

MENDOCINO

Local Agency Formation Commission

Ukiah Valley Conference Center | 200 South School Street | Ukiah, California 95482
Telephone: (707) 463-4470 | E-mail: eo@mendolafo.org | Web: www.mendolafo.org

COMMISSIONERS

Carre Brown, Chair
County Board of Supervisors

Tony Orth, Vice Chair
Brooktrails Township CSD

Gerald Ward, Treasurer
Public Member

Gerardo Gonzalez
Willits City Council

Vacant
Special District

Scott Ignacio
Point Arena City Council

John McCowen
County Board of Supervisors

Jenifer Bazzani, Alternate
Ukiah Valley Fire District

Will Lee, Alternate
Fort Bragg City Council

Richard Weinkle, Alternate
Public Member

John Haschak, Alternate
County Board of Supervisors

STAFF

Executive Officer
Uma Hinman

Analyst
Larkyn Feiler

Commission Clerk
Kristen Meadows

Counsel
Scott Browne

REGULAR MEETINGS

First Monday of each month
at 9:00 AM in the
Mendocino County
Board of Supervisors
Chambers
501 Low Gap Road, Ukiah

Policies and Procedures Meeting A G E N D A

December 28, 2020; 11:00 a.m.

Meeting held remotely via Zoom due to pandemic.

Important Notice

Pursuant to State Executive Order N-29-20 pertaining to the convening of public meetings in response to the COVID-19 pandemic, effective March 20, 2020, the Mendocino Local Agency Formation Commission (LAFCo) meetings will be conducted remotely and will not be available for in person public participation until further notice.

Submit **written comments** electronically to eo@mendolafo.org by 9:00 a.m. on December 28. In the subject line, specify the agenda item number for your comments, "To be read aloud" if desired, and in the body of the email include your name. If to be read aloud, please keep your comments to 500 words or less. All written comments will be provided as soon as feasible to the Commission and posted on the [meeting documents](#) page of the website.

Provide **verbal comments** via teleconference with the information provided on the [website](#). Please pre-register by email to eo@mendolafo.org by 9:00 a.m. on December 28. In the subject line, specify the agenda item number for your comments, "...Live", and your name (Example: Item 2b Public Comment Live, John Doe). Participants will also receive instructions for participation in the meeting. Each participant will have three minutes to provide comments related to the agenda item.

We thank you for your understanding and appreciate your continued interest.

1. CALL TO ORDER & ROLL CALL

Commissioners Gonzalez, Ward and McCowen

2. MATTERS FOR DISCUSSION & POSSIBLE ACTION

2a) Approval of the November 24, 2020 Policies & Procedures Committee Minutes

2b) Policy Development for Spheres of Influence

Consider draft policy language regarding spheres of influence for recommendation to the Commission.

2c) Other Policy & Procedure Update Discussions and/or Recommendations

Opportunity for Committee to discuss additional policy and/or procedure topics and topics for future meetings.

3. INFORMATION AND REPORT ITEMS

3a) Executive Officer Report (verbal)

ADJOURNMENT

MENDOCINO

Local Agency Formation Commission

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Agenda Item 2a

COMMISSIONERS

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Chambers
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Draft Minutes

Policies and Procedures Meeting

November 24, 2020; 4:00 p.m.

Meeting held remotely via Zoom due to pandemic.

1. CALL TO ORDER & ROLL CALL

Meeting was called to order at 4:06 p.m. by Chair Ward.

Members present: Commissioners Gerardo Gonzalez and Gerald Ward

Members absent: Commissioner John McCowen

Staff present: EO Uma Hinman, Analyst Larkyn Feiler, Counsel Scott Browne

2. MATTERS FOR DISCUSSION & POSSIBLE ACTION

2a) Approval of the September 23, 2020 Policies & Procedures Committee Minutes

Upon motion by Commissioner Gonzalez and second by Chair Ward, the minutes for November 23, 2020 were approved by unanimous vote.

Ayes: Commissioners Gonzalez and Ward.

2b) Policy Development for Spheres of Influence

EO Hinman presented the staff report, which included proposed draft policy language regarding spheres of influence for the Committee's review, and noted that written comments were received from Commissioner McCowen, the City of Ukiah, and the City of Willits and were distributed to the Committee members prior to the meeting. Analyst Feiler provided an overview of Commissioner McCowen's comments.

