



**THIS MEETING WILL BE CONDUCTED UTILIZING TELECONFERENCING AND ELECTRONIC MEANS PURSUANT TO THE PROVISIONS OF THE GOVERNOR'S EXECUTIVE ORDER N-29-20.**

In order to minimize the spread of the COVID-19 virus, please consider the following:

You are strongly encouraged to observe the live stream of the LAFCO Commission meetings at:

<https://zoom.us/j/92930983796?pwd=UW5KeUdRN0tXSml2NUtuMjgwZmZHdz09>

Webinar ID: **929 3098 3796**

Password: **900718**

Call in number: **1 669 900 6833**

1. Submit **written** comment on any matter within the Commission's subject matter jurisdiction, regardless of whether it is on the agenda for Commission consideration or action. Submit your comment via email or U.S. mail by 1 p.m. on the Wednesday before the Commission meeting. You may submit comments via email to [imarquez@SLOLAFCO.com](mailto:imarquez@SLOLAFCO.com). Your comments will be read at the meeting; limited to 3 minutes per item.
2. Submit **verbal** comment by calling (805) 781-5795; state and spell your name, mention the agenda item number you are calling about and leave your comment. Verbal comments must be received by the Clerk of the Commission no later than 1 p.m. on the Wednesday before the Commission meeting. Your comments will be read at the meeting; limited to 3 minutes per item.
3. Submit **live** comment by joining the meeting and press the "raise a hand" button or if joining by phone only, press \*9 to indicate a desire to make comment. The chair will call you by name or phone number when it is your turn to comment; limited to 3 minutes per item.

\* If you are joining by zoom & phone, still use the zoom raise hand button as \*9 will not work.

For detailed information and updates about COVID-19, please visit the County of San Luis Obispo webpage at <https://www.emergencyslo.org/en/covid19.aspx>.

**The San Luis Obispo LAFCO thanks you for doing your part to prevent the spread of COVID-19.**



# SAN LUIS OBISPO LAFCO

## Local Agency Formation Commission

### Meeting Agenda

April 15, 2021, at 9:00 a.m.

#### MISSION STATEMENT

The Local Agency Formation Commission is committed to serving the residents of San Luis Obispo County and the State of California by discouraging urban sprawl and encouraging the orderly formation and development of local agencies based on local conditions and circumstances.

#### COMMISSIONERS

Robert Enns, Chair, Special District  
Ed Waage, Vice-Chair, City  
Marshall Ochylski, Special District  
Steve Gregory, City

Tom Murray, Public  
Debbie Arnold, County  
Lynn Compton, County

#### ALTERNATES

Ed Eby, Special District  
Charles Bourbeau, City  
Heather Jensen, Public  
John Peschong, County

#### Meeting Location

ZOOM meeting info is provided on  
Agenda Cover & website.

#### Contact Information

David Church, Interim Executive Officer  
Phone: (805) 781-5795 | Fax: (805) 788-2072 | [www.slolafco.com](http://www.slolafco.com)

#### MEETING ACCESS AND COMMENTS

**LAFCO Commission meetings can be viewed at:**

<https://zoom.us/j/92930983796?pwd=UW5KeUdRN0tXSml2NUtuMjgwZmZHdz09>

Webinar ID: 929 3098 3796 Password: 900718

Call in number: 1 669 900 6833 Public Comments: On the agenda cover

#### MEETING AGENDA

##### Call to Order/Roll Call

**Approval of the Minutes:** March 18, 2021, and March 25, 2021

##### Non-Agenda Public Comment Period

This is the period in which the Commission Clerk will read out loud all non-agenda public comments that were submitted on or before 1 p.m. on the Wednesday before the Commission meeting. Following, there will be an opportunity to provide live comments; each speaker will be limited to a three-minute presentation. Go to the Agenda cover for more details on how to submit public comment.

##### Consent Agenda

**A-1:** Third Quarter Fiscal Year 2020-2021 LAFCO Budget Status Report (Recommend Review and Direct Interim Executive Officer to submit to the County Auditor) (Pg. 10-21)



**Regular Matters**

- B-1:** Employment Contract between the San Luis Obispo Local Agency Formation Commission and Robert Fitzroy (Recommend Review and Approval) (Pg. 22-33)
- B-2:** Proposed LAFCO Budget for Fiscal Year 2021-22 (Recommend Review and Approval) (Pg. 34-56)
- B-3:** Amendment to Temporary Employment Agreement between the San Luis Obispo Local Agency Formation Commission and David Church (Recommend Review and Approval) (Pg. 57-61)
- B-4:** Request for Amicus Support by the San Luis Obispo Local Agency Formation Commission, regarding the City of Pismo Beach, et. al. Superior Court Case No. CV130383; 2d Civ. No. B296968 (Recommend Review and Approval) (Pg. 62-72)

**Informational Matters**

- C-1:** Status Report of Submitted Proposals and Upcoming Proposal Activities (Recommend Receive and File) (Pg. 73-77)

**Commissioner Comments**

**Legal Counsel Comments**

**Executive Officer Comments**

**Adjournment**

**Note:** 1.) In compliance with the Americans with Disabilities Act (ADA), if you need special assistance to participate at this meeting, please contact the Clerk at 805-781-5795. Notification provided a minimum of 48 hours prior to the meeting will enable the Clerk to make reasonable arrangements to ensure accessibility to this meeting. Pursuant to the ADA, the meeting room is accessible to the physically disabled. 2.) It is required by Government Code Section 84308 that a participant in a LAFCO proceeding who has a financial interest in the decision and who has made a campaign contribution of more than \$250 to any Commissioner within (12) months prior, must disclose the contribution. If you are affected, please notify Commission Staff before the hearing.

