)

<sup>3</sup> The Terra Linda /Sleepy Hollow Divide is an approximate 1,100 acre public open space area owned by the Marin County Regional Park and Open Space District.

As for potential approval amendments, staff believes it would be appropriate for the Commission to exercise legislative discretion and apply two distinct boundary amendments to modify the area to be annexed into MMWD. These recommended boundary adjustments are as follows.

- Modify the annexation boundary to include the entire public right-of-way portion of Lucas Valley Road that lies immediately adjacent to the affected territory as proposed. This portion of the public right-of-way is approximately 6.7 acres in size and its inclusion in the annexation boundary would serve as an orderly expansion of MMWD and help expedite District encroachment permits with the County for any necessary utility work. It would also eliminate the potential of creating an “island” corridor within MMWD in which non-jurisdictional land is entirely surrounded by the District. The addition of the public right-of-way would not trigger protest proceedings given the subject land is held in-fee as an easement by the County and therefore does not qualify as a landowner under CKH.<sup>4</sup>

As for potential approval terms, and to ensure service demands are consistent with MMWD’s ability to provide service, it would be appropriate for the Commission to require the applicant to sign a recorded agreement with MMWD to limit the use of water service within the annexation area to only the existing single-family residence and any authorized second unit approved by the County. This agreement would run with the property and provide contractual assurances any future new density development within the annexation area approved by the County and dependent on public water services from MMWD would return to the Commission. Other standard conditions are also recommended.



<sup>4</sup> This sentence references Government Code Section 56048 in CKH.

## Other Mandated Considerations

### Property Tax Exchange

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California Revenue and Taxation Code Section 99(b)(6) requires the adoption of a property tax exchange agreement by the affected local agencies before LAFCO can consider a jurisdictional change. Markedly, and pertinent to this proposal, RTC Section 99(b)(5) allows the County of Marin to adopt a single resolution establishing a tax exchange on behalf of both affected agencies given MMWD status as a special district. Towards this end, the County and MMWD have agreed to a “no” exchange tax agreement for this proposal – i.e., the District will not receive any new property tax allocation if the annexation is approved.

### Environmental Review

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The Commission is tasked with making a determination as lead agency for the proposal under the California Environmental Quality Act (CEQA) in considering the annexation to MMWD. Staff has determined the action is a project under CEQA, but does not require further analysis given the application of exemptions under State law. The annexation is exempt from added review given the affected territory – as proposed or its recommended modification – cannot be further developed under current land use policies.<sup>5</sup>

### Conducting Authority Proceedings (Protest Hearings)

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The affected territory – as proposed or its recommended modification – is uninhabited under CKH and the sole landowner has provided written consent as the applicant. MMWD has also not requested notice or protest proceedings. Conducting authority proceedings, accordingly, may be waived under G.C. Section 56663.

## Alternatives for Action

The following alternatives are available to the Commission:

### Alternative One (Recommended):

- (a) Adopt the draft resolution identified as Attachment One approving the proposal’s request for an annexation to MMWD involving 1501 Lucas Valley Road with the following specific amendments and terms:
  1. Modify and set the annexation boundary to include the approximate 6.7-acre public right-of-way adjacent to 1501 Lucas Valley Road.
  2. Modify and set the annexation boundary to include only the approximate 27.6-acre portion of 1501 Lucas Valley Road that covers the existing single-family residence and improvements as prescribed.

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<sup>5</sup> This sentence references Public Resources Code Section 15319.

3. Condition the approval to require the applicant record and agreement with MMWD to limit the use of public water services within the annexation area to only the existing single-family residence and any authorized second unit.

Alternative Two:

Continue consideration of the item to the next regular meeting and provide direction to staff for additional information as needed.

Alternative Three:

Disapprove the proposal. Disapproval would statutorily prohibit the initiation of a similar proposal for one year unless a request for reconsideration is filed and approved by the Commission within 30 days.

**Recommendation**

It is recommended the Commission proceed with the actions outlined in the preceding section as Alternative One.

**Procedures for Consideration**

Staff has placed the item as part of the regular business hearing calendar. The following procedures, accordingly, are recommended with respect to the Commission's consideration:

- 1) Receive verbal report from staff; and
- 2) Invite any members of the public to comment on the item (voluntary)
- 3) Consider action on recommendation.

On behalf of staff,



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Rachel Jones  
Interim Executive Officer

Attachments:

- 1) Draft Resolution



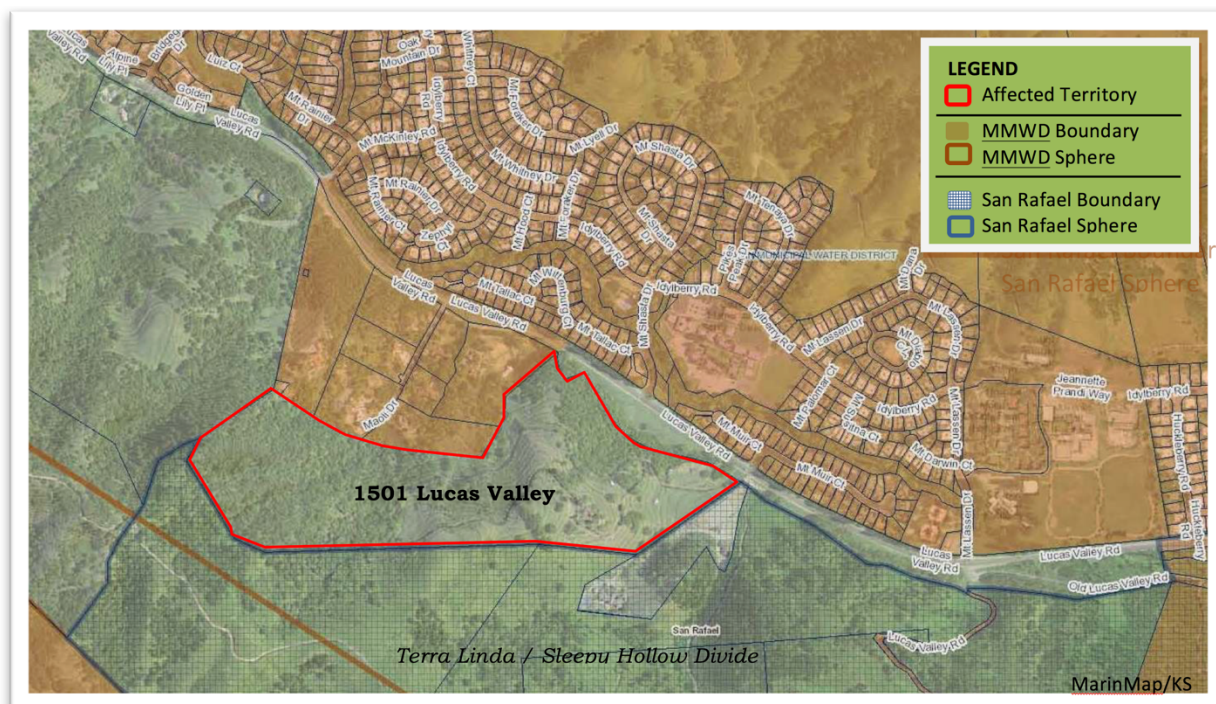
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## APPENDIX A

### BOUNDARY CHANGE ANALYSIS OF MANDATORY FACTORS GOVERNMENT CODE SECTION 56668

1) Population and population density; land area and land use; per capita assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent areas, during the next 10 years.

The affected territory is developed with an existing 2,000 square foot single-family residence along with auxiliary structures – including a detached garage and club room – on the 61.3 acre-lot with a situs address of 1501 Lucas Valley Road. The affected territory is surrounded by residential development on three sides with the remainder undeveloped and part of the Terra Linda/Sleepy Hollow Divide. The single-family residence was recently purchased by the applicant and is currently unoccupied/uninhabited. No further density (i.e., land divisions) can be accommodated within the affected territory based on the property’s existing zoning district and size (61.3 acres where a minimum lot size of 60 acres is required). The total registered assessed value of the affected territory as of date is \$1.328 million.<sup>6</sup>



<sup>6</sup> It appears the assessed value has not been updated by the County Assessor’s Office since the last sales transaction recorded in June 2014 for \$2.295 million.

**(2) The need for municipal services; the present cost and adequacy of municipal services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas.**

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The current provision of municipal services to the affected territory and its existing single-family residence is limited to fire protection and law enforcement provided by the County of Marin with the former facilitated through a surrogate, County Service Area 31. Needs for additional municipal services are emerging within the affected territory to support an existing single-family residence and highlighted by public water service given the lot's current onsite well is currently not an adequate and reliable source of water.

**(3) The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on local governmental structure.**

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The affected territory is substantially surrounded by MMWD's existing jurisdictional boundary and lies immediately adjacent to the District's water main located along Lucas Valley Road. These factors signal emerging social and economic ties between the affected territory and MMWD.

**(4) The conformity of the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies/priorities set forth in G.C. Section 56377.**

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The proposal seeks conformity with the Commission's core policy in directing urban growth and services with respect to amending MMWD's boundary to include the affected territory to allow for annexation. The affected territory has been developed as a large single-family residential estate and it is reasonable to assume – and in particular due to land costs - the subject lands will not convert to non-residential use going forward. This policy assumption, and if memorialized by adding the affected territory to the sphere, provides consistency with the Commissions adopted policy to direct municipal services away from agricultural and open space resources.

The affected territory does qualify as “open-space” under CKH given it is devoted and/or dedicated to an open-space type use under the County General Plan.

**(5) The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by G.C. Section 56016.**

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The affected territory does not qualify as “agricultural land” under CKH. Specifically, the affected territory is not used for any of the following purposes: producing an agricultural commodity for commercial purposes; left fallow under a crop rotational program; or enrolled in an agricultural subsidy program.<sup>7</sup>

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<sup>7</sup> The existing lot within the affected territory at 1501 Lucas Valley Road was under a Williamson Act contract until it was not renewed in 1985 and consequently terminated in 1995.