Sage Sangiacomo, City Manager for the City of Ukiah, provided public comment requesting postponement of the item to allow additional time to review the proposed policies and noted that City staff is ready to engage immediately and in a collaborative manner with LAFCo staff to limit unintended consequences from the proposed SOI policies. Craig Schlatter, Community Development Director for the City of Ukiah, provided public comment in support of Mr. Sangiacomo's request.

Upon motion by Commissioner Gonzalez and second by Chair Ward, the item was postponed, to allow staff time to incorporate Commissioner McCowen's requested changes, to reach out to the City Planning Departments regarding the draft SOI policy language, and to reconvene the Committee in mid-December when Commissioner McCowen and Legal Counsel can attend to further consider the item, by unanimous vote.

Ayes: Commissioners Gonzalez and Ward.

2c) Other Policy & Procedure Update Discussions and/or Recommendations

Chair Ward requested an update on the Electronic Signature Policy at the next Committee meeting.

3. INFORMATION AND REPORT ITEMS

3a) Executive Officer Report (verbal)

EO Hinman noted that the Fee Schedule Update policy is also pending and will be addressed at a future meeting.

ADJOURNMENT

There being no further business, the meeting adjourned at approximately 4:32 p.m.

DRAFT

MENDOCINO
Local Agency Formation Commission
Staff Report

DATE: December 28, 2020
TO: Mendocino Local Agency Formation Commission Policies & Procedures Committee
FROM: Uma Hinman, Executive Officer
SUBJECT: Policy Development for Spheres of Influence

STAFF RECOMMENDATION

Consider proposed policy language regarding spheres of influence and direct staff to revise as needed and recommend to the Commission for consideration on January 4, 2021.

BACKGROUND

On November 24, 2020, the Policies & Procedures Committee met to review proposed policy language regarding spheres of influence and develop recommendations to the full Commission.

The Committee discussed suggested revisions from Commissioner McCowen and written comments from the City of Ukiah and the City of Willits requesting postponement of the item to allow additional time to review the proposed policies and work collaboratively with LAFCo staff (Attachment 3).

The Committee postponed the item to allow staff time to incorporate Commissioner McCowen's requested changes, to reach out to the City Planning Departments regarding the draft SOI policy language, and to reconvene the Committee in mid-December to further consider the item.

On December 7, 2020, the Commission directed staff to bring an item forward at the January 4, 2021 meeting for the Commission to consider adoption of the proposed SOI policies.

LAFCo staff revised the SOI policies based on comments received and distributed them to the four City Planning Departments and interested Special Districts on December 2, 2020 for review (Attachment 2). LAFCo staff also met with staff from the City of Ukiah, City of Fort Bragg, City of Willits, and the Ukiah Valley Sanitation District upon request, and concerns/questions raised are summarized below.

City of Ukiah

- LAFCo should collect more in apportionment fees to discharge its legal obligations for MSR/SOI Updates rather than attributing a disproportionate share of costs to multi-service agencies for non-coterminous SOI Updates and CEQA.
- This is a fiscal issue and should be addressed in financial policies not SOI policies.
- The CEQA baseline should be based on the existing agency SOI and the proposed policy could result in an EIR for any sphere actions other than a coterminous sphere.
- Only adopting coterminous spheres could result in unintended consequences of promoting sprawl and could hinder good governance.
- The outdated sphere definition is not based on LAFCo law and is subjective in nature.

- The staff report lacked sufficient analysis related to the effects of the proposed policy changes.
- The policy changes seem rushed, should be addressed by the new Commission instead of the outgoing Commission, and warrant additional outreach with all stakeholders together, which is difficult during the holiday season.

City of Fort Bragg

- Cost shifting is concerning and additional expenses have to be heavily scrutinized by agencies.
- Agencies do not want to get locked into a higher level of CEQA review when an exemption applies.

City of Willits

- Who pays for CEQA if LAFCo requires a DUC or other area a City did not request into their SOI during a LAFCo-initiated SOI update?
- The definitions of "update" and "outdated spheres" could be clearer.
- What if a SOI review has determined that no changes are warranted, would it default to an outdated sphere?
- How often does LAFCo law require a SOI review?
- Does an SOI that is 10 years old revert to the City limits baseline?
- Does Policy 10.1.3.g indicate that LAFCo can expand a City SOI without their agreement?