**Submitted Proposals and Sphere of Influence Municipal Service Review Updates**

File #	Name	Project Status
<b>Proposals</b>		
2-R-21	Anx #18 & SOI to the Cayucos Sanitary District (WRF)	Info hold sent 3-19-2021. In Property Tax Negotiations.
1-R-21	Anx #82 to City of San Luis Obispo (Froom Ranch)	Info hold sent 3-9-2021. In Property Tax Negotiations.
4-R-20	Anx #29 to NCSD (Torres)	Info hold sent 11-20-20.
3-R-20	Anx #90 to Paso Robles (Gateway)	Info hold sent 11-6-20. In Property Tax Negotiations.
1-R-20	Anx #81 to SLO (Fiero East – West)	Filed with BOE 3-26-21. Awaiting Acknowledgment.
2-S-19	SOI Amendment Tri-W site	Info hold sent 11-14-19.
<b>SOI/MSR</b>		
1-S-20	North County (Templeton, San Miguel, Heritage Ranch)	Gathering Information. Preparing draft MSR.



**SAN LUIS OBISPO  
LOCAL AGENCY FORMATION COMMISSION  
MARCH 18, 2021, MEETING MINUTES**

**Call to Order**

The San Luis Obispo Local Agency Formation Commission (LAFCO) meeting was called to order at 9:01 a.m. on Thursday, March 18, 2021, pursuant to the COVID-19 provisions of the Governor's Executive Order N-29-20 by Chairperson Robert Enns. Viewing and commenting instructions were provided on the COVID-19 Agenda Cover and LAFCO's Website Homepage.

**Roll Call**

**Present:** Chairperson Robert Enns, Vice-Chair Ed Waage, Commissioners Debbie Arnold, Lynn Compton, Steve Gregory, Tom Murray, Marshall Ochylski and Alternate Commissioners Ed Eby and Heather Jensen.

**Absent:** Alternate Commissioner John Peschong.

**Staff:** David Church, LAFCO Interim Executive Officer  
Brian Pierik, LAFCO Legal Counsel  
Imelda Marquez, LAFCO Analyst

**Approval of Minutes**

**Chairperson Enns** asked for Commissioner comments before opening to the public, hearing none.

**Chairperson Enns** asked Ms. Marquez to report if any written or live comments from the public were received.

**Ms. Marquez** reported that no public comments were received.

**Chairperson Enns** asked for a motion to approve the January 21, 2021, Meeting Minutes.

**Commissioner Murray** motioned to approve the minutes.

**Commissioner Arnold** seconded the motion.

**AYES:** Commissioners Murray, Arnold, Compton, Ochylski, Waage, and Chairperson Enns

**NAYS:** None

**ABSTAINING:** Commissioner Gregory

The motion was passed.

**Non-Agenda Public Comments**

**Chairperson Enns** asked Ms. Marquez to report if any written or live non-agenda public comments were received.

**Ms. Marquez** reported that no public comments were received.

**Consent Agenda**

- A-1:** Protest Proceeding Results for the Activation of Solid Waste Power for the San Simeon Community Service District - File #1-E-20 (Recommend Review and Accept)
- A-2:** Protest Proceeding Results for Annexation #81 to the City of San Luis Obispo (Fiero East – West) - File #1-R-20 (Recommend Review and Accept)
- A-3:** CALAFCO Dues Update, Annual, & Quarterly Reports (Recommend receive and File)

**Chairperson Enns** asked Ms. Marquez to report if any written or live comments from the public were received.

**Ms. Marquez** reported that no public comments were received.

**Chairperson Enns** asked if any Commissioner wished to pull an item for separate discussion. Hearing none Chairperson Enns asked for a motion.

**Commissioner Waage** motioned to approve the Consent Agenda.

**Commissioner Murray** seconded the motion.

AYES: Commissioners Waage, Murray, Arnold, Compton, Gregory, Ochylski, and Chairperson Enns

NAYS: None

ABSTAINING: None

The motion passed with a unanimous roll call vote.

**Regular Matters**

- B-1:** Partial Fee Waiver Request - Cayucos Sanitary District (Water Resource Reclamation Facility) Annexation and Sphere of Influence Amendment (Recommend Review and Approval)

**Mr. Church** presented the item.

**Chairperson Enns** opened the item for Commissioner comments or questions.

**Commissioner Arnold** asked for clarification on whether the proposed fees would cover the processing of annexation.

**Mr. Church** clarified the proposed fee should cover processing.

**Chairperson Enns** asked for any other Commissioner questions, hearing none he continued to

ask Ms. Marquez to report if any written or live comments from the public were received.

**Ms. Marquez** reported that no public comments were received.

**Chairperson Enns** asked for a motion to approve staff recommendation.

**Commissioner Waage** made a motion to approve staff recommendation.

**Commissioner Compton** seconded the motion.

AYES: Commissioners Waage, Compton, Arnold, Gregory, Murray, and Ochylski

NAYS: None

ABSTAINING: Chairperson Enns

The motion was passed.

**B-2:** Appointment of Regular and Alternate Public Members to the Commission  
(Recommend Review and Approval)

**Chairperson Enns** briefly introduced the candidates that applied for the position and gave the Commission options for moving forward.

**Mr. Church** added to Chairperson Enns' suggestion and opened the floor for candidate interviews.

Candidates **Tom Murray** and **Heather Jensen** expressed their interest to fulfill the Regular and Alternate Public Member positions.