**(6) The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.**

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The proposal as submitted is parcel-specific and includes an entire legal lot approximately 61.3 acres in size at 1501 Lucas Valley Road and identified for assessment purposes as 164-280-35 by the County of Marin Assessor’s Office. Two recommended amendments to the proposal – one expansion and one reduction – modifies and ultimately reduces the size of the affected territory to approximately 34.3 acres. The expansion involves adding approximately 6.7 acres of the entire adjacent public right-of-way on Lucas Valley Road that parallels the property line at 1501 Lucas Valley Road and shown below. The reduction involves removing approximately 33.7 acres of 1501 Lucas Valley Road that is entirely undeveloped and unimproved and also shown below.

Commission approval would include a standard term requiring the applicant submit a map and geographic description of the approved action in conformance with the requirements of the State Board of Equalization and attesting to boundary certainty through a surveyor.

**(7) Consistency with the city or county general plans, specific plans, and adopted regional transportation plan.**

---

The County of Marin designates and zones the affected territory at 1501 Lucas Valley Road as “A1” and “A60,” respectively. Development with a single-family residence is allowed under the A1 land use designation and is a principally permitted use in the A60 zoning district. These allowances aside from the existing land use policies contemplate the affected territory as agricultural and promote ongoing commercial production therein and highlighted by prescribing 60-acre lot minimums.

Affected Territory: 1501 Lucas Valley Road	County of Marin (land use authority)
General Plan Designation	Agriculture-1
Adopted Zoning Standard	Agriculture-60
...minimum lot size	60 acres

Staff is unaware of a specific plan adopted by County for the affected territory. There is also no conflict between the proposal and the regional transportation plan established by the Metropolitan Transportation Commission in cooperation with the Transportation Authority of Marin.

**(8) The sphere of influence of any local agency affected by the proposal.**

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See preceding analysis.

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

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Staff provided notice of the bifurcated proposal as submitted to all subject agencies and other interested public agencies as required under CKH on August 14, 2014. The review included a summary of potential amendments. The following comments were received.

- **Marin Municipal Water District**  
MMWD requested the Commission terminate the proposal due to inadequate water supplies. Staff recommended the Commission amend and bifurcate the proposal to consider only the requests specific to LGVSD and defer consideration of the requests specific to MMWD to a later date.
- **County of Marin: Environmental Health**  
Environmental Health requested the Commission term any annexation approval for the proposal on the applicant/landowner apply for a permit to abandon the existing septic system serving 1501 Lucas Valley Road. The request was approved at the Commission's February 12, 2015 meeting.
- **County of Marin: Community Development**  
Community Development notes the affected territory was previously under a Williamson Act contract but purposely left to expire in 1985. The affected territory was also rezoned from A2 (1 unit per 2 acres) to A1 (1 unit per 60 acres) in 1974. No conditions or related recommendations were requested.

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

---

Information collected and reviewed as part of this proposal indicates MMWD appears to have established sufficient financial resources and controls relative to providing public sewer services to the affected territory without adversely impacting existing ratepayers. Information collected and analyzed in the Commission's Countywide Water Study (2015) concluded MMWD has developed overall adequate financial resources and controls relative to their service commitments.

**(11) Timely availability of water supplies adequate for projected needs as specified in G.C. Section 65352.5.**

---

The affected territory is currently dependent on groundwater supplies to support existing uses, including the single-family residence occupying the subject lands. The applicant states the well is underperforming and as part of the proposal requests annexation to MMWD. MMWD now states there is adequate water supplies to provide water services to the affected territory consistent with the land use and density assumptions in the annexation proposal without significant adverse impacts.

**(12) The extent to which the proposal will affect a city or cities and the county in achieving their respective fair shares of the regional housing needs as determined by the appropriate council of governments.**

---

The proposal would not impact any local agencies in accommodating regional housing needs. The affected territory is unincorporated and does not lie within any city's sphere. As a result, all current and future housing allocations by the Association of Bay Area Governments tied to the affected territory are planned and counted towards the County.

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

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The landowner of the affected territory has petitioned the proposal before the Commission. There are no voters or residents in the affected territory at this time.

**(14) Any information relating to existing land use designations.**

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See preceding analysis.

**(15) The extent to which the proposal will promote environmental justice.**

---

There is no documentation or evidence suggesting the proposal will have a measurable effect with respect to promoting environmental justice.

**(16) Whether the proposed annexation will be for the interest of the landowners or present or future inhabitants within the district and within the territory proposed to be annex to the district.**

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The proposal's request for ultimate annexation into MMWD if approved would benefit landowners and residents associated with the affected territory by providing permanent access to public water service while eliminating the potential risks of maintaining an onsite well in a developing urban area.

**MARIN LOCAL AGENCY FORMATION COMMISSION**

RESOLUTION 17-11

**MAKING DETERMINATIONS AND APPROVING AN ANNEXATION TO  
THE MARIN MUNICIPAL WATER DISTRICT**

“Lucas Valley Road No. 1 Change of Organization – Marin Municipal Water District”  
(LAFCO File No.1324)

**WHEREAS**, Andre Souang has filed a validated landowner petition with the Marin Local Agency Formation Commission, hereinafter referred to as “Commission,” pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000; and

**WHEREAS**, the proposal seeks Commission approval to annex approximately 61.3 acres of unincorporated land to the Marin Municipal Water District; and

**WHEREAS**, the affected territory represents an entire lot developed with an existing single-family residence located at 1501 Lucas Valley Road and identified by the County of Marin Assessor’s Office as 164-280-35; and

**WHEREAS**, the Commission’s Executive Officer has reviewed the proposal and prepared a report with recommendations; and

**WHEREAS**, the Executive Officer’s report and recommendations on the proposal have been presented to the Commission in the manner provided by law; and

**WHEREAS**, the Commission considered all the factors required by law under Government Code Section 56668 and adopted local policies and procedures.

**NOW, THEREFORE, THE COMMISSION DOES HEREBY RESOLVE, DETERMINE, AND ORDER** as follows:

1. The Commission’s determinations on the proposal incorporate the information and analysis provided in the Executive Officer’s written report presented on December 14, 2017.
2. The Commission serves as lead agency under the California Environmental Quality Act (CEQA) in considering the impacts of the proposal. The Commission independently finds the annexation of the affected territory to the Marin Municipal Water District is exempt from further CEQA review under California Public Resources Code Section 15319 given the lands cannot be further developed.
3. The proposal to annex the affected territory to the Marin Municipal Water District is APPROVED with the following boundary amendments:

- a) Modify the annexation boundary to include the entire public right-of-way adjacent to 1501 Lucas Valley Road that is approximately 6.7 acres in size.
  - b) Modify the annexation boundary to include only the approximate 27.6-acre portion of 1501 Lucas Valley Road that covers the existing single-family residence and improvements as prescribed.
4. The proposal approval is CONDITIONED on the following terms being satisfied within one calendar year – or December 14, 2018 – unless a prior written request for a time extension is received and approved by the Commission.
- a) Approval and completion of the concurrent sphere of influence amendment to the Marin Municipal Water District to add the entire affected territory (1501 Lucas Valley Road), including 30-day reconsideration period under Government Code Section 56895.
  - b) Completion of the 30-day reconsideration period provided under Government Code Section 56895.
  - c) An indemnification agreement signed by the applicant in a form approved by Commission Counsel.
  - d) Submittal of a final map and geographic description of the affected territory as designated by the Commission conforming to the requirements of the State Board of Equalization as determined by the County Surveyor’s Office.
  - e) Receipt of a recorded agreement between the applicant and MMWD to limit the use of public water services within the annexation area to only the existing single-family residence at 1501 Lucas Valley and any authorized second unit.
5. The proposal is assigned the following distinctive short-term designation:
- “Lucas Valley Road No. 1 Change of Organization – Marin Municipal Water District”
7. The affected territory as designated by the Commission is shown in Exhibit “A”.
8. The affected territory as designated by the Commission is uninhabited as defined in Government Code Section 56046.
9. The Commission waives conducting authority proceedings under Government Code Section 56663.
10. The Marin Municipal Water District utilizes the regular assessment roll of the County of Marin.
11. Upon effective date of the proposal, the affected territory as designated by the Commission will be subject to all previously authorized charges, fees, assessments, and taxes that were lawfully enacted by the Marin Municipal Water District. It will also be subject to all of the rates, rules, regulations, and ordinances of the Marin Municipal Water District.



12. The effective date shall be the date of recordation of the Certificate of Completion.

**PASSED AND ADOPTED** by the Marin Local Agency Formation Commission on December 14, 2017 by the following vote:

AYES: \_\_\_\_\_

NOES: \_\_\_\_\_

ABSTAIN: \_\_\_\_\_

ABSENT: \_\_\_\_\_

\_\_\_\_\_  
JEFFRY BLANCHFIELD, Chair

ATTEST:

\_\_\_\_\_  
RACHEL JONES, Interim Executive Officer

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# Marin Local Agency Formation Commission

## Regional Service Planning | Subdivision of the State of California

### AGENDA REPORT

December 14, 2017

Item No. 12 (Business / Action)

December 8, 2017

**TO:** Marin Commissioners

**FROM:** Rachel Jones, Interim Executive Officer

**SUBJECT:** **Authorization to Enter Agreement for Support Services with Alyssa Schiffmann**  
The Commission will consider authorizing the Interim Executive Officer to enter into a memorandum of understanding with Alyssa Schiffmann to provide bookkeeping and related account services through December 31, 2019 and at a total do-not-to-exceed cost of \$15,000. Staff is also seeking authorization to expire its existing contract for support services with Southern Marin Fire Protection District.

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 authorizes Local Agency Formation Commissions (LAFCOs) to enter into agreements or contracts with public and private parties for services necessary to meet their regional growth management responsibilities. All contracts and agreements are subject to compliance with LAFCO's adopted procurement policies and procedures.