LAFCo staff further revised the proposed policies based on feedback received and is represented by track changes for ease of review (Attachment 1). Some additional information is summarized below.

- LAFCo law is necessarily broad and allows LAFCo to establish policies to address local conditions.
- In general, the baseline for CEQA review is the physical environment at the time of evaluation and for SOI Updates involves analysis of indirect impacts associated with facilitating annexation and the provision of municipal services.
- Policy 10.1.3.c was revised to clarify that for municipal service providers, an SOI Update will be prepared every 10 years with a midpoint review that may result in the Commission reaffirming the existing SOI to ensure an appropriate sphere remains current.
- Policy 10.1.3.d was revised to clarify the roles of lead and responsible agencies for SOI actions and that for current spheres, the baseline for CEQA is the existing sphere.
- Policy 10.1.3.f was revised to clarify that there is no requirement for a higher level of environmental review than is necessary.
- Policy 9.12.2 allows minor applications to be processed with an outdated sphere instead of no application processing being allowed currently.
- Many of the policies are consistent with past LAFCo practice.
- The 5-Year Rolling Work Plan should be revised for Fiscal Year 2021-2022 to account for the 10-year SOI Update schedule and midpoint review for municipal service providers and SOI Updates for non-municipal service providers prepared only as needed, and potential cost increases for studies.

The following draft language is proposed for consideration of the Policies & Procedures Committee. Proposed amendments to existing policies are indicated with underlined and ~~striketrough~~ formatting.

9.12 BOUNDARIES

9.12.1 DEFINITE BOUNDARIES REQUIRED

LAFCo shall not accept as complete any application unless it includes boundaries that are definite, certain, and fully described.

9.12.2 SOI CONSISTENCY REQUIRED

LAFCo shall not approve any major change of organization or reorganization proposals that are inconsistent with the agency's SOI. In the event an SOI is outdated, before any major change of organization may be approved, the SOI must be updated. The only exceptions are minor proposals that normally would not considerably intensify existing development, generate or facilitate significant new development, or create adverse impacts on the subject agency or affected agencies. Examples of minor proposals include fire service annexations or detachments, annexation of agency-owned property containing agency public service facilities and/or infrastructure, and annexations of developed property. SOI establishment, amendment, and update shall precede consideration of proposals for changes of organization or reorganization.

9.12.23 BOUNDARY CRITERIA

LAFCo will generally favor applications with boundaries that do the following:

- a) create logical boundaries within the affected agency's sphere of influence, and where possible, eliminate previously existing islands or other illogical boundaries;
- b) follow natural or man-made features and include logical service areas where appropriate; and
- c) place all streets and rights-of-way within the same jurisdiction as the properties which abut thereon and/or for the benefit of which such streets and rights-of-way are intended.

9.12.34 BOUNDARY ADJUSTMENTS

LAFCo will generally amend proposals with boundaries which:

- a) Split neighborhoods or divide existing identifiable communities, commercial districts, or other areas having a social or economic identity.
- b) Result in islands, corridors, or peninsulas of incorporated or unincorporated territory or otherwise cause or further the distortion of existing boundaries.
- c) Are drawn for the primary purpose of encompassing revenue-producing territories.
- d) Create areas where it is difficult to provide services.

9.12.45 BOUNDARY DISAPPROVALS

If LAFCo, in consultation with the applicant, cannot suitably adjust the proposed boundaries to meet the criteria established above, it will generally deny the proposal.

10.1 SPHERES OF INFLUENCE

10.1.2 DEFINITIONS

The Commission incorporates the following definitions:

- a) ~~an~~ E“establishment” refers to the initial development and determination of a sphere of influence by the Commission;
- b) ~~An~~ A“amendment” refers to a limited change to an established sphere of influence typically initiated by a landowner, resident, or agency; and

- c) An “update” refers to a comprehensive change to an established sphere of influence typically initiated by the Commission. An SOI review is not an SOI update.
- d) An “outdated sphere” refers to an established sphere of influence that has not been updated for ten (10) years or more for municipal service providers or where circumstances have changed significantly since the last SOI update. SOI’s become outdated where substantial changes have occurred in the statutory requirements, agency services, finances, or governance, and/or community, resulting in the most recent MSR/SOI no longer providing reliable or relevant information needed by the Commission to carry out its responsibilities. The “outdated sphere” determination shall be made by the Executive Officer, subject to confirmation by the Commission in the event the determination is disputed.