**Chairperson Enns** opened the item for Commissioner comments.

**Commissioner Arnold** thanked the Public Members for their comments and service to the Commission.

**Chairperson Enns** asked Ms. Marquez to report if any written or live comments from the public were received.

**Ms. Marquez** reported that no public comments were received.

**Chairperson Enns** asked for a motion from the Commission.

**Commissioner Waage** made a motion to appoint Tom Murray as Regular and Heather Jensen as Alternate Public Member.

**Commissioner Arnold** seconded the motion.

AYES: Commissioners Waage, Arnold, Compton, Gregory, Ochylski, and Chairperson Enns

NAYS: None

ABSTAINING: None

The motion passed with a unanimous roll call vote.

**Closed Session**

**C-1:** CONFERENCE WITH LEGAL COUNSEL--EXISTING LITIGATION  
Government Code Section 54956.9 paragraph (1) of subdivision (d)  
Name of case: San Luis Obispo Local Agency Formation Commission, et. al. v.  
City of Pismo Beach, et. al. Superior Court Case No. CV130383; 2d Civ. No.  
B296968

**C-2:** Closed session pursuant to Government Code Section 54957  
Public Employee/Employee Appointment – Title: Executive Officer  
Pursuant to Government Code Section 54957.6 Conference with Labor Negotiators  
Agency designated representatives: (Legal Counsel and Interim Executive Officer)  
Unrepresented employee: Executive Officer

**Commissioner Waage** announced that he would not be participating in item C-1.

Commissioner Gregory attended item C-1 and excused himself before the start of item C-2.

**Mr. Pierik** introduced the two items and called for a recess to closed session at 9:23 a.m.

At 12:14 a.m. **Chairperson Enns** called the open session back in order.

**Report on Closed Session:** LAFCO Legal Counsel, Mr. Pierik, reported out of Closed Session announcing that there was no reportable action for item C-2. On item C-1 Mr. Pierik announced that Commissioner Waage did not participate in the Closed Session because of his position with the City of Pismo Beach. He continued to announce the unanimous action that was taken by the six Commissioners to authorize Legal Counsel to pursue a petition of rehearing through a court of appeal and seek a review through petition to the California Supreme Court.

**Commissioner Comments:** None

**Legal Counsel Comments:** None

**Executive Officer Comments:** None

**Adjournment:** With no further business before the Commission, the meeting adjourned at 12:16 a.m. until the next meeting of the Commission pursuant to Governor’s Executive Orders, depending upon the progression of the COVID-19 pandemic.

**THESE MINUTES ARE NOT OFFICIAL NOR ARE THEY A PERMANENT PART OF THE RECORD UNTIL THEY ARE APPROVED BY LAFCO COMMISSIONERS AT THE NEXT REGULAR MEETING.**

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Respectfully submitted,  
Imelda Marquez, LAFCO Analyst



**SAN LUIS OBISPO  
LOCAL AGENCY FORMATION COMMISSION  
MARCH 25, 2021, 12:00 P.M. SPECIAL MEETING MINUTES**

**Call to Order**

The San Luis Obispo Local Agency Formation Commission (LAFCO) special meeting was called to order at 12:10 p.m. on Thursday, March 25, 2021, by Chairperson Robert Enns. This meeting is being conducted pursuant to the COVID-19 provisions of the Governor's Executive Order N-29-20. Viewing and commenting instructions were provided on the COVID-19 Agenda Cover and LAFCO's Homepage. A notice of at least 24-hours was given and posted.

**Roll Call**

**Present:** Chairperson Robert Enns, Vice-Chair Ed Waage, Commissioners Debbie Arnold, Lynn Compton, Steve Gregory, Tom Murray, Marshall Ochylski, and Alternate Commissioners Ed Eby, and Heather Jensen

**Absent:** Alternate Commissioners Charles Bourbeau and John Peschong.

**Staff:** David Church, Interim LAFCO Executive Officer  
Brian Pierik, LAFCO Legal Counsel  
Imelda Marquez, LAFCO Analyst

**Non-Agenda Public Comments**

**Chairperson Enns** asked **Ms. Marquez** to report if any written or live non-agenda public comments were received.

**Ms. Marquez** reported that no non-agenda public comments were received.

**Closed Session**

**A-1:** Closed session pursuant to Government Code Section 54957  
Public Employee/Employee Appointment – Title: Executive Officer

Pursuant to Government Code Section 54957.6 Conference with Labor Negotiators  
Agency designated representatives: (Legal Counsel and Interim Executive Officer)

Unrepresented employee: Executive Officer

**Mr. Pierik** announced the Closed Session item and requested the Commissioners reconvened using the alternate ID and passcode for the Closed Session.

**Chairperson Enns** asked **Ms. Marquez** to report if any written or live non-agenda public comments were received for this item.

**Ms. Marquez** reported that no non-agenda public comments were received.

**Report on Closed Session:** LAFCO Legal Counsel, Mr. Pierik, announced that there was no



reportable action out of the Closed Session.