### Background

At its August 11, 2016 meeting, Marin LAFCO ("Commission") approved the authorization for the Executive Officer to enter into a memorandum of understanding agreement with the Southern Marin Fire Protection District (SMFPD) to assist in implementing a new financial accounting system as well as provide initial bookkeeping services through their Finance Director Alyssa Schiffmann until the term date of December 31, 2017. The Commission's initial authorization included terming the agreement through December 31, 2016 and at a total do-not-exceed cost of \$7,500. The Commission subsequently approved amendments to the agreement to extend the term through December 31, 2017 and at a total-do-not exceed cost of \$22,500.

### Discussion

This item is for the Commission to authorize the Interim Executive Officer to enter into a memorandum of understanding with Alyssa Schiffmann to provide bookkeeping and related accounting services to Marin LAFCO, and also conclude its agreement with SMFPD set to expire on December 31, 2017. While SFMPD has provided great support services to the Commission, staff requests the Commission establish bookkeeping services with an outside vendor not subject to the conflict of interests that may arise in working with a special district in step with following LAFCO's prescribed growth management duties and responsibilities. As SFMPD's Finance Director, Ms. Schiffman has been invaluable to Marin LAFCO to date in working with staff in identifying and developing an

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City of Mill Valley

Matthew Brown, Alternate  
Town of San Anselmo

Jack Baker, Regular  
North Marin Water District

Craig K. Murray, Regular  
Las Gallinas Valley Sanitary

Lew Kious, Alternate  
Almonte Sanitary District

Jeffrey Blanchfield, Chair  
Public Member

Chris Skelton, Alternate  
Public Member

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accounting system and assisting staff in payment ratifications. Staff wishes to exclusively seek the services of Ms. Schiffmann that would be premised on a flat hourly rate of \$130.00 through December 31, 2019. It is proposed the MOU would include a do-not-exceed amount of \$15,000 (sufficient to cover 75 hours) and the following services.

- Maintain a customized chart of accounts scaled to Marin LAFCO's needs.
- Close out yearly accounts and help produce a year-end financial report
- Open up 2018-2019 accounts.
- Coordinate the documentation requirements tied to audits.
- Perform monthly reconciliation of bank statements in QuickBooks.
- Provide training to Marin LAFCO staff in QuickBooks.

The proposed MOU with Ms. Alyssa Schiffmann will ensure the Commission secures a long-term bookkeeping oversight appropriate for Marin LAFCO as contemplated in the final work plan recommended for 2017-2018. Staff has communicated the proposed MOU to Ms. Schiffmann and is agreeable to proceed subject to review by Commission Counsel.

### **Alternatives for Action**

The following alternative actions are available to the Commission.

#### Alternative Action One (Recommended)

Authorize the Interim Executive Officer to execute a MOU with Ms. Alyssa Schiffmann to provide bookkeeping services to Marin LAFCO through December 31, 2019 at a not-to-exceed cost of \$15,000.

#### Alternative Action Two

Continue consideration of this item to a future meeting and provide direction to staff with respect to providing additional information as needed.

### **Recommendation**

It is recommended the Commission proceed with Alternative Action One.

### **Procedures for Consideration**

Staff has placed this item for action as part of the business calendar. The following procedures, accordingly, are recommended with respect to the Commission's consideration.

- 1) Receive verbal report from staff (discretionary)
- 2) Invite comments from any interested audience members (voluntary); and
- 3) Discuss item and consider action on recommendation.

Respectfully,

A handwritten signature in blue ink, appearing to read "Rachel Jones", with a long horizontal flourish extending to the right.

Rachel Jones  
Interim Executive Officer

Attachments:

- 1) Memorandum of Understanding Agreement with Ms. Alyssa Schiffmann for Support Services

**MEMORANDUM OF UNDERSTANDING**  
**MARIN LOCAL AGENCY FORMATION COMMISSION AND**  
**ALYSSA SCHIFFMANN**

**Support Services**

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**I. Participants:**

This Memorandum of Understanding (MOU) is between the following agencies jointly referred hereafter as the “affected parties.”

- The Marin Local Agency Formation Commission, hereafter referred to as LAFCO, is a political subdivision of the State of California operating pursuant to California Government Code Section 56000 et seq. and providing regional growth management services in Marin County.
- Alyssa Schiffmann, hereafter referred to as Schiffmann, is an independent contractor operating pursuant to the Labor Code Section 2750.5 et seq providing bookkeeping services in Marin County.

**II. MOU Purpose**

The affected parties voluntarily desire to enter into this MOU to provide the agreed upon means in which LAFCO will contract with Schiffmann for specified support services. These services are detailed in the succeeding section and tied to assisting LAFCO in its financial accounting system managed by LAFCO through QuickBooks.

**III. MOU Commitments:**

The affected parties agree to all of the following MOU commitments:

1. Schiffmann to LAFCO:

- a) Schiffmann shall make available to LAFCO to implement, and oversee its accounting system using QuickBooks. Specific services anticipated to be provided by Ms. Schiffmann include – but not limited to – the following:
  - Maintain a customized chart of accounts in QuickBooks scaled to LAFCO’s budget and accounting needs.
  - Interface with the County of Marin in any related activity tied to the transition of LAFCO’s financial accounting to QuickBooks.
  - Help produce year-end financial reports in QuickBooks.
  - Close out and open up LAFCO’s accounts for each fiscal year in QuickBooks.
  - Coordinate the documentation requirements tied to third-party audits of LAFCO in QuickBooks.
  - Perform monthly reconciliation of bank statements for LAFCO in QuickBooks.
  - Provide training to LAFCO staff in QuickBooks.



- b) Alyssa Schiffmann shall secure prior approval from LAFCO of any needed software, equipment, or related purchase tied to this MOU.
- c) Schiffmann shall provide invoices to LAFCO identifying total number of hours worked by Alyssa Schiffmann and billed according to the hourly rates detailed in the succeeding section no less than every 60 days.

## 2. LAFCO to SCHIFMANN

- a) LAFCO agrees to pay Schiffmann an hourly rate for all services provided as part of this MOU as set below.
  - All services provided through December 31, 2019 will be billed to LAFCO based on an hourly rate of \$130.
- b) LAFCO shall be responsible for providing and/or purchasing all related software, equipment, and ancillary supplies necessary as part of this MOU.

## **IV. Maximum Billable Costs**

The affected parties agree this MOU shall be limited to a do-not-exceed cost to LAFCO of \$15,000 unless amended by both parties.

## **V. Term of MOU / Termination**

The term of this MOU is effectively immediately upon the approval by both affected parties' administrative officers as attested by their dated signatures below with a term date of December 31, 2019 unless amended by both parties. The MOU may also be immediately terminated at either parties' written request.

**VI. Authorizations**

The following signatures attest the approval of the MOU by both parties.

**LAFCO**

**SCHIFFMANN**

\_\_\_\_\_  
RACHEL JONES  
INTERIM EXECUTIVE OFFICER

\_\_\_\_\_  
ALYSSA SCHIFFMANN

\_\_\_\_\_  
DATE

\_\_\_\_\_  
DATE



# Marin Local Agency Formation Commission

## Regional Service Planning | Subdivision of the State of California

### AGENDA REPORT

December 14, 2017

Item No. 13 (Business / Discussion)

December 8, 2017

**TO:** Marin Commissioners

**FROM:** Rachel Jones, Interim Executive Officer

**SUBJECT:** **Legislative Report | End of Year Report on 2017 and Preview for 2018**

The Commission will receive an update from the Legislative Committee provided at CALAFCO's 2017 Annual Conference in San Diego as it relates to proposals impacting Local Agency Formation Commissions. The report is being presented to the Commission for discussion only.

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Local Agency Formation Commissions (LAFCOs) are political subdivisions of the State of California tasked with providing regional growth management services in all 58 counties. LAFCO's duties and powers have increasingly expanded since their creation in 1963 as more than 200 bills have been subsequently enacted with the majority addressing changes in boundary management and service provision. The substantive result of these amendments is the delineation of two distinct LAFCO responsibilities: regulating the physical development of cities and special districts and their service areas and informing such decisions through various planning activities.

### Information

This item is for Marin LAFCO ("Commission") to receive a summary of bills and related matters of interests generated as part of the first year of the Legislature 2017-18 session. It also highlights potential items to consider in the next year. Commission discussion and feedback is welcome.

The following are the final status on bills that the Commission approved during the calendar year and other bills affecting local public agencies.

### AB 464 (Gallagher) | Local Government Reorganization

Makes changes to LAFCO statutes which govern changes of organization and reorganization, including annexation proceedings.

*Approved Position: Support; Status: Passed Legislature and Signed*

### AB 979 (Lackey) | Cortese-Knox-Hertzberg Act: Special District Representation on LAFCO

Makes changes to the statutes which govern the independent special district selection committee and representation of special districts on LAFCOs

*Approved Position: Support; Status: Passed Legislature and Signed*

---

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Lew Kious, Alternate  
Almonte Sanitary District

Jeffrey Blanchfield, Chair  
Public Member

Chris Skelton, Alternate  
Public Member

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### **AB 1361 (E. Garcia) | Municipal Water Districts Service Tribes**

Authorizes a municipal water district, until January 1, 2023, to apply to a LAFCO to extend water service to Indian lands and prohibits the LAFCO from denying the application.

*Approved Position: Watch; Status: Passed Legislature and Signed*

### **AB 1725 (Assembly Local Government Committee) | Omnibus Bill**

Annual Assembly Local Government Committee Omnibus Bill that makes several minor noncontroversial changes to the Cortese-Knox-Hertzberg Act. The term “contiguous” has been redefined as ‘a territory adjacent to territory within the local agency’ to as ‘a territory that abuts or shares a common boundary with territory within a local agency.’

*Approved Position: Support; Status: Passed Legislature and Signed*

### **AB 448 (Wieckowski) | Local Government District Audits**

Requires the State Controller to publish a list of inactive special districts and establishes a process for LAFCOs to dissolve inactive special districts. The bill also requires all audits of special districts be filed with their applicable LAFCO and available for the public on the LAFCO website.