10.1.3 SPHERE UPDATES

In updating spheres of influence, the Commission’s general policies are as follows:

- a) LAFCo must adopt a Sphere of Influence (SOI) for each city and special district in its jurisdiction and keep it updated in accordance with CKH. Overseeing each SOI is a LAFCo responsibility. LAFCo strongly encourages the participation and cooperation of the subject agency in the SOI process, but the Commission remains the sole authority for establishing and making changes to an agency’s SOI and associated Municipal Service Review. All LAFCo actions must be consistent with the subject agency’s SOI and changes to an agency’s SOI require careful review and consideration.
- ~~ab) The Commission will update the SOI of municipal service providers periodically in accordance with the Cortese-Knox-Hertzberg Local Government Act of 2000 (CKH), and only as needed for non-municipal service providers review all spheres of influences every five years for each governmental agency providing municipal services. Municipal services include water, wastewater, road, police, and fire protection services. Non-municipal services include, but are not limited to, ambulance or emergency medical services, park and recreation, health care hospital, resource conservation, cemetery, lighting, landscaping, and pest control.~~
- ~~c) Spheres of influence of districts not providing municipal services including, but not limited to, ambulance, recreation, hospital, resource conservation, cemetery, and pest control shall be updated as necessary.~~
- c) The most recent SOI for municipal service providers will be reviewed every five years for accuracy and relevancy, and may result in the Commission reaffirming the existing SOI to ensure an appropriate sphere remains current. The agency SOI will be scheduled for a full MSR/SOI Update when deemed outdated or where major changes in the SOI are being considered. City SOI’s shall be updated at least every 10 years or as soon thereafter as the update can be completed. Whenever feasible, city sphere updates shall be scheduled to coincide with city general plan updates.
- d) Sphere actions by the Commission are subject to the provisions of the California Environmental Quality Act (CEQA). The Commission is normally the lead agency for SOI establishment and update, and the agency is normally the lead agency for proposed SOI amendments. In the case of an outdated SOI, the baseline for CEQA review shall be the current jurisdictional boundary of the agency. In the case of a current SOI, the baseline for CEQA review shall be the currently approved SOI boundary of the agency.
- e) Where an agency desires an SOI Update including territory outside an agency’s current boundary, the agency shall reimburse LAFCo for the cost of the environmental and other review required. Where an agency desires a sphere amendment proposed in a manner to permit additional development, the agency must prepare an appropriate environmental document and/or

reimburse LAFCo for the cost of the environmental and other review required. This policy is intended to impose the cost on the agency seeking SOI expansion opportunities in an effort to keep annual apportionment fees lower for the other agencies that contribute to the support of LAFCo.

- f) All costs incurred by LAFCo for preparation of establishing a non-coterminous SOI Update for an agency, or expanding an existing non-coterminous SOI, shall be subject to full cost recovery from the agency. Potential costs include necessary MSR studies, CEQA compliance, staff time, and any additional fees charged by state or local agencies for reviewing, processing, and filing the project. Nothing in this Policy shall be construed as a requirement for a higher level of environmental review than is necessary. Sphere changes that are subject to CEQA exemption shall be carried out accordingly, and otherwise will involve preparation of an Initial Study to determine the appropriate level of CEQA review.
- g) In the absence of a legally binding commitment from a subject agency for full cost recovery of establishing or expanding a non-coterminous SOI Update, the Commission shall prepare a coterminous sphere or may, at the Commission's sole discretion, maintain and/or expand the most recent sphere if subject to CEQA exemption or if funding is otherwise available for the appropriate level of CEQA review.
- h) Sphere of influence changes initiated by ~~application~~ any agency providing a municipal service shall generally require either an updated or new Municipal Service Review unless LAFCo determines that a prior service review is adequate.
- i) A combined Municipal Service Review (MSR) and SOI Update shall be prepared whenever feasible to minimize costs, streamline processing, and to maximize data collection and analysis.