**Adjournment:** With no further business before the Commission, the special meeting adjourned at 12:29 p.m.

**THESE MINUTES ARE NOT OFFICIAL NOR ARE THEY A PERMANENT PART OF THE RECORD UNTIL THEY ARE APPROVED BY LAFCO COMMISSIONERS AT THE NEXT REGULAR MEETING.**

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Respectfully submitted,  
Imelda Marquez, LAFCO Analyst

DRAFT



LAFCO - San Luis Obispo - Local Agency Formation Commission  
SLO LAFCO - Serving the Area of San Luis Obispo County

**COMMISSIONERS**

Chairperson  
ROBERT ENNS  
Special District Member

Vice-Chair  
ED WAAGE  
City Member

DEBBIE ARNOLD  
County Member

LYNN COMPTON  
County Member

MARSHALL OCHYLSKI  
Special District Member

STEVE GREGORY  
City Member

TOM MURRAY  
Public Member

**ALTERNATES**

Ed Eby  
Special District Member

CHARLES BOURBEAU  
City Member

HEATHER JENSEN  
Public Member

JOHN PESCHONG  
County Member

**STAFF**

DAVID CHURCH  
Interim Executive Officer

BRIAN A. PIERIK  
Legal Counsel

IMELDA MARQUEZ  
Analyst

**TO: MEMBERS, FORMATION COMMISSION**

**FROM: DAVID CHURCH, INTERIM EXECUTIVE OFFICER**

**DATE: APRIL 15, 2021**

**SUBJECT: THIRD QUARTER FISCAL YEAR 2020-2021 LAFCO BUDGET STATUS REPORT**

**Recommendation.** It is respectfully recommended that the Commission: 1) review this third quarter financial report for fiscal year 20-21; and 2) direct the Interim Executive Officer (EO) to file it with the County Auditor.

**Summary.** The Local Agency Formation Commission (LAFCO) operating budget is comprised of four components: 1) salaries, payroll taxes and benefits, 2) services and supplies, 3) revenues, and 4) fund balance and reserves. The Budget is considered and adopted by LAFCO each year as required by the Cortese-Knox-Hertzberg Act. Day-to-Day management of the Budget is based on “bottom-line” principles that allow for variation within individual line-item accounts as long as the overall expenditures remain within the approved budgeted levels. Attached is the Third Quarter Budget Status Report for the 2020-21 fiscal year.

**Attachments**

**A:** 3rd Quarter Status for Fiscal Year 2020-2021

**B:** Credit Card Statements for Jan, Feb, and Mar. 2021

LAFCO’s budget is funded primarily by the County, Cities and Independent Special Districts, with each group paying one-third of the LAFCO Budget. The City and District shares are pro-rated based on general revenues reported to the State Controller’s Office on an annual basis. These revenues are found in the latest annual report released by the State Controller’s office. LAFCO also receives revenue through application fees and interest earnings.

LAFCO and the County Auditor’s Office have a signed agreement for services. In the first quarter, the County Auditor’s Office calculates and sends out the invoices for payments to the Cities and Special Districts in the County. The County Auditor’s Office also provides LAFCO with claims processing and financial tracking services. The County’s Enterprise Financial System (EFS) is used by LAFCO staff in monitoring the budget and compiling budget report data. Each LAFCO transaction is processed through the County’s financial system.

**Expenditures.** Overall, third quarter expenditures are at 66% with 75% of the fiscal year complete. Below is a brief summary of line item expenditures:

- Salaries and Benefits are 65% expended with 20 pay periods completed through the third quarter. This line item includes the authorized use of reserves for vacation/sick payout for the retirement of Executive Officer, David Church. It also includes the unanticipated vacation/sick payoff for Mike Prater the former Executive Officer. Neither of these expenses were included in the salaries line item when the budget was adopted in May, 2020. Therefore, these expenses were not charged to local agencies. Fund Balance Available would be used to fund these expenditures as needed.

The salary savings accrued during the months of July through September was due to Analyst vacancy. Salary savings were accrued as LAFCO did not hire an Analyst for three months. Imelda Marquez has since been promoted to Analyst. The Clerk position has yet to be filled and salary savings are being accrued. The Interim Executive Officer does not received benefits which results in savings as well.

- Services and Supplies are at 67% expended with 75% of the year complete. This is a normal expenditure pattern as the first and second quarter includes one-time annual expenditures for: County Auditor's Office Services (\$8,511), California Association of Local Agency Formation Commission (CALAFCO) Membership Dues (\$4,922), Workers Compensation-SDRMA (\$1,164), and payment of Property /Liability Insurance-SDRMA (\$10,575). These one-time costs occur normally in the first quarter. Legal costs for the first three quarters are \$18,800. Savings in several line items are due to the Covid-19 pandemic.
- The building lease is \$3,056/month and has been paid for 10 months; through April. The lease is currently month to month and the amount has remained unchanged since 2010.
- LAFCO uses a credit card from Umpqua Bank through a program implemented by the Special District Risk Management Association (SDRMA) for public agencies. LAFCO has a credit card policy with regard to use and pays the bill in full each month. The statements for January, February, and March 2021 are found in Attachment B.
  - **January:** Purchases in the amount of \$191.92 were made, including; ZOOM subscription of \$57.63, Trophy Hunters \$22.63-Name Plate, Postage \$5.15, GoDaddy old.slolafco.com renewal \$143.88 and a credit of -\$37.37 towards the January invoice.
  - **February:** Included total charges of \$501.95: ZOOM subscription of \$57.63, Go Daddy slolafco.com website renewal \$305.93, CSDA Career Center (EO job posting) \$105.00, and Vista Print LAFCO Approval stamp \$33.39.

- **March:** Included total charges of \$279.55: ZOOM subscription of \$57.83, Costco webcam purchase of \$107.73, Norton antivirus subscription renewal \$104.99 and USPS Postage for BOE filing \$9.20.

**Revenues.** Overall revenues are 98% realized through the third quarter. The jurisdictions (Cities, Special Districts and County) have paid 100% of the LAFCO charges billed in the first quarter by the County Auditor. Application processing fees have been submitted in the amount of \$36,765 for Annexations, Sphere of Influence Amendments and a latent power activation. The adopted budget for fees from applications is \$21,000. Revenues from fees is exceeding the budget by \$15,765.