*Approved Position: Support with Amendments; Status: Passed Legislature and Signed*

Staff is represented on the CALAFCO Legislative Committee as an advisory member and will continue to monitor and track legislation that impact LAFCO or other related government agencies in coordination with CALAFCO and provide periodic updates to the Commission as the Legislature reconvenes in 2018.

### **Procedures for Consideration**

This item has been placed on the agenda as part of the business calendar. The following procedures are recommended in the consideration of this item:

1. Receive verbal report from staff;
2. Invite comments from interested audience members (voluntary); and
3. Discuss item and provide feedback as requested

Respectfully,



Rachel Jones  
Interim Executive Officer

#### Attachments:

- 1) CALAFCO Tracking Report

# CALAFCO Daily Legislative Report as of Wednesday, November 22, 2017

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**AB 464 (Gallagher R) Local government reorganization.**

**Current Text:** Chaptered: 7/10/2017 [html](#) [pdf](#)

**Introduced:** 2/13/2017

**Last Amended:** 3/14/2017

**Status:** 7/10/2017-Approved by the Governor. Chaptered by Secretary of State - Chapter 43, Statutes of 2017.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Summary:**

Under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, current law requires that an applicant seeking a change of organization or reorganization submit a plan for providing services within the affected territory that includes, among other requirements, an enumeration and description of the services to be extended to the affected territory and an indication of when those services can feasibly be extended. This bill would specify that the plan is required to also include specific information regarding services currently provided to the affected territory, as applicable, and make related changes.

**Attachments:**

- [CALAFCO Letter Requesting Governor Signature](#)
- [CALAFCO Letter of Support April 2017](#)

**Position:** Sponsor

**Subject:** Annexation Proceedings

**CALAFCO Comments:** This bill makes a fix to Gov. Code Sec. 56653 based on the court finding in the case of The City of Patterson v. Turlock Irrigation District. The court found that because the services were already being provided via an out of area service agreement, the application for annexation was deemed incomplete because it was not a new service to be provided. By making the fix in statute, any pending/future annexation for a territory that is already receiving services via an out of area service agreement will not be in jeopardy.

As amended, corrections were made to: 56653(b)(3) reading "proposed" rather than "provided", and in Government Code Section 56857 an exemption added pursuant to Public Utilities Code Section 9608 for territory already receiving electrical service under a service area agreement approved by the Public Utilities Commission pursuant to Public Utilities Code Section 9608.

**AB 979 (Lackey R) Local agency formation commissions: district representation.**

**Current Text:** Chaptered: 9/1/2017 [html](#) [pdf](#)

**Introduced:** 2/16/2017

**Last Amended:** 5/15/2017

**Status:** 9/1/2017-Approved by the Governor. Chaptered by Secretary of State - Chapter 203, Statutes of 2017.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Summary:**

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 provides for the selection of representatives of independent special districts on each local agency formation commission by an independent special district selection committee pursuant to a nomination and election process. This bill would additionally require the executive officer to call and hold a meeting of the special district selection committee upon the adoption of a resolution of intention by the committee relating to proceedings for representation of independent special districts upon the commission pursuant to specified law.

**Attachments:**

- [CALAFCO Request Governor Signature August 2017](#)
- [CALAFCO Sponsor/Support Letter April 2017](#)

**Position:** Sponsor

**Subject:** CKH General Procedures

**CALAFCO Comments:** This bill is co-sponsored by CALAFCO and CSDA. As amended, the bill amends

code Sec. 56332.5 to streamline the process of seating special districts on LAFCo by mirroring current statute 56332 (the process for electing special district representatives into the special district seats). Keeping the process voluntary, it allows for voting by mail whether or not the district wants to have special districts represented on LAFCo. Further, it will allow for the consolidation of that question with the independent special district selection committee appointment to a countywide redevelopment agency oversight board pursuant to Health and Safety Code 34179 (j)(3).

**AB 1361 (Garcia, Eduardo D) Municipal water districts: water service: Indian tribes.**

**Current Text:** Chaptered: 10/3/2017 [html](#) [pdf](#)

**Introduced:** 2/17/2017

**Last Amended:** 9/8/2017

**Status:** 10/3/2017-Approved by the Governor. Chaptered by Secretary of State - Chapter 449, Statutes of 2017.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Summary:**

The Municipal Water District Law of 1911 provides for the formation of municipal water districts and grants to those districts specified powers. Current law permits a district to acquire, control, distribute, store, spread, sink, treat, purify, recycle, recapture, and salvage any water for the beneficial use of the district, its inhabitants, or the owners of rights to water in the district. Current law, upon the request of certain Indian tribes and the satisfaction of certain conditions, requires a district to provide service of water at substantially the same terms applicable to the customers of the district to the Indian tribe's lands that are not within a district, as prescribed. This bill would authorize a district to apply to the applicable local agency formation commission to provide this service of water to Indian lands, as defined, that are not within the district.

**Attachments:**

[CALAFCO Oppose letter 09 01 17](#)

[CALAFCO Oppose letter 07 12 17](#)

**Position:** Oppose

**Subject:** Water

**CALAFCO Comments:** As amended, this bill allows water districts to provide service to an Indian tribe's lands that are not within the district boundaries without going through the current statutory process of approval by the local agency formation commission (LAFCo). Amendments were taken by the author during the Senate Governance and Finance Committee hearing July 19 that include LAFCo's ability to apply certain terms and conditions to the application by the water agency and limits the land to be served to lands in trust. However, CALAFCO still has a number of concerns and will continue to work with the author and sponsor.

**AB 1725 (Committee on Local Government) Local agency formation.**

**Current Text:** Chaptered: 9/28/2017 [html](#) [pdf](#)

**Introduced:** 3/20/2017

**Last Amended:** 7/20/2017

**Status:** 9/28/2017-Approved by the Governor. Chaptered by Secretary of State - Chapter 353, Statutes of 2017.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Summary:**

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 provides the exclusive authority and procedure for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts, as specified. The act defines various terms for these purposes, including the term "contiguous," which the act defines as territory adjacent to territory within the local agency. This bill would instead define "contiguous" as territory that abuts or shares a common boundary with territory within a local agency.

**Attachments:**

[CALAFCO Letter Requesting Governor Signature](#)

[CALAFCO Letter of Support April 2017](#)

**Position:** Sponsor

**Subject:** CKH General Procedures

**CALAFCO Comments:** This is the annual Omnibus bill. The bill makes only minor, non-substantive technical changes to CKH.

**SB 37 (Roth D) Local government finance: property tax revenue allocations: vehicle license fee adjustments.**

**Current Text:** Introduced: 12/5/2016 [html](#) [pdf](#)

**Introduced:** 12/5/2016

**Status:** 5/26/2017-Failed Deadline pursuant to Rule 61(a)(5). (Last location was APPR. SUSPENSE FILE on 5/25/2017)(May be acted upon Jan 2018)

Desk	Policy	2 year	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Summary:**

Beginning with the 2004–05 fiscal year and for each fiscal year thereafter, existing law requires that each city, county, and city and county receive additional property tax revenues in the form of a vehicle license fee adjustment amount, as defined, from a Vehicle License Fee Property Tax Compensation Fund that exists in each county treasury. Current law requires that these additional allocations be funded from ad valorem property tax revenues otherwise required to be allocated to educational entities. This bill would modify these reduction and transfer provisions for a city incorporating after January 1, 2004, and on or before January 1, 2012, for the 2017–18 fiscal year and for each fiscal year thereafter, by providing for a vehicle license fee adjustment amount calculated on the basis of changes in assessed valuation.

**Attachments:**

[CALAFCO Support Letter Feb 2017](#)

**Position:** Support

**Subject:** Financial Viability of Agencies, Tax Allocation

**CALAFCO Comments:** This bill is identical to SB 817 (Roth, 2016), SB 25 (Roth, 2015) and SB 69 (Roth, 2014) with the exception of the chaptering out language included in the 2016 version (which addressed the companion bill AB 2277 (Melendez, 2016)). The bill calls for reinstatement of the VLF through ERAF for cities that incorporated between January 1, 2004 and January 1, 2012. There are no provisions for back payments for lost revenue, but the bill does reinstate future payments beginning in the 2017/18 year for cities that incorporated between 1-1-2004 and 1-1-2012.

**SB 448 (Wieckowski D) Local government: organization: districts.**

**Current Text:** Chaptered: 9/27/2017 [html](#) [pdf](#)

**Introduced:** 2/15/2017

**Last Amended:** 7/17/2017

**Status:** 9/27/2017-Approved by the Governor. Chaptered by Secretary of State. Chapter 334, Statutes of 2017.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Summary:**

Current law requires a report of an audit of a special district's accounts and records made by a certified public accountant or public accountant to be filed with the Controller and the county auditor of the county in which the special district is located within 12 months of the end of the fiscal year or years under examination. This bill would instead require special districts defined by a specified provision to file those audit reports with the Controller and special districts defined by another specified provision to file those audit reports with the Controller and with the local agency formation commission of either the county in which the special district is located or, if the special district is located in 2 or more counties, with each local agency formation commission within each county in which the district is located.

**Attachments:**

[CALAFCO Support Letter July 2017](#)

[CALAFCO Oppose Unless Amended Letter](#)

**Position:** Support

**Subject:** CKH General Procedures

**CALAFCO Comments:** As amended on July 17, this bill authorizes LAFCo to dissolve inactive districts (after determining they meet the criteria set forth in the statute) by holding one hearing, without conducting a special study and with the waiver of protest proceedings. The State Controller is required to notify LAFCo when a district is inactive. LAFCo then has 90 days to initiate dissolution, and another 90 days in which to hold the hearing to dissolve. Should the LAFCo determine the district does not meet the criteria, no dissolution occurs and LAFCo notifies the Controller the district is not inactive. Should the LAFCo determine the district does meet the criteria then it is ordered to be dissolved. The bill also requires a district to provide LAFCo with their audits at the same time they provide them to the Controller.