- Attachments:**
- 1. Policy Revisions since December 2, 2020
 - 2. Policy Revisions since November 24, 2020
 - 3. Comments from November 24, 2020 Policies and Procedures Committee meeting

ATTACHMENT 1

Mendocino LAFCo

Revised Proposed SOI Policies

Proposed amendments to the policies are indicated with underlining and ~~striketrough~~ formatting. Track changes indicate modifications from the December 2nd version.

9.12 BOUNDARIES

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- c) ~~A~~ “update” refers to a comprehensive change to an established sphere of influence typically initiated by the Commission. An SOI review is not an SOI update.
- d) An “outdated sphere” refers to an established sphere of influence that has not been updated for ten (10) years or more for municipal service providers or where circumstances have changed significantly since the last SOI update. SOI’s become outdated where substantial changes have occurred in the statutory requirements, agency services, finances, or governance, and/or community, resulting in the most recent MSR/SOI no longer providing reliable or relevant information needed by the Commission to carry out its responsibilities. The “outdated sphere” determination shall be made by the Executive Officer, subject to confirmation by the Commission in the event the determination is disputed.

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- ~~a~~b) The Commission will update the SOI of municipal service providers periodically in accordance with the Cortese-Knox-Hertzberg Local Government Act of 2000 (CKH), and only as needed for non-municipal service providers review all spheres of influences every five years for each governmental agency providing municipal services. Municipal services include water, wastewater, road, police, and fire protection services. Non-municipal services include, but are not limited to, ambulance or emergency medical services, park and recreation, health care hospital, resource conservation, cemetery, lighting, landscaping, and pest control.
- ~~c~~) Spheres of influence of districts not providing municipal services including, but not limited to, ambulance, recreation, hospital, resource conservation, cemetery, and pest control shall be updated as necessary.
- c) The most recent SOI for municipal service providers will be reviewed every five years for accuracy and relevancy, and may result in the Commission reaffirming the existing SOI to ensure an appropriate sphere remains current. The agency SOI will be scheduled for a full MSR/SOI Update when deemed outdated or where major changes in the SOI are being considered. City SOI’s shall be updated at least every 10 years or as soon thereafter as the update can be completed. Whenever feasible, city sphere updates shall be scheduled to coincide with city general plan updates.

- d) Sphere actions by the Commission are subject to the provisions of the California Environmental Quality Act (CEQA). The Commission is normally the lead agency for SOI establishment and update, and the agency is normally the lead agency for proposed SOI amendments. In the case of an outdated SOI, the baseline for CEQA review shall be the current jurisdictional boundary of the agency. In the case of a current SOI, the baseline for CEQA review shall be the currently approved SOI boundary of the agency.
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ATTACHMENT 2

Mendocino LAFCo Revised Proposed SOI Policies

Proposed amendments to the policies are indicated with underlining and ~~striketrough~~ formatting. Track changes indicate modifications from the November 24th version.

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10.1.3 SPHERE UPDATES

In updating spheres of influence, the Commission’s general policies are as follows:

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- ~~a~~b) The Commission will update the SOI of municipal service providers periodically in accordance with the Cortese-Knox-Hertzberg Local Government Act of 2000 (CKH), and only as needed for non-municipal service providers review all spheres of influences every five years for each governmental agency providing municipal services. Municipal services include water, wastewater, road, police, and fire protection services. Non-municipal services include ambulance, recreation, health care hospital, resource conservation, cemetery, lighting, and landscaping, and pest control.
- ~~c)~~ Spheres of influence of districts not providing municipal services including, but not limited to, ambulance, recreation, hospital, resource conservation, cemetery, and pest control shall be updated as necessary.
- c) The most recent SOI for municipal service providers will be ~~evaluated~~ reviewed every five years for accuracy and relevancy. The agency SOI will be scheduled for a full MSR/SOI Update when deemed outdated or where major changes in the SOI are being considered. City SOI’s shall be updated at least every 10 years or as soon thereafter as the update can be completed. Whenever ~~feasible~~possible, city sphere updates shall be scheduled to coincide with city general plan updates.
- d) Sphere actions by the Commission are subject to the provisions of the California Environmental Quality Act (CEQA). The Commission is normally the lead agency for SOI establishment and update, and the agency is normally the lead agency for proposed SOI amendments. In the case of an outdated SOI, ~~T~~the baseline for CEQA review shall be ~~is~~ the current jurisdictional boundary of