**Fund Balance and Designated Fund Balance (Reserves).** The Fund Balance Available is the difference between the total expenses and revenues in the fiscal year. The Fund Balance Available is a more flexible asset than Designated Fund Balance and is carried forward from year to year. The Designated Fund Balance requires Commission approval for expenditure. Please note that the current Fund Balance Available and Designated Fund Balance total are \$213,215. It is projected that revenues will exceed expenses by \$50,000 creating additional Fund Balance. Available to cover unexpected expenses. Designated Fund Balance and Fund Balance Available are at 45% of the current budget.

# Attachment A

3rd Quarter Status for Fiscal Year 2020-2021

## Fiscal Year 2020-21 LAFCO Budget

### Third Quarter Report Status Report

Period Ending: March 31, 2021

EXPENDITURES SUMMARY	Adopted 20-21	Expenditure YTD	Projected Yr End	Balance YTD	% Expended
Salaries (20 of 26 pay periods)	233,651	172,658	223,218	106,635	62%
Salaries - Budget Adjustment-Sick Leave PO	45,642	45,642	45,642	n/a	n/a
Benefits & Payroll Taxes	177,381	79,022	105,362	98,359	45%
Services and Supplies	131,984	89,041	108,958	42,943	67%
<b>Total Expenses</b>	<b>588,658</b>	<b>386,363</b>	<b>483,180</b>	<b>202,295</b>	<b>66%</b>

EXPENDITURES DETAIL	Adopted 20-21	Expenditure YTD 1)	Projected Yr End	Balance YTD	% Expended
<b>Salaries and Benefits</b>					
Salaries 1)	279,293	218,300	268,860	60,993	78%
Benefits & Payroll Taxes	177,381	79,022	105,362	98,359	45%
<b>total Salaries &amp; Benefits</b>	<b>456,674</b>	<b>297,322</b>	<b>374,222</b>	<b>159,352</b>	<b>65%</b>

1) Includes EO Payout

Services and Supplies	Adopted 20-21	Expenditure YTD	Projected Yr End	Balance YTD	% Expended
Food	800	105	300	695	13%
Maintenance - Equipment	300	-	100	300	0%
Maintenance - Software	500	412	500	88	82%
CALAFCO/Other Memberships	7,000	6,404	6,404	596	91%
Office Supplies	2,500	347	1,000	2,153	14%
Commissioner/Professional Serv.	10,000	4,367	6,000	5,633	44%
Publication/Legal Notices	1,000	1,370	1,400	(370)	137%
Rent	37,000	30,565	37,000	6,436	83%
Small Equipment	400	199	200	201	50%
Large Equipment	1,000	(514)	1,200	1,514	-51%
Computer Software	500	446	500	54	89%
Employee Mileage	200	-	-	200	0%
Commissioner Mileage	1,800	-	-	1,800	0%
Airfare/Public Transportation	500	-	500	500	0%
Accommodations/Travel	3,000	-	-	3,000	0%
Auto Allowance	3,323	208	208	3,115	6%
Training/Conf Registration	3,500	-	-	3,500	0%
Utilities	4,000	2,850	3,600	1,150	71%
Car/Vehicle Rentals	1,000	-	-	1,000	0%
Postage	1,000	368	500	632	37%
Custodian	1,000	755	1,000	245	76%
Copying	800	-	200	800	0%
ITD-SAP/Board Chambers	850	-	-	850	0%
Phones/Internet	2,800	2,213	3,000	587	79%
County Auditor	8,511	8,511	8,511	-	100%
Insurance	13,500	11,635	11,635	1,865	86%
Legal Counsel	25,200	18,800	25,200	6,400	75%
<b>Subtotal Services &amp; Supplies</b>	<b>131,984</b>	<b>89,041</b>	<b>108,958</b>	<b>42,943</b>	<b>67%</b>

<b>Total Expenses</b>	<b>588,658</b>	<b>386,363</b>	<b>483,180</b>	<b>202,295</b>	<b>66%</b>
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REVENUE DETAIL	Adopted 20-21	Realized YTD	Projected Yr End	Balance YTD	% Realized
Interest	4,000	2,586	3,000	1,414	65%
Environmental Fees	1,000	5,000	5,000	(4,000)	500%
Sphere of Influence Fee	2,000	6,000	6,000	(4,000)	300%
LAFCO Processing Fees	14,000	23,179	23,179	(9,179)	166%
Other Revenue/Fund Balance if needed	25,000	-	-	25,000	0%
Sub-Total w/o Agency Charges	<b>46,000</b>	<b>36,765</b>	<b>37,179</b>	<b>9,235</b>	<b>80%</b>
LAFCO Charges to Agencies	497,016	497,066	497,121	(50)	100%
<b>Total Revenue</b>	<b>543,016</b>	<b>533,831</b>	<b>534,300</b>	<b>9,185</b>	<b>98%</b>

Designated Fund Balance	January 2021	Projected End of Year Reserves	Projected % of Budget
Fund Balance/Designated Fund Balance	213,215	213,215	36%
EO-Sick Leave/Vacation Payout-Nov. 2020	Included		
Projected Fund Balance FY 20-21		51,120	
Use Fund Balance Available in 4th Qtr if needed		Not needed	
<b>Reserves/Fund Balance</b>	<b>213,215</b>	<b>264,335</b>	<b>45%</b>

# Attachment B

Credit Card Statements for Jan, Feb, and Mar. 2021



UMPQUA BANK

BL ACCT

LAFCO

Account Number: ####-####-####

Page 1 of 3



Account Summary

Billing Cycle		01/31/2021
Days In Billing Cycle		31
Previous Balance		\$57.63
Purchases	+	\$229.29
Cash	+	\$0.00
Balance Transfers	+	\$0.00
Special	+	\$0.00
Credits	-	\$37.37-
Payments	-	\$57.63-
Other Charges	+	\$0.00
Finance Charges	+	\$0.00