All of our issues have been resolved with the current version and as a result our position has been changed from Oppose Unless Amended to Support.

**AB 267 (Waldron R) Community services districts.****Current Text:** Introduced: 2/1/2017 [html](#) [pdf](#)**Introduced:** 2/1/2017**Status:** 5/12/2017-Failed Deadline pursuant to Rule 61(a)(3). (Last location was PRINT on 2/1/2017)(May be acted upon Jan 2018)

2 year	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Summary:**

Current law provides for the organization and powers of community services districts, including the continuation of any community services district, improvement district of a community services district, or zone of a community services district, that was in existence on January 1, 2006. This bill would make nonsubstantive changes to these provisions.

**Position:** Watch**CALAFCO Comments:** According to the author's office this is a spot bill.**AB 548 (Steinorth R) Omnitrans Transit District.****Current Text:** Amended: 4/4/2017 [html](#) [pdf](#)**Introduced:** 2/14/2017**Last Amended:** 4/4/2017**Status:** 4/28/2017-Failed Deadline pursuant to Rule 61(a)(2). (Last location was TRANS. on 3/23/2017)(May be acted upon Jan 2018)

Desk	2 year	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Summary:**

Would create the Omnitrans Transit District in the County of San Bernardino. The bill would provide that the jurisdiction of the district would initially include the Cities of Chino, Chino Hills, Colton, Fontana, Grand Terrace, Highland, Loma Linda, Montclair, Ontario, Rancho Cucamonga, Redlands, Rialto, San Bernardino, Upland, and Yucaipa, and unspecified portions of the unincorporated areas of the County of San Bernardino. The bill would authorize other cities in the County of San Bernardino to subsequently join the district.

**Position:** None at this time**CALAFCO Comments:** This bill, as amended, appears to dissolve the Omnitrans JPA and form a new independent special district to be known as the Omnitrans Transit District. The formation process does not include LAFCo. CALAFCO is reaching out to the author's office for more details.**AB 577 (Caballero D) Disadvantaged communities.****Current Text:** Amended: 3/9/2017 [html](#) [pdf](#)**Introduced:** 2/14/2017**Last Amended:** 3/9/2017**Status:** 4/28/2017-Failed Deadline pursuant to Rule 61(a)(2). (Last location was E.S. & T.M. on 2/27/2017)(May be acted upon Jan 2018)

Desk	2 year	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Summary:**

Current law defines a disadvantaged community as a community with an annual median household income that is less than 80% of the statewide annual median household income for various purposes, that include, but are not limited to, the Water Quality, Supply, and Infrastructure Improvement Act of 2014, eligibility for certain entities to apply for funds from the State Water Pollution Cleanup and Abatement Account, and authorization for a community revitalization and investment authority to carry out a community revitalization plan. This bill would expand the definition of a disadvantaged community to include a community with an annual per capita income that is less than 80% of the statewide annual per capita income.

**Position:** Watch**Subject:** Disadvantaged Communities**CALAFCO Comments:** Sponsored by the Environmental Justice Coalition for Water, this bill is intended to expand the definition of disadvantaged communities to include multi-family households. According to the author's office this will be a two-year bill. CALAFCO will retain a Watch position until any amendments



are in print.

**AB 645 (Quirk D) Local government: organization: dissolution.**

**Current Text:** Introduced: 2/14/2017 [html](#) [pdf](#)

**Introduced:** 2/14/2017

**Status:** 5/12/2017-Failed Deadline pursuant to Rule 61(a)(3). (Last location was L. GOV. on 3/2/2017)(May be acted upon Jan 2018)

Desk	2 year	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Summary:**

Under current law, if a change of organization consists of a dissolution, the commission is required to order the dissolution subject to confirmation of voters if, among other things, the proposal was not initiated by the commission and if a subject agency has not objected to the proposal, the commission has found that, for an inhabited territory protests have been signed by either 25% of the number of landowners within the affected territory who own at least 25% of the assessed value of land within the territory or 25% of the voters entitled to vote as a result of residing or owning land within the affected territory. This bill would decrease that threshold to 10% of the number of landowners within the affected territory who own at least 25% of the assessed value of land within the territory or 10% of the voters entitled to vote as a result of residing or owning land within the affected territory.

**Position:** Watch

**Subject:** CKH General Procedures, Disincorporation/dissolution, Special District Consolidations

**CALAFCO Comments:** According to the author's office this is a spot bill pending the outcome of the Alameda LAFCo special study on Eden Healthcare District. Update: The author's office indicates they will hold off moving this bill. CALAFCO will continue to Watch.

**AB 892 (Waldron R) Municipal water districts: water service: Indian tribes.**

**Current Text:** Amended: 3/23/2017 [html](#) [pdf](#)

**Introduced:** 2/16/2017

**Last Amended:** 3/23/2017

**Status:** 5/12/2017-Failed Deadline pursuant to Rule 61(a)(3). (Last location was L. GOV. on 3/23/2017)(May be acted upon Jan 2018)

Desk	2 year	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Summary:**

Current law, upon the request of certain Indian tribes and the satisfaction of certain conditions, requires a district to provide service of water at substantially the same terms applicable to the customers of the district to the Indian tribe's lands that are not within a district, as prescribed. This bill would authorize, rather than require, a district to provide this service of water. The bill would apply this authorization to all Indian tribes whose lands are owned by the tribe.

**Position:** Watch

**Subject:** Water

**CALAFCO Comments:** According to the author's office, this may very well become a two-year bill. The intent of the bill was to make it permissive for an Indian tribe to negotiate directly with a water provider to obtain water services. This would circumvent LAFCo. This bill expands on last year's bill by Gonzalez-Fletcher, AB 2470. The author's office has indicated the bill will not move forward in it's current version. They understand CALAFCO's concerns. CALAFCO will continue to monitor the bill for any amendments and will consider a position if/when amendments are in print.

**AB 1479 (Bonta D) Public records: custodian of records: civil penalties.**

**Current Text:** Vetoed: 10/13/2017 [html](#) [pdf](#)

**Introduced:** 2/17/2017

**Last Amended:** 9/1/2017

**Status:** 10/13/2017-Vetoed by Governor.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Summary:**

Would, until January 1, 2023, require public agencies to designate a person or persons, or office or offices to act as the agency's custodian of records who is responsible for responding to any request made pursuant to the California Public Records Act and any inquiry from the public about a decision by the agency to deny a request for records. The bill also would make other conforming changes. Because the bill would require local agencies to perform additional duties, the bill would impose a state-mandated local program.

**Position:** Oppose

**Subject:** Public Records Act

**CALAFCO Comments:** As amended this bill requires any public agency to designate a person/office to act as the agency's custodian of records who will be responsible for responding to all public records requests and to respond to an inquiries as to why the agency denied the request for records. Further the bill adds a failure to respond for records or an improperly assessed fee can be considered a civil penalty and allows the courts to issue fines ranging from \$1000 - \$5000.

**AB 1728 (Committee on Local Government) Health care districts: board of directors.**

**Current Text:** Chaptered: 9/23/2017 [html](#) [pdf](#)

**Introduced:** 3/22/2017

**Status:** 9/23/2017-Approved by the Governor. Chaptered by Secretary of State - Chapter 265, Statutes of 2017.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Summary:**

Each health care district has a board of directors with specific duties and powers respecting the creation, administration, and maintenance of the district, including purchasing, receiving, having, taking, holding, leasing, using, and enjoying property. This bill would require the board of directors to adopt an annual budget in a public meeting, on or before September 1 of each year, that conforms to generally accepted accounting and budgeting procedures for special districts, establish and maintain an Internet Web site that lists contact information for the district, and adopt annual policies for providing assistance or grant funding, if the district provides assistance or grants.

**Attachments:**

[AB 1728 CALAFCO Letter of Support](#)

**Position:** Support

**Subject:** Other

**CALAFCO Comments:** As introduced, this bill requires healthcare districts to adopt annual budgets, establish and maintain a website (and prescribes the required site content), and adopt policies for grant funding.

**SB 206 (Committee on Governance and Finance) Validations.**

**Current Text:** Chaptered: 7/10/2017 [html](#) [pdf](#)

**Introduced:** 2/1/2017

**Status:** 7/10/2017-Approved by the Governor. Chaptered by Secretary of State. Chapter 57, Statutes of 2017.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Summary:**

This bill would enact the First Validating Act of 2017, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities. This bill contains other related provisions.

**Attachments:**

[CALAFCO Letter Requesting Governor Signature 06 26 17](#)

[CALAFCO Support Feb 2017](#)

**Position:** Support

**Subject:** LAFCo Administration

**CALAFCO Comments:** One of three annual acts which validate the boundaries of all local agencies.

**SB 207 (Committee on Governance and Finance) Validations.**

**Current Text:** Chaptered: 7/10/2017 [html](#) [pdf](#)

**Introduced:** 2/1/2017

**Status:** 7/10/2017-Approved by the Governor. Chaptered by Secretary of State. Chapter 58, Statutes of 2017.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Summary:**

This bill would enact the Second Validating Act of 2017, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities. This bill contains other related provisions.

**Attachments:**

[CALAFCO Letter Requesting Governor Signature 06 26 17](#)  
[CALAFCO Support Feb 2017](#)

**Position:** Support

**Subject:** LAFCo Administration

**CALAFCO Comments:** One of three annual acts which validate the boundaries of all local agencies.

**[SB 208](#) (Committee on Governance and Finance) Validations.**

**Current Text:** Chaptered: 7/10/2017 [html](#) [pdf](#)

**Introduced:** 2/1/2017

**Status:** 7/10/2017-Approved by the Governor. Chaptered by Secretary of State. Chapter 59, Statutes of 2017.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Summary:**

This bill would enact the Third Validating Act of 2017, which would validate the organization, boundaries, acts, proceedings, and bonds of the state and counties, cities, and specified districts, agencies, and entities.