~~an~~ the agency. In the case of a current SOI, the baseline for CEQA review shall be the currently approved SOI boundary of the agency. Therefore,

- e) ~~w~~Where an agency desires an SOI Update ~~or amendment~~ including territory outside an agency's current boundary, the agency ~~will be expected to~~shall reimburse LAFCo for the cost of the environmental and other review required. Where an agency desires a sphere amendment proposed in a manner to permit additional development, the agency must prepare an appropriate environmental document and/or reimburse LAFCo for the cost of the environmental and other review required. This policy is intended to impose the cost on the agency seeking SOI expansion opportunities in an effort to keep annual apportionment fees lower for the other agencies that contribute to the support of LAFCo.
- ef) All costs incurred by LAFCo for preparation of establishing a non-coterminous SOI Update for an agency, or expanding an existing non-coterminous SOI, including necessary MSR studies, CEQA compliance, staff time, and any additional fees charged by state or local agencies for reviewing, processing, and filing the project, shall be subject to full cost recovery from the agency.
- fg) In the absence of a legally binding commitment from a subject agency for full cost recovery of establishing or expanding a non-coterminous SOI Update, the Commission ~~will~~shall prepare a coterminous sphere or may, at the Commission's sole discretion, possibly maintain and/or expand the most recent sphere if subject to CEQA exemption.
- gh) Sphere of influence changes initiated by application ~~any agency providing a municipal service~~ shall generally require either an updated or new ~~m~~Municipal ~~s~~Service ~~r~~Review unless LAFCo determines that a prior service review is adequate.
- hi) A combined Municipal Service Review (MSR) and SOI Update shall be prepared whenever feasible to minimize costs, streamline processing, and to maximize data collection and analysis.

ATTACHMENT 3a

To: Policies & Procedures Committee
From: Committee Member – Commissioner McCowen
Date: November 23, 2020
RE: Comments on the Proposed Sphere of Influence Policy Revisions for November 24th
Policies & Procedures Committee Meeting

1) 9.12.2 SOI Consistency

"Examples of non-major proposals include fire service annexations or detachments..." Is it possible that annexation to a fire district could facilitate development? If so, such an annexation might not qualify as non-major. A better example might be cemetery districts.

Same sentence as above: "...and annexations of fully developed property." The term "fully developed property" may be ambiguous as a property could be fully developed in that it is fully developed to the allowable limits in terms of lot coverage but may in fact be substantially under-developed. Conversely, a geographic area, such as south Ukiah might be generally fully developed, with most parcels fully built out, but with a limited number of vacant or underutilized lots. Would a defined area be considered "fully developed" even if there is limited development opportunity that would be consistent with existing development? Or could an infill project consistent with existing zoning be considered non-major?

2) 10.1.2 Definitions

d) An "outdated sphere" refers to a sphere that has not been updated for ten (10) years or more or where circumstances have changed significantly since the last update. [Comment: Ten years provides greater clarity than "considerable amount of time" and is generous considering the statutory deadline for SOI updates. Potentially the time could be shortened.] In the second sentence I might add a comma after "community".

3) 10.1.3 Sphere Updates

a) Suggest capitalize "municipal service review".

b) Suggest add a comma between "lighting and landscaping" and delete "and" at end of last sentence.

c) In place of "Whenever possible" suggest "Whenever feasible" at beginning of last sentence.

d) [Comment: If an SOI is current and the agency is not seeking an expansion why wouldn't the current SOI be the CEQA baseline? The suggested language changes that follow are based on the premise that an SOI with no expansion would be a baseline condition.] Retain first sentence as is. Revise second sentence to read: "The baseline for CEQA review, in the case of an outdated or coterminous SOI, shall be the current jurisdictional boundary of the agency. Retain balance of section and add a new last sentence: "The baseline for an SOI that is not outdated or coterminous shall be the currently approved boundary of the SOI. [Note: I'm assuming significant changes that would trigger greater CEQA review would also render an existing SOI outdated. Also, I think our indemnity clause would be a backstop against a lawsuit alleging improper CEQA review.]

e) "All costs incurred by LAFCO for preparation of establishing a non-coterminous SOI Update for an agency, or expanding an existing non-coterminous SOI, including necessary MSR studies, CEQA compliance...."

f) "In the absence of a legally binding commitment from a subject agency for full cost recovery of establishing or expanding a non-coterminous SOI Update, the Commission shall prepare a coterminous sphere or may, at the Commission's sole discretion, maintain and/or expand the most recent sphere if subject to CEQA exemption.

g) Suggest capitalize "municipal service review".

