

FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCO)
EXECUTIVE OFFICER'S REPORT

AGENDA ITEM No. 10

DATE: August 12, 2015

TO: Fresno Local Agency Formation Commission

FROM: David E. Fey, AICP, Executive Officer 

SUBJECT: RECEIVE AND FILE: Executive officer briefing on 56133 Extension of Services Worksheet; provide direction as necessary

RECOMMENDATION: Receive Report; provide direction as necessary

Govt. Code sec. 56133 (**extension of services**) permits local agencies to extend services outside of their city limits and spheres of influence only if first authorized by LAFCo. Due to the drought the number of failing private wells and small permitted water systems that rely on groundwater has increased dramatically statewide. Staff is processing two such requests at this time and has received several inquiries from agencies and property owners about the process.

In order to assist the public and local agencies about the extension of services process, in July, 2015, staff developed an "extension of service worksheet" and posted it to the LAFCo web site. This worksheet has undergone several updates since then as what was once a rare request becomes more commonplace. A copy of the worksheet is attached.

The worksheet has been developed consistent with Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH) and Fresno LAFCo policies, and is also informed by the policies and practices of other LAFCOs. For example, because LAFCo authorizes an extension of service by agreement or contract between a property owner and the service provider the worksheet identifies a local agency, not the property owner, as the applicant.

Another important aspect of the worksheet process is that, requests for extension of service are deemed to not be changes of organization pursuant to GC 56021. This avoids the 20-day notice period pursuant to 56658(b)(1) which notices affected agencies, the county committee on school district organization, and each school superintendent whose school district overlies the affected territory, and ostensibly permits a shorter decision cycle. This practice is consistent with most of the LAFCOs that responded to staff's inquiries.

On a related matter, staff recently met with Fresno County Special District Administrator John Thompson and City of Fresno Public Utilities Director Tommy Esquivel. The purpose of the meeting was a policy development discussion to address what was recognized as a likely increase in extension of service requests and to prepare our internal processes and interagency communications.

Fresno LAFCo
Extension of Services Worksheet
Revised July 24, 2015

This worksheet outlines the statute, policy, and procedure to request extension of service(s). Once you have reviewed this worksheet, you are encouraged to consult with LAFCo staff prior to making application.

Authority

*Government Code (GC) 56133 (a) A city or district may provide new or extended services **by contract or agreement** outside its jurisdictional boundaries **only if it first requests and receives written approval** from the commission in the affected county.*

By its Resolution No. 127, the Fresno LAFCo delegated to the executive officer the authority to approve, or conditionally approve, proposals to extend services outside jurisdictional boundaries.

Applicant

The local agency is the applicant, not the property owner. LAFCo staff will encourage property owners to work through the local agency that would provide the service:

GC 56017.2 (c). "Application" means:

*A request **by a city or district** for commission approval of an extension of services outside the agency's jurisdictional boundaries pursuant to Section 56133.*

Information needed from a local agency for authorization to extend service(s)

- Nature of the request;
- Location of proposed recipient(s), address and APN;
- Map of proposed recipients showing affected properties, all public improvements needed to fulfill request, city limit/district boundary and sphere of influence;
- Nature of the agreement or contract between local agency and recipients;
- A local agency contact;
- Known alternate providers of the type of service to be extended ; and
- \$750 fee per Fresno LAFCo policy 350-10.*

*Note: An extension of service *may* be exempt from GC sec. 56133; see "Important exemption in the statute" later in this worksheet. If the extension is exempt the executive officer will communicate this in writing and fee will be returned.

Process

Extension of Service requests are not changes of organization pursuant to GC 56021, and are not noticed pursuant to 56658(b)(1); rather, the process is largely administrative in nature with typical notice of action given only to the subject local agency and the party requesting service.

The executive officer, within 30 days of receipt of a request for approval by a city or district of a contract to extend services outside its jurisdictional boundary, shall determine whether the request is complete and acceptable for filing or whether the request is incomplete.

If a request is determined not to be complete, the executive officer shall immediately transmit that determination to the requester, specifying those parts of the request that are incomplete and the manner in which they can be made complete.

When the request is deemed complete, the executive officer shall, not more than 90 days from the date that the request is deemed complete, approve, disapprove, or approve with conditions the contract for extended services.

If the executive officer has denied a request for extension of service, the local agency or an affected party may request that the executive officer's action be reconsidered by the commission within 30 days of executive officer action per GC 56895.

There are essentially two thresholds to consider: is the service to be extended to property(ies) inside or outside of a sphere of influence.

*GC 56133 (b) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries **but within its sphere of influence** in anticipation of a later change of organization.*

In comparison, service to property(ies) **outside a SOI** is a substantially higher threshold:

*GC 56133 (c) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries **and outside its sphere of influence** to respond to **an existing or impending threat to the public health or safety** of the residents of the affected territory **if both of the following requirements are met:***

*(1) The entity applying for the contract approval has provided the commission with **documentation of a threat to the health and safety of the public** or the affected residents.*

*(2) The **commission has notified any alternate service provider**, including any water corporation as defined in Section 241 of the Public Utilities Code, or sewer system corporation as defined in Section 230.6 of the Public Utilities Code, that has filed a map and a statement of its service capabilities with the commission.*

Regarding (1), above, in the event that the requested extension is outside a SOI, as soon as possible, the local agency should contact Fresno County Department of Public Health, Environmental Health Division at (559) 600-3271 for a finding of an existing or impending threat to the public health or safety.

Regarding (2) above, Public Utilities Code sec. 241 identifies a “Water corporation” as including every corporation or person owning, controlling, operating, or managing any water system for compensation within this State. Maps and statements on file with the commission are:

- Columbia Canal Company
- Shaver lake Point One Mutual Water Company
- Shaver lake Point Two Mutual Water Company
- Bakman Water Company

Important exemption in the statute

GC 56133 (e) This section does not apply to contracts or agreements solely involving two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider. This section does not apply to contracts for the transfer of nonpotable or nontreated water. This section does not apply to contracts or agreements solely involving the provision of surplus water to agricultural lands and facilities, including, but not limited to, incidental residential structures, for projects that serve conservation purposes or that directly support agricultural industries. However, prior to extending surplus water service to any project that will support or induce development, the city or district shall first request and receive written approval from the commission in the affected county. This section does not apply to an extended service that a city or district was providing on or before January 1, 2001. This section does not apply to a local publicly owned electric utility, as defined by Section 9604 of the Public Utilities Code, providing electric services that do not involve the acquisition, construction, or installation of electric distribution facilities by the local publicly owned electric utility, outside of the utility's jurisdictional boundaries.