**Attachments:**

[CALAFCO Letter Requesting Governor Signature 06 26 17](#)  
[CALAFCO Support Letter Feb 2017](#)

**Position:** Support

**Subject:** LAFCo Administration

**CALAFCO Comments:** One of three annual acts which validate the boundaries of all local agencies.

**[SB 365](#) (Dodd D) Regional park and open-space districts: County of Solano.**

**Current Text:** Chaptered: 9/1/2017 [html](#) [pdf](#)

**Introduced:** 2/14/2017

**Last Amended:** 7/13/2017

**Status:** 9/1/2017-Approved by the Governor. Chaptered by Secretary of State. Chapter 216, Statutes of 2017.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Summary:**

Current law authorizes proceedings for the formation of a regional park and open-space or regional open-space district in specified counties in the state to be initiated by resolution of the county board of supervisors adopted after a noticed hearing, and specifies the contents of the resolution. This bill, in addition, would authorize the formation of a regional district in the County of Solano to be initiated by resolution of the county board of supervisors after a noticed hearing. The bill would specify the contents of the resolution, including a requirement that the resolution call an election, as prescribed.

**Attachments:**

[SB 365 CALAFCO Letter of Oppose 03 28 17](#)

**Position:** Oppose

**Subject:** LAFCo Administration

**CALAFCO Comments:** This bill calls for the formation of a regional park and open space district which will circumvent the LAFCo formation process.

**[SB 435](#) (Dodd D) Williamson Act: payments to local governments.**

**Current Text:** Amended: 5/2/2017 [html](#) [pdf](#)

**Introduced:** 2/15/2017

**Last Amended:** 5/2/2017

**Status:** 5/25/2017-May 25 hearing: Held in committee and under submission.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Summary:**

Would, under the Williamson act, reduce the amount per acre paid to a city, county, or city and county under these provisions to \$2.50 for prime agricultural land, \$0.50 for all other land devoted to open-space uses of statewide significance, and, for counties that have adopted farmland security zones, \$4 for land that is within, or within 3 miles of the sphere of influence of, each incorporated city.

**Attachments:**

**Position:** Support

**Subject:** Ag Preservation - Williamson

**CALAFCO Comments:** This bill renews partial subvention funding for the Williamson Act as a fiscal incentive to lift contract moratoria, implements solar use easements and Farmland Security Zone Contracts, and increases subvention funding for counties that adopt conservation planning strategies for agriculturally zoned property that further our state's sustainable community goals.

**SB 522 (Glazer D) West Contra Costa Healthcare District.**

**Current Text:** Amended: 9/12/2017 [html](#) [pdf](#)

**Introduced:** 2/16/2017

**Last Amended:** 9/12/2017

**Status:** 9/15/2017-Withdrawn from committee. Re-referred to Com. on RLS.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Summary:**

Current law provides for the formation of local health care districts and specifies district powers. Under existing law, the elective officers of a local hospital district consist of a board of hospital directors consisting of 5 members, each of whom is required to be a registered voter residing in the district and whose term shall be 4 years, except as specified. This bill would dissolve the existing elected board of directors of the West Contra Costa Healthcare District, effective January 1, 2019, and would require the Board of Supervisors of the County of Contra Costa, at its election, to either serve as the district board or appoint a district board, as specified.

**Position:** Watch

**Subject:** Special Districts Governance

**SB 623 (Monning D) Water quality: Safe and Affordable Drinking Water Fund.**

**Current Text:** Amended: 8/21/2017 [html](#) [pdf](#)

**Introduced:** 2/17/2017

**Last Amended:** 8/21/2017

**Status:** 9/1/2017-From committee: Without recommendation. (Ayes 11. Noes 0.) (September 1) Re-referred to Com. on RLS.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Summary:**

Would establish the Safe and Affordable Drinking Water Fund in the State Treasury and would provide that moneys in the fund are continuously appropriated to the State Water Resources Control Board. The bill would require the board to administer the fund to secure access to safe drinking water for all Californians, while also ensuring the long-term sustainability of drinking water service and infrastructure. The bill would authorize the state board to provide for the deposit into the fund of federal contributions, voluntary contributions, gifts, grants, bequests, and settlements from parties responsible for contamination of drinking water supplies.

**Position:** None at this time

**Subject:** Water

**SB 634 (Wilk R) Santa Clarita Valley Water Agency.**

**Current Text:** Chaptered: 10/16/2017 [html](#) [pdf](#)

**Introduced:** 2/17/2017

**Last Amended:** 9/8/2017

**Status:** 10/15/2017-Approved by the Governor. Chaptered by Secretary of State. Chapter 833, Statutes of 2017.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Summary:**

Current law, the Castaic Lake Water Agency Law, created the Castaic Lake Water Agency and authorizes the agency to acquire water and water rights, including water from the State Water Project, and to provide, sell, and deliver water at wholesale for municipal, industrial, domestic, and other purposes. This bill would repeal the Castaic Lake Water Agency Law.

**Attachments:**

[CALAFCO Letter Removing Opposition 06 26 17](#)

**Position:** Neutral

**Subject:** Special District Consolidations

**CALAFCO Comments:** As amended, this bill consolidates two independent water districts in Los Angeles. The bill was amended to include LAFCo in the process via an application for binding conditions. As statute does not allow the local LAFCo to deny the application when both district boards have adopted resolutions of support, the amendments of May 26 address all of CALAFCO's concerns. As a result CALAFCO has removed our opposition and now is neutral on the bill.

**SB 693 (Mendoza D) Lower San Gabriel River Recreation and Park District.**

**Current Text:** Chaptered: 10/3/2017 [html](#) [pdf](#)

**Introduced:** 2/17/2017

**Last Amended:** 7/3/2017

**Status:** 10/3/2017-Approved by the Governor. Chaptered by Secretary of State. Chapter 466, Statutes of 2017.

Desk	Policy	Fiscal	Floor	Desk	Policy	Fiscal	Floor	Conf. Conc.	Enrolled	Vetoed	Chaptered
1st House				2nd House							

**Summary:**

Would specifically authorize the establishment of the Lower San Gabriel River Recreation and Park District, by petition or resolution submitted to the Los Angeles County Local Agency Formation Commission before January 1, 2020, subject to specified existing laws governing recreation and park districts, including their formation, except as provided. The bill would authorize specified city councils and the Los Angeles County Board of Supervisors to appoint members to, and the executive officer of the conservancy to serve as a member on, the initial board of directors of the district.

**Position:** Watch

**Subject:** LAFCo Administration

**CALAFCO Comments:** This bill forms the Lower San Gabriel River Recreation and Park District while leaving a majority of the LAFCo process intact. CALAFCO will keep watching to ensure it stays that way.

Total Measures: 22

Total Tracking Forms: 22

11/22/2017 1:19:08 PM

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# Marin Local Agency Formation Commission

## Regional Service Planning | Subdivision of the State of California

### AGENDA REPORT

December 14, 2017

Item No. 14 (Business / Action)

December 8, 2017

**TO:** Marin Commissioners

**FROM:** Technical / Information Committee  
Rachel Jones, Interim Executive Officer

**SUBJECT:** **Adoption of Social Media Policies and Protocols**

The Commission will consider adopting policies involving the use of social media accounts as it relates to effective communication with local governmental agencies and the public.

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Local Agency Formation Commissions (LAFCOs) are political subdivisions of the State of California responsible for regulating the physical formation and development of local governmental agencies and their municipal service areas under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (“CKH”). Commonly exercised regulatory actions through various planning activities, namely preparing municipal service reviews and sphere of influence updates. CKH specifies all actions undertaken by LAFCOs be consistent with their written policies and procedures.

### Background

Marin LAFCO (“Commission”) has a professional need for an online presence to supplement its traditional communication methods. This need primarily stems from public demand and the rapid growth of social media communications by other local, state, and federal government entities as a means to enhance constituent outreach and communications. Staff intends to use social media as a tool to increase LAFCO’s ability to reach the widest possible audience. These policies intend to outline the best practices where possible as part of Commission’s adopted work plan for 2017-2018.

### Discussion

This item is for the Commission to consider adopting policies related to social media procedures and related protocols to help guide the implementation of public outreach through social media accounts. These policies have been drawn from review of best practices among other local agencies. If the policies should be approved, staff will appropriately incorporate the additions into the Policy Handbook through the Policy Committee.

### **Alternatives for Action**

The following alternatives are available to the Commission:

#### Alternative One (Recommended):

- 1) Accept the attached draft policies with any desired changes; and
- 2) Direct the Policy Committee to appropriately incorporate and place the approved policies into the Policy Handbook.

#### Alternative Two:

Continue consideration of the item to the next regular meeting and provide direction to staff for additional information as needed.

### **Recommendation**

Staff recommends proceeding with the action identified as Alternative Action One as summarized in the preceding section.

Respectfully,



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Rachel Jones  
Interim Executive Officer

#### Attachments:

- 1) Draft Policies on Practices and Procedures for Social Media Accounts



**MARIN COUNTY  
LOCAL AGENCY FORMATION COMMISSION**



**SOCIAL MEDIA  
USE, POLICY, AND PROCEDURE**

## I. PURPOSE

Marin Local Agency Formation Commission (LAFCO) has a professional need for an online presence to supplement its traditional communication methods. This need primarily stems from public demand and the rapid growth of social media communications by other local, state and federal government entities as a means to enhance constituent outreach and communications. The Commission intends to use social media as a tool to increase LAFCO's ability to reach the widest possible audience. This document establishes the Commission's social media use policies, protocols, and procedures intended to outline best practices where possible.

## II. APPLICABILITY

The policy applies to all employees, interns, service providers and contractors performing business on behalf of the Commission.

## II. POLICY

The same standards, principles and guidelines that apply to LAFCO employees in the performance of their assigned duties apply to employee social media technology use. The Commission reserves the right to change, modify or amend all or part of the policy at any time.