ATTACHMENT 3b



111 E. COMMERCIAL STREET
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November 24, 2020

Mendocino County Local Agency Formation Commission
Policies and Procedures Committee
c/o Uma Hinman, Executive Office
200 School Street
Ukiah, CA 95482

Re: November 24, 2020 LAFCO Policies & Procedures Meeting
Agenda Item 2b – City of Willits Comments

Dear Members of the Mendocino LAFCO Policies and Procedures Committee,

The City of Willits respectfully requests additional time to review and comment on the proposed policy change revisions being considered under Agenda Item 2b, Policy Development for Spheres of Influence.

The City would like additional time to allow for the opportunity to meet with LAFCO staff and the other jurisdictions to obtain clarification on the intent of the language and possibly provide suggested language that would prevent any unintended consequences.

For instance, City staff is unclear as to whether the Cities will incur additional charges from LAFCO for the periodic review of our Sphere of Influence (SOI). As a function of its duties and responsibilities given by the Cortese-Knox-Hertzberg Act, LAFCO is required to periodically review and update spheres of influence. Government Code Section 56425 requires the Commission to review and update, as necessary, all spheres of influence for cities and special districts at least once every five years.

Staff is unsure whether the costs associated with the standard SOI review will be included in the annual LAFCO budget and work plan or whether those costs will be removed from the annual budget and converted to a cost recovery fee.

Also, LAFCO's role under the California Environmental Quality Act (CEQA) is typically one of a responsible agency, which means that it does not take the lead in preparing the environmental document for the proposed action. When another public agency, such as the City of Willits, acts as a lead agency and submits a negative declaration or a final environmental impact report certified by resolution as having been completed in accordance with CEQA with an application for approval of a project by the Mendocino LAFCO, such negative declaration or final environmental impact report shall be submitted to the LAFCO. The City is neither aware that Mendocino LAFCO would be required to complete any further environmental review, nor is the

City aware of a requirement to pay additional fees unless Section 15052 of the CEQA Guidelines would require LAFCO to act as the Lead Agency for a project.

The City is unclear as to whether the proposed policy language is consistent with the statement provided above. This is of particular interest to the City of Willits, as the City has secured State funding and is in the process of developing a Sphere of Influence Amendment, including CEQA review, for submission to LAFCO for the purpose of creating a substantial level of new opportunities to construct a variety of housing types. Staff will be working with LAFCO staff as we move forward through the process of completing our SOI amendment application. The City is unsure as to whether the proposed language would introduce new fees to our prospective project.

Thank you for your consideration of the City's request to continue this item and allow for adequate time to analyze the proposed revisions and further speak with LAFCO staff.

Sincerely,



Dusty Duley
Community Development Director

cc: Stephanie Garrabrant-Sierra, City Manager
H. James Lance, City Attorney



November 24, 2020

Mendocino County Local Agency Formation Commission
Policies & Procedures Committee
C/O Uma Hinman, Executive Officer
Ukiah Valley Conference Center
200 S School St
Ukiah, CA 95482
VIA EMAIL: eo@mendolafco.org

Re: November 24, 2020 Local Agency Formation Commission Policies & Procedures Meeting
Agenda Item 2b., Policy Development for Spheres of Influence – City of Ukiah comments

Honorable Members of the Policies & Procedures Committee:

The City of Ukiah respectfully submits the following comments for consideration regarding the
aforementioned agenda item, Item 2b., Policy Development for Spheres of Influence.

Affected agencies, including the City of Ukiah, have not been given adequate time to evaluate and respond to the proposed policies under consideration by the LAFCo Policies & Procedures Committee. The City requests a postponement of this agenda item to allow the City and other affected agencies the opportunity to analyze the proposed policy revisions and engage with LAFCo staff.