**NEW BALANCE \$191.92**

Total Credit Line	\$10,000.00
Available Credit Line	\$9,808.08
Available Cash	\$0.00
Amount Over Credit Line	\$0.00
Amount Past Due	\$0.00
Disputed Amount	\$0.00



Call us at: (866) 777-9013  
Lost or Stolen Card: (866) 839-3485



Go to [www.umpquabank.com](http://www.umpquabank.com)



Write us at PO BOX 1952, SPOKANE, WA  
99210-1952

**NEW BALANCE \$191.92**

**MINIMUM PAYMENT \$191.92**

**PAYMENT DUE DATE 02/25/2021**

*NOTE: Grace period to avoid a finance charge on purchases, pay entire new balance by payment due date. Finance charge accrues on cash advances until paid and will be billed on your next statement.*

Corporate Activity

TOTAL CORPORATE ACTIVITY				\$95.00-
Trans Date	Post Date	Reference Number	Transaction Description	Amount
01/15	01/15	00000000000000000115554	PAYMENT - THANK YOU	\$57.63-
01/28	01/28	70005601028777028640039	2020 CCC REBATE	\$37.37-

IMELDA MARQUEZ ####-####-####	Payments & Other Credits	Purchases & Other Charges	Cash Advances	Total Activity
	\$0.00	\$229.29	\$0.00	\$229.29

Trans Date	Post Date	Plan Name	Reference Number	Description	Amount
01/01	01/03	PPLN01	24492151002637440817800	ZOOM.US 888-799-9666 WWW.ZOOM.US CA	\$57.63
01/07	01/10	PPLN01	24767891008067500231382	TROPHY HUNTERS SN LUIS OBISP CA	\$22.63
01/15	01/17	PPLN01	24137461016001364215590	USPS PO 0568770075 SAN LUIS OBIS CA	\$5.15

PLEASE DETACH COUPON AND RETURN PAYMENT USING THE ENCLOSED ENVELOPE - ALLOW UP TO 7 DAYS FOR RECEIPT



BL ACCT

LAFCO

Account Number: #### #### ###

**Cardholder Account Detail Continued**

Trans Date	Post Date	Plan Name	Reference Number	Description	Amount
01/19	01/20	PPLN01	24430991020400900089853	DNH*GODADDY.COM https://www.g AZ	\$143.88

**Finance Charge Summary / Plan Level Information**

Plan Name	Plan Description	FCM <sup>1</sup>	Average Daily Balance	Periodic Rate *	Corresponding APR	Finance Charges	Effective APR Fees **	Effective APR	Ending Balance
<b>Purchases</b>									
	PURCHASE	E	\$0.00	0.06024%(D)	21.9900%	\$0.00	\$0.00	0.0000%	\$191.92
<b>Cash</b>									
	CASH	A	\$0.00	0.06572%(D)	23.9900%	\$0.00	\$0.00	0.0000%	\$0.00

\* Periodic Rate (M)=Monthly (D)=Daily  
\*\* includes cash advance and foreign currency fees  
Days In Billing Cycle: 31  
APR = Annual Percentage Rate  
<sup>1</sup> FCM = Finance Charge Method  
(V) = Variable Rate If you have a variable rate account the periodic rate and Annual Percentage Rate (APR) may vary.



**UMPQUA BANK**

BL ACCT

LAFCO

Account Number: ####-####-####-

Page 1 of 3






**Account Summary**

Billing Cycle		02/28/2021
Days In Billing Cycle		28
Previous Balance		\$191.92
Purchases	+	\$501.95
Cash	+	\$0.00
Balance Transfers	+	\$0.00
Special	+	\$0.00
Credits	-	\$0.00
Payments	-	\$191.92-
Other Charges	+	\$0.00
Finance Charges	+	\$0.00

**NEW BALANCE \$501.95**

Total Credit Line	\$10,000.00
Available Credit Line	\$9,498.05
Available Cash	\$0.00
Amount Over Credit Line	\$0.00
Amount Past Due	\$0.00
Disputed Amount	\$0.00

**Service Information**

-  Call us at: (866) 777-9013  
Lost or Stolen Card: (866) 839-3485
-  Go to [www.umpquabank.com](http://www.umpquabank.com)
-  Write us at PO BOX 1952, SPOKANE, WA 99210-1952

**Payment Summary**

<b>NEW BALANCE</b>	<b>\$501.95</b>
<b>MINIMUM PAYMENT</b>	<b>\$501.95</b>
<b>PAYMENT DUE DATE</b>	<b>03/25/2021</b>

*NOTE: Grace period to avoid a finance charge on purchases, pay entire new balance by payment due date. Finance charge accrues on cash advances until paid and will be billed on your next statement.*

TOTAL CORPORATE ACTIVITY					\$191.92-
Trans Date	Post Date	Reference Number	Transaction Description	Amount	
02/16	02/16	00000000000000000115860	PAYMENT - THANK YOU	\$191.92-	

Cardholder Activity Summary				
IMELDA MARQUEZ ####-####-####	Payments & Other Credits	Purchases & Other Charges	Cash Advances	Total Activity
	\$0.00	\$501.95	\$0.00	\$501.95