LAFCO's social media sites shall comply with all appropriate LAFCO policies and procedures and are subject to the California Public Records Act. Any content maintained on LAFCO social media sites may be considered public record and subject to public disclosure.

LAFCO's official website at [marinlafco.org](http://marinlafco.org) (or any domain owned by LAFCO) will remain as LAFCO's primary means of internet communication. The Executive Officer or designee will be responsible for the content and monitoring of all LAFCO social media sites. The Executive Officer or designee is responsible for determining who is authorized to use social media on behalf of the agency and for assigning appropriate access levels.

- Users and visitors to LAFCO's social media sites shall be notified that the intended purpose of the site is to serve as a means of communication for LAFCO. LAFCO's social media site articles, posts and comments shall conform to all of LAFCO's content policies. Users shall be informed by posting to the LAFCO's social media sites that LAFCO disclaims any and all responsibility and liability for any materials that LAFCO deems inappropriate for posting, which cannot be removed in an expeditious and otherwise timely manner. LAFCO reserves the right to restrict or remove any content that is deemed in

violation of this policy or any applicable law.

### III. PROCEDURES

#### A. LAFCO Social Media Technology Use

LAFCO use of social media shall conform to the policies, protocols and procedures contained, or referenced herein.

1. Comply with all applicable federal and state laws, regulations and policies including, but may not be limited to copyright, records retention, California Public Records Act, and privacy laws.
2. LAFCO is responsible for the creation, administration and deactivation of social media accounts. All content is to be fully accessible to any person requesting documents from the social media site. Content deemed inappropriate or technically destructive shall be promptly documented and then removed immediately. Individuals who post inappropriate content shall be removed.
3. Employees representing LAFCO on social media accounts shall act in accordance with all LAFCO policies and procedures and conduct themselves accordingly.
4. Authorized users or designated employees of LAFCO social media accounts shall be provided a copy of the social media policies and procedures and are required to acknowledge the terms with his or her signature.
5. These guidelines must be displayed to users or made available by hyperlink. Any content removed based on these guidelines must be retained, including the time, date and identity of the poster when in accordance with LAFCO's policy on the retention of such information.
6. LAFCO social media accounts will be shut down in the event of a security breach or attack.

#### B. Administrator

Access to LAFCO social media accounts is limited to the Executive Officer and designated staff members performing official LAFCO business.

1. LAFCO computers, laptops and mobile devices used to access social media accounts shall have current software to protect against destructive technical

incidents, including but may not be limited to, cyber, virus and spyware/adware attacks.

2. The Executive Officer shall maintain a list of social media tools, as approved by the Commission, that shall be kept and updated by designated LAFCO staff members. The Executive Officer or designee will maintain a list of LAFCO's login and password information.
3. Account password information shall only be shared with authorized staff that has been designated by the Executive Officer to fulfill the role of site account administrator.
4. Account passwords shall be promptly reset when an employee is removed as an account administrator.
5. Social media networks will be reviewed and determined appropriate for LAFCO use by the Executive Officer with consultation from Commission Counsel when appropriate.
6. LAFCO social media accounts shall be monitored weekly by the Executive Officer or designated employee.

### **C. Official Social Media Accounts**

1. The Executive Officer is responsible for maintaining the list of approved social media networks and site related usage standards.
2. Social media accounts shall be created using an official LAFCO email account.
3. LAFCO shall have only one official social media account for any social media platform (e.g., Youtube, Facebook, Twitter).
4. LAFCO social media accounts shall display, or provide a link to, LAFCO's social media disclaimer and any applicable policies.

### **D. Site Content**

It is not intended to use social media sites in a way that guarantees the right to protected free speech. LAFCO has the authority to taking action when necessary to protect general site visitors from inappropriate or technically harmful information.

1. Social media sites shall bear the name and official logo of LAFCO. LAFCO social media sites may contain content, including but not limited to, advertisements

or hyperlinks over which LAFCO has no control. LAFCO does not endorse any hyperlink or advertisement placed on its social media accounts by the website owners, vendors or partners.

2. The Executive Officer or designee shall not express his or her own personal views or concerns through LAFCO's social media accounts. Content on any LAFCO social media accounts by the Executive Officer or designee shall only reflect the views of the Commission.
3. Content may NOT contain any personal information, except for the names and duties of its staff.
4. Social media sites that allow public comment shall inform visitors of the intended purpose of the site and provide a clear statement of the discussion topic introduced for public comment so that the public is aware of the limited nature of the discussion and that inappropriate posts are subject to removal, including but not limited to the following types of postings regardless of format (text, video, images, links, documents, etc.): comments not topically related; profane language or content; content that promotes, fosters or perpetuates discrimination on the basis of race creed, color, age, religion, gender, marital status, status with regards to public assistance, national origin, physical or mental disability or sexual orientation; sexual content or links to sexual content; solicitations of commerce; conduct or encouragement of illegal activity; information that may tend to compromise the safety or security of the public or public systems; content that violates a legal ownership interest of any other party.
5. The Executive Officer or designated employee will create clear and concise announcements on its social media accounts, share LAFCO-related links and articles, and post messages in a manner consistent with LAFCO's mission.

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# Marin Local Agency Formation Commission

## Regional Service Planning | Subdivision of the State of California

### AGENDA REPORT

December 14, 2017

Item No. 15 (Business / Action)

December 8, 2017

**TO:** Marin Commissioners

**FROM:** Rachel Jones, Interim Executive Officer  
Policy Committee

**SUBJECT:** **Appointment of Commission Counsel | Agreement**

The Commission will receive a report back from the Policy Committee (Blanchfield, Baker and Connolly) with respect to the review of submittals received as part of a formal request for proposals on legal services for Marin LAFCO. This is expected to include the recommendation for the Commission to enter into an agreement with the top selected candidate at specified costs and terms. A separate agenda report on this item outlining review results of the three finalists will be issued prior to the December 14<sup>th</sup> meeting date.

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The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (“CKH”) authorizes Local Agency Formation Commissions (LAFCOs) to enter into agreements or contracts with public and private parties for services necessary to meet its regional growth and management responsibilities.

### Background

Marin LAFCO’s (“Commission”) current work plan was adopted at a noticed public hearing held on June 8, 2017. The work plan was prepared in step with the fiscal year budget and serves as a management tool to allocate Commission resources consistent with members’ collective preferences as well as measure performance over the affected twelve months. This includes, notably, a high-priority project to enter into a contract to provide legal representation to the Commission and its staff and serve as “Commission Counsel” as provided under Government Code Section 56384(b).

### Request for Proposals

Consistent with the adopted work plan staff prepared and circulated a request for proposals (RFP) on November 6, 2017. The RFP was circulated to a vendor list developed by staff, the Policy Committee, and in consultation with other governmental agencies that had recently performed their own bid process with a submittal deadline of November 30<sup>th</sup>. The RFP – and in addition to outlining specific proposal criteria made explicit the underlying needs to support Marin LAFCO’s prescribed growth management duties.

## Submitted Proposals

Marin LAFCO ultimately received three proposals by November 30<sup>th</sup> deadline. All three proposals were reviewed by the Policy Committee (Blanchfield, Baker, and Connolly) relative to the criteria outlined in the RFP. The Committee selected all three candidates to proceed with the second phase of the selection process, interviews. These selected firms are identified by their company location along with their associated proposal costs below.

Finalists		
Location	Proposed Rates	Reimbursements
Grass Valley, CA	\$200 per hour	Yes
San Rafael, CA	\$220 per hour	Only Travel
Walnut Creek, CA	\$285 per hour	Yes

The Committee anticipates completing the selection process by Monday, December 11<sup>th</sup>.

### Discussion

This item is for the Commission to receive a report back from the Committee with respect to the results of the selection process. A separate agenda report outlining proposal submittals and related scoring for the three finalists will be presented to the Commission along with a Committee recommendation prior to the December 14<sup>th</sup> meeting date.

### Alternatives for Action

The following alternative actions are available to the Commission.

#### Alternative Action One (Recommended)

Upon consideration of the Committee's report and recommendation therein provide authorization to the Executive Officer to enter into a contract with one of the three finalist and specific to any terms identified by the membership.

#### Alternative Action Two

Continue consideration of this item to a future meeting and provide direction to the Committee and or staff with respect to providing additional information as needed.

#### Alternative Action Three

Take no action.

### Recommendation

It is recommended the Commission proceed with Alternative Action One.

### Procedures for Consideration

This item has been placed on the agenda for action as part of the business calendar. The following procedures are recommended with respect to Commission consideration:

- 1) Receive verbal report from staff (discretionary)



- 2) Invite comments from any interested audience members (volunatry); and
- 3) Discuss item and consider action on recommendation.

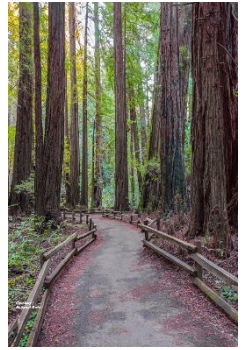
Respectfully,

A handwritten signature in blue ink, appearing to read "Rachel Jones", with a stylized flourish at the end.

Rachel Jones  
Interim Executive Officer

Attachments:

- 1) RFP for Legal Services



## REQUEST FOR PROPOSALS | LEGAL COUNSEL

**Issuance Date** | Monday, November 6, 2017

**Submittal Deadline** | Thursday, November 30, 2017

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## I. Proposal Overview

The Marin Local Agency Formation Commission (LAFCO) is requesting proposals from qualified firms and individual attorneys to enter into a contract to provide legal representation to the Commission and its staff and serve as “Commission Counsel” as provided under Government Code Section 56384(b). The successful firm or individual should be familiar with the function and purpose of LAFCOs and knowledge of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. The successful firm or individual should also have expertise in public agency law including experience in administrative, transactional and litigation matters, statutory compliance, contracting, environmental issues (CEQA), personnel and employment, land use, planning and zoning law and other legal issues routinely faced by public agencies. Ideally, the firm or individual should have experience in advising public officials, administrators, and employees on the complex and frequently changing laws pertaining to local government administration, organization, and regulation. Experience and expertise in open meeting requirements (the Brown Act), records requests (the Public Records Act), ethics and conflicts of interest, and intergovernmental relations is essential.