The City was first provided a copy of the proposed policy revisions on Saturday, November 21, 2020. From City staff's initial review, the proposed revisions may have significant impacts on the ability of incorporated cities to complete Spheres of Influence (SOI) updates. Such sweeping changes to policy, especially during a pandemic where traditional communication modes are hindered, should be done collaboratively with affected multi-service agencies such as the City of Ukiah, City of Fort Bragg, City of Willits, and City of Point Arena- and with as much advance notice as possible.

In the limited time available, the City of Ukiah submits the following preliminary comments on LAFCo staff's proposed policy revisions.

A. City of Ukiah Preliminary Comments Regarding Policies Recommended by LAFCo Staff to Govern the Application of CEQA to Sphere of Influence Determinations by LAFCo

1. Lead Agency/Responsible Agency duties

Whether LAFCo functions as the lead or responsible agency for a proposed action is determined by the CEQA statutes and Guidelines. LAFCo often may be, but is not always, the lead agency for Sphere of Influence determinations, particularly if they are combined with annexation. (CEQA Guidelines, Sections 15150 – 15053.)



2. Baseline determinations

The environmental setting or CEQA baseline is represented by the existing physical conditions of the environment in the vicinity of the project and the scope of planning decisions already made and analyzed under CEQA. Baseline determinations are not governed by jurisdictional boundaries. (CEQA Guidelines, Section 15125; *Neighbors for Smart Rail v. Exposition Metro Line Construction Authority* (2013) 57 Cal.4th 439.)

3. Potential categorical exemptions

CEQA applies only to some Sphere of Influence amendments. Most often, a categorical exemption applies under CEQA Guidelines, Sections 15378(B)(5) [the “common sense” exception]; Class 19 (annexation of existing facilities), Class 20 (LAFCo approvals which do not change the area in which powers exercised – i.e., the actor changes, but not the act); *City of Agoura Hills v. LAFCo* (1988)- 198 CA3d 480 held a Sphere of Influence change not associated with a development project was not a project subject to CEQA.

4. Impact analysis/growth inducement

Whether providing water or wastewater services actually is growth-inducing is a fact-based inquiry that depends on the circumstances, especially as to whether providing services involves expansion of infrastructure systems beyond those existing or already planned and analyzed. The complexity and associated cost of reviewing such changes also depends on the circumstances. CEQA makes none of the factual assumptions or legal presumptions of impact, complexity, or cost asserted in the LAFCo staff report. (CEQA Guidelines section 15126.2(d).)

B. City of Ukiah Preliminary Comments on the Policy Regarding “Outdated Spheres of Influence”

1. The definition of an “outdated SOI” is so vague as to be purely subjective.
2. Section 10.1.3(a) of policy proposed by LAFCo staff admits that the Cortese-Knox-Hertzberg Act makes it LAFCo’s responsibility to maintain current SOIs.
3. LAFCo staff has no power to refuse an application because LAFCo has failed to maintain what it subjectively believes to be a current Sphere of Influence and Municipal Service Review (MSR). While LAFCo might be able to reject an annexation application for want of sufficient current data, LAFCo Commissioners must make that decision in publicly noticed hearings on the basis of facts in the record.
4. Paragraph (f) in the proposed policy, which states that LAFCo can impose a coterminous SOI if an agency does not pay the costs to update an SOI, violates Cortese-Knox-Hertzberg. The statute does not authorize LAFCo to refuse to exercise its discretion for fiscal reasons.
5. Although LAFCo likely can require a “current MSR” for an SOI amendment, what amounts to a current MSR is subjective, and maintaining current MSRs is LAFCo’s responsibility, not an



applicant's. LAFCo cannot use its failure to maintain current documents to justify refusing applications. Rather, if such action is supported by facts in the record before the Commission, it could reject a specific application on its merits.

City staff looks forward to engaging with LAFCo staff on the proposed revisions in the near future, after having adequate time to more thoroughly analyze and research the proposed policies and potential alternatives.

Sincerely,

A handwritten signature in blue ink that reads "Craig Schlatter". The signature is fluid and cursive, with the first name being the most prominent.

Craig Schlatter
Director of Community Development

CC: Sage Sangiacomo, City Manager
David Rapport, City Attorney
Phil Williams, Special Counsel