Trans Date	Post Date	Plan Name	Reference Number	Description	Amount
02/01	02/02	PPLN01	24906411032113143609813	DNH*GODADDY.COM 480-5058855 AZ	\$287.76
02/01	02/02	PPLN01	24492151032637486308528	ZOOM.US 888-799-9666 WWW.ZOOM.US CA	\$57.63
02/02	02/03	PPLN01	24906411033113276204167	DNH*GODADDY.COM 480-5058855 AZ	\$18.17

PLEASE DETACH COUPON AND RETURN PAYMENT USING THE ENCLOSED ENVELOPE - ALLOW UP TO 7 DAYS FOR RECEIPT

BL ACCT

LAFCO

Account Number: #### #### ###

Cardholder Account Detail Continued					
Trans Date	Post Date	Plan Name	Reference Number	Description	Amount
02/02	02/03	PPLN01	24492151033637526966318	CSDA CAREER CENTER HTTPSNAYLOR.C MD	\$105.00
02/25	02/26	PPLN01	24906411056114947010878	VISTAPR*vistaprint.com 866-6148002 MA	\$33.39

Finance Charge Summary / Plan Level Information									
Plan Name	Plan Description	FCM <sup>1</sup>	Average Daily Balance	Periodic Rate *	Corresponding APR	Finance Charges	Effective APR Fees **	Effective APR	Ending Balance
<b>Purchases</b>									
	PURCHASE	E	\$0.00	0.06024%(D)	21.9900%	\$0.00	\$0.00	0.0000%	\$501.95
<b>Cash</b>									
	CASH	A	\$0.00	0.06572%(D)	23.9900%	\$0.00	\$0.00	0.0000%	\$0.00
* Periodic Rate (M)=Monthly (D)=Daily							Days In Billing Cycle: 28		
** includes cash advance and foreign currency fees							APR = Annual Percentage Rate		
<sup>1</sup> FCM = Finance Charge Method									
(V) = Variable Rate If you have a variable rate account the periodic rate and Annual Percentage Rate (APR) may vary.									



UMPQUA BANK

BL ACCT

LAFCO

Account Number: #####

Page 1 of 3



**CREDIT SUMMARY**




Billing Cycle		03/31/2021
Days In Billing Cycle		31
Previous Balance		\$501.95
Purchases	+	\$279.55
Cash	+	\$0.00
Balance Transfers	+	\$0.00
Special	+	\$0.00
Credits	-	\$0.00
Payments	-	\$501.95-
Other Charges	+	\$0.00
Finance Charges	+	\$0.00

**NEW BALANCE \$279.55**

**REDIT SUMMARY**

Total Credit Line	\$10,000.00
Available Credit Line	\$9,720.45
Available Cash	\$0.00
Amount Over Credit Line	\$0.00
Amount Past Due	\$0.00
Disputed Amount	\$0.00

**CONTACT US**

-  Call us at: (866) 777-9013  
Lost or Stolen Card: (866) 839-3485
-  Go to [www.umpquabank.com](http://www.umpquabank.com)
-  Write us at PO BOX 1952, SPOKANE, WA 99210-1952

**NEW BALANCE**

NEW BALANCE \$279.55

MINIMUM PAYMENT \$279.55

PAYMENT DUE DATE 04/25/2021

*NOTE: Grace period to avoid a finance charge on purchases, pay entire new balance by payment due date. Finance charge accrues on cash advances until paid and will be billed on your next statement.*

**CORPORATE ACTIVITY**

				<b>TOTAL CORPORATE ACTIVITY</b>	<b>\$501.95-</b>
Trans Date	Post Date	Reference Number	Transaction Description	Amount	
03/12	03/12	00000000000000000116115	PAYMENT - THANK YOU	\$501.95-	

**ACTIVITY SUMMARY**

NAME	Payments & Other Credits	Purchases & Other Charges	Cash Advances	Total Activity
IMELDA MARQUEZ #####	\$0.00	\$279.55	\$0.00	\$279.55

Trans Date	Post Date	Plan Name	Reference Number	Description	Amount
03/01	03/02	PPLN01	24492151060637860383662	ZOOM.US 888-799-9666 WWW.ZOOM.US CA	\$57.63
03/03	03/05	PPLN01	24692161063100769018503	WWW.COSTCO.COM 800-955-2292 WA	\$107.73
03/19	03/21	PPLN01	24692161078100130277757	NORTON *AP1338949742 877-294-5265 AZ	\$104.99

PLEASE DETACH COUPON AND RETURN PAYMENT USING THE ENCLOSED ENVELOPE - ALLOW UP TO 7 DAYS FOR RECEIPT

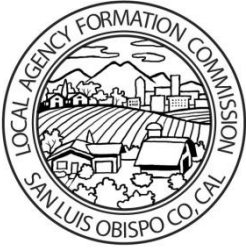
- \*

BL ACCT  
 LAFCO

Account Number: #### #### ###

Cardholder Account Detail Continued					
Trans Date	Post Date	Plan Name	Reference Number	Description	Amount
03/26	03/28	PPLN01	24137461086001424360399	USPS PO 0568770075 SAN LUIS OBIS CA	\$9.20

Finance Charge Summary / Plan Level Information									
Plan Name	Plan Description	FCM <sup>1</sup>	Average Daily Balance	Periodic Rate *	Corresponding APR	Finance Charges	Effective APR Fees **	Effective APR	Ending Balance
<b>Purchases</b>									
	PURCHASE	E	\$0.00	0.06024%(D)	21.9900%	\$0.00	\$0.00	0.0000%	\$279.55
<b>Cash</b>									
	CASH	A	\$0.00	0.06572%(D)	23.9900%	\$0.00	\$0.00	0.0000%	\$0.00
* Periodic Rate (M)=Monthly (D)=Daily							Days In Billing Cycle: 31		
** includes cash advance and foreign currency fees							APR = Annual Percentage Rate		
<sup>1</sup> FCM = Finance Charge Method									
(V) = Variable Rate If you have a variable rate account the periodic rate and Annual Percentage Rate (APR) may vary.									