Marin LAFCO’s current Commission Counsel is an appointee from the County of Marin County Counsel’s Office. This current arrangement has served Marin LAFCO well but increasingly subject to conflict and in particular perceptions therein, and as such an outside Commission Counsel appointment is desired. Commission Counsel will report directly to the Commission with the expectation the firm or individual successfully partner with the Executive Officer in proactively meeting the needs of Marin LAFCO.

Payment for legal services will be based on an approved hourly rate. It is expected the average monthly demand on Commission Counsel will range from 10 to 15 hours. Key duties include, but not limited to, regularly consulting with staff, reviewing agenda materials, preparing resolutions, approving contracts, and – as needed – attending regular and special meetings of Marin LAFCO. Firms or individuals, are encouraged to incorporate the monthly hours in the cost option in their submitted proposal.

## II. Proposal Timeline

Responses to this Request for Proposal (RFP) must be submitted in writing and received by Marin LAFCO no later than 5:00 p.m. pacific standard time (PST) on Thursday, November 30<sup>th</sup>. No changes or adjustments to the deadline shall be made without a written addendum to this RFP signed by the Executive Officer and circulated to all respondents. Proposal submittals by e-mail are encouraged and should be directed to the Interim Executive Officer Rachel Jones at [rjones@marinlafco.org](mailto:rjones@marinlafco.org).

An outline of the proposal timeline’s key dates follows.

Action	Dates
RFP Issued	Monday, November 6, 2017
... Deadline for Questions	Monday, November 13, 2017
... Deadline for Responses	Friday, November 17, 2017
Deadline to Submit Proposals	Thursday, November 30, 2017
Interviews with Selected Candidates	Week of December 4-7, 2017
Contract Award	Thursday, December 14, 2017
Start Date	Tuesday, January 2, 2017

- \* Interviews may be conducted in person or by video conferencing and at the preference of the firm/individual. (Interview type will have no effect on the award.)
- \* Marin LAFCO reserves the right to adjust this timeline as it deems necessary. Notification of adjustments to the timeline shall be provided to all respondents.
- \* Marin LAFCO reserves the right to award a contract, to modify the scope of services required as necessary, and to accept or reject any or all submittals received as a result of this RFP.

### III. Agency Profile



Marin LAFCO is a regional service planning subdivision of the State of California and delegated regulatory and planning powers in matching municipal services with community needs. This includes managing governmental boundary lines by approving or disapproving proposals involving the formation, expansion, consolidation, or dissolution of cities, towns, and special districts. Marin LAFCO also regularly conducts studies to evaluate the level and range of local governmental services in step with informing its regulatory duties. In all, Marin LAFCO has explicit jurisdiction over 65 local governmental agencies divided between 6 cities, 5 towns, 30 independent special districts (i.e., directly elected board members), and 24 dependent special districts (i.e., appointed board members from other governmental agencies).

Decision-making at Marin LAFCO is directly vested with the 11-member Commission. The Commission is divided between seven regular voting members and four alternate voting members. Representation on the Commission is also divided between four distinct appointee categories: (a) three appointees from the County of Marin, (b) three appointees from the cities/towns, (c) three appointees from the independent special districts, and (d) two appointees from the general public. State law specifies all Commission members shall exercise their independent judgment on behalf of the interests of the public as a whole and not on behalf of their appointing authorities.

## IV. Anticipated Projects

As required by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Marin LAFCO processes boundary change proposals for cities and special districts in Marin County and regularly updates municipal service reviews and spheres of influence for each agency under its authority. Marin LAFCO's legal services have traditionally been confined to a relatively ask-need basis with minimal envelopment in LAFCO processes. As Marin LAFCO's role expanded over the last several years in the County, the Commission has received more complex change of organization proposals, property tax agreements, and studies that specialized assistance is of need.

## V. Scope of Services and Terms of Agreement

Legal services rendered to Marin LAFCO would include:

- Serve as Commission Counsel and representative in all Commission matters, including litigation and administrative proceedings as necessary;
- Provide general legal advice to the Commission or the Executive Officer when requested typically on matters of general municipal or administrative law, including CEQA and on matters relating to the Cortese-Knox-Hertzberg Act or in case law specifically involving local government boundaries or organization in California;
- Serve as on-call counsel to the Commission and attend all LAFCO meetings (typically bi-monthly); *or when special counsel is requested*;
- Attend in-person meetings with the Executive Officer and/or Commission committees when required or maintain telephone and e-mail contact as needed;
- Review and comment upon bi-monthly agendas, staff reports, resolutions, correspondence, administrative policies and other documents prepared by LAFCO staff as requested and in a timely manner;
- Prepare legal opinions on specified issues;
- Prepare and or review contracts and indemnification agreements on request;
- Prepare occasional reports and present information at public hearings and represent the Commission as counsel during meetings.



Marin LAFCO's Term of Agreement is as follows:

The term of the proposed agreement shall be for two years, with two (2) options to extend the agreement with each extension covering two years.

## VI. Proposal Requirements

All proposals must be submitted in writing and received by Marin LAFCO no later than **5:00 p.m. PST on Thursday, November 30<sup>th</sup>**. Email submittals are encouraged and should be directed to Interim Executive Officer Rachel Jones at [rjones@marinlafco.org](mailto:rjones@marinlafco.org). Mailed or hand-delivered submittals are also welcome at Marin LAFCO's Administrative Office at 1401 Los Gamos Drive, Suite 220, San Rafael, California 94903.

All written proposals should address the following information.

- Provide a proposed engagement letter outlining the key components of the proposal. This includes highlighting the scope of work to be provided along with the associated costs. The letter shall also specify the proposal remains valid for at least 90 days following the proposal submission deadline. The letter must state whether a possible conflict of interest exists and, if do, the nature of the conflict.
- Describe the firm or individual description and summary of qualifications. This includes identifying type of business (i.e., individual, corporation, etc.), years in business, and office location(s). This portion of the proposal shall also address the firm's experience and qualifications relative to the prescribed goals, objectives, and requirements listed in this RFP.
- Detail the qualifications for scope of services. This includes identifying the firm or individual's particular qualifications in providing legal assistance for Marin LAFCO's prescribed goals, objectives, and requirements listed in this RFP.
- Provide related work experiences and references in with legal issues and practices described under Section (I) above. Succinctly identify no less than three (3) examples of legal analysis or other service relating to local government boundaries or land use planning in California. Provide a list of at least two (2) client references. The reference list must include the client name, location, website address, and contact person with phone number and e-mail address. Marin LAFCO will provide advance notice should it proceed to make reference calls.
- Outline rate and fee schedule. This includes estimating a rate or retainer for all proposed services that would be the basis for invoices during the course of this contract. All hourly rates, fees, and reimbursable costs must be clearly stated. Identify billing preferences.

## VII. Evaluation and Selection

The Commission's Policy Committee will screen all proposals submitted to Marin LAFCO for completeness relative to the RFP requirements. The highest ranked candidates will be invited to interview in person or by video conferencing with the Policy Committee at no cost to Marin LAFCO during the week of TBD. The evaluation will be based factors enumerated below. No one factor shall be determinative.

- Expertise and experience of the law firm and key individual(s). This includes the firm's experience in comparable government engagements as well as the depth of the professional personnel to be assigned to the engagement. Greater preference in the selection process will be given to proposing firms or individuals with LAFCO knowledge and understanding.
- Availability of appropriate professional(s) as needed.
- Clear, concise and thoughtful responses to specific requirements of the solicitation
- Proposed Costs
- Interview / Ability to Effectively Describe Proposal and Respond to Questions
- References

The Policy Committee will recommend an appointee to the Commission for formal approval.

## VIII. Other Proposal Information

- **Questions**  
All questions seeking clarification on the RFP must be received in writing no later than 5:00 p.m. PST on Monday, November 13<sup>th</sup>. Responses to submitted questions will be prepared by Marin LAFCO and sent to all respondents no later than 5:00 p.m. PST on Friday, November 17<sup>th</sup>. All questions should be e-mailed to Interim Executive Officer Rachel Jones at [rjones@marinlafco.org](mailto:rjones@marinlafco.org).
- **Agreement**  
The selected firm or individual's proposal will become part of the agreement. Price quotations and other time dependent information contained in any proposal shall remain firm for a minimum of 90 days from the proposal submission deadline.

- **Property of Marin LAFCO**  
All proposals received will become the property of Marin LAFCO and will not be returned. Marin LAFCO reserves the right to copy the materials for internal evaluation purposes.
- **Collusion Among Respondents**  
In submitting a proposal, the firm or individual, certifies that it is not party to any collusive actions relating to this RFP.
- **Exceptions**  
A firm or individual taking exception to any part of this RFP shall indicate such exceptions in a separate section of their submitted proposal. Failure to indicate any exception will be interpreted as the firm or individual's intent to comply fully with the requirements of this RFP as written.
- **Expenses Incurred**  
There is no expressed or implied obligation for Marin LAFCO to reimburse proponents for any expenses associated with responding to this RFP.
- **Withdrawal of Proposal**  
Consultants may withdraw all or portions of their proposal up to the ratification of a contract between Marin LAFCO and the selected firm. A withdrawal request must be signed by the proponents duly authorized representative and sent to the Executive Officer.
- **Withdrawal of RFP**  
Marin LAFCO retains the right to withdraw, modify, or amend this RFP at anytime.

## IX. Contact Information

All questions and related inquiries to this RFP should be addressed to the following contact:

Rachel Jones, Interim Executive Officer  
1401 Los Gamos Drive, Suite 220  
San Rafael, California 94903

T: 415-448-5877 Main

T: 415-302-2013 Direct

E: [rjones@marinlafco.org](mailto:rjones@marinlafco.org)