LAFCO - San Luis Obispo - Local Agency Formation Commission  
SLO LAFCO - Serving the Area of San Luis Obispo County

**TO: MEMBERS, FORMATION COMMISSION**  
**FROM: BRIAN PIERIK, LAFCO LEGAL COUNSEL**  
**DATE: APRIL 15, 2021**  
**SUBJECT: EMPLOYMENT CONTRACT WITH ROBERT FITZROY AS EXECUTIVE OFFICER**

**Recommendation.** Motion to approve Employment Contract Between the San Luis Obispo Local Agency Formation Commission and Robert Fitzroy for the position of Executive Officer

**Summary.**

On November 19, 2021, the Commission approved a Contract for Temporary Employment between the San Luis Obispo Local Agency Formation Commission (LAFCO) and David Church for Interim Executive Officer Services to commence on November 22, 2020. The former Executive Officer was Michael Prater who took the position of Executive Officer of Santa Barbara LAFCO.

Since November 22, 2020, there has been a recruiting process for the position of Executive Officer. Robert Fitzroy was one of the candidates for the Executive Officer position and the resume of Mr. Fitzroy is attached to this Staff Report. Mr. Fitzroy is being presented to the Commission for consideration of appointment to the position of Executive Officer.

As noted in his resume, Mr. Fitzroy is currently the Director of the Community Development Department for the City of Arroyo Grande. Prior employment includes working for the County of San Luis Obispo in the Planning & Building Department with the most recent position being Assistant Director. Prior to his work for the County, Mr. Fitzroy was employed by Rincon Consultants as a Planning & Environmental Impact Consultant. Mr. Fitzroy graduated from Cal Poly San Luis Obispo with a Bachelor's Degree and he also has a Masters of Natural Resource Management, Environmental Planning & Public Policy.

Attached is a proposed Employment Contract Between the Local Agency Formation Commission and Robert Fitzroy for the position of Executive Officer with a start date of May 24, 2021 ("Contract"). Section 2 of the Contract provides the services Mr. Fitzroy shall perform include all functions and duties of the Executive Officer, in the Commission's rules, policies, procedures and the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (hereinafter referred to as the CKH Act), and

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Special District Member

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County Member

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Special District Member

STEVE GREGORY  
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TOM MURRAY  
Public Member

**ALTERNATES**

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Special District Member

CHARLES BOURBEAU  
City Member

HEATHER JENSEN  
Public Member

JOHN PESCHONG  
County Member

**STAFF**

DAVID CHURCH  
Interim Executive Officer

BRIAN A. PIERIK  
Legal Counsel

IMELDA MARQUEZ  
Analyst

such legally permissible and proper duties and functions as may be assigned by LAFCO.

The annual salary of the under the Contract is \$166,742 payable in bi-weekly increments. The Contract provides for a salary adjustment to including any consumer price index (CPI) increase provided to other LAFCO employees. In addition, the Contract provides that salary increases may be approved by the Commission based on performance.

In addition to salary, the Contract provides for benefits which on an annualized basis will be \$86,396.00.

The recommendation is for the Commission to approve the proposed Employment Contract Between the San Luis Obispo Local Agency Formation Commission and Robert Fitzroy for the position of Executive Officer

**Attachments**

Resume of Robert Fitzroy

Employment Contract Between the Local Agency Formation Commission and Robert Fitzroy for the position of Executive Officer

# **Attachment A**

Resume of Robert Fitzroy

Available Upon Request



# Attachment B

Contract Between the Local Agency Formation Commission and Robert  
Fitzroy for the position of Executive Officer

**EMPLOYMENT CONTRACT  
BETWEEN  
THE LOCAL AGENCY FORMATION COMMISSION  
AND ROBERT FITZROY**

This Employment Contract ("Contract") is effective on the 24th day of May, 2021, by and between the **LOCAL AGENCY FORMATION COMMISSION OF SAN LUIS OBISPO COUNTY** (hereinafter referred to as LAFCO), and **ROBERT FITZROY** (hereinafter referred to as Employee), collectively the "Parties".

**WITNESSETH**

**WHEREAS**, LAFCO desires to employ Employee as Executive Officer of LAFCO pursuant to Government Code Section 56384; and

**WHEREAS**, Employee desires to serve as the Executive Officer of the LAFCO pursuant to the terms of this Employment Contract; and

**WHEREAS**, LAFCO as appointing authority and Employee desire to specify in a contract the terms and conditions of Employee's employment as Executive Officer.

NOW, THEREFORE, the Parties do mutually agree as follows:

**1. Employment**. LAFCO hereby engages Employee, as Executive Officer of LAFCO and Employee hereby agrees to perform for LAFCO the services hereinafter set forth for the compensation and benefits in this Contract, all pursuant to the terms and conditions herein.

**2. Scope of Services**. Pursuant to this Contract, Employee shall perform all functions and duties of the Executive Officer, as specified in the Commission's rules, policies, procedures and the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (hereinafter referred to as the CKH Act), and such legally permissible and proper duties and functions as may be assigned by LAFCO.

**3. Employment Status**. Employee will be eligible for membership in and all benefits from a group plan for hospital, surgical, medical, vision and dental insurance, as well as being eligible for membership in the San Luis Obispo Pension Trust retirement program, or for such other comparable job benefits that are afforded to management employees of the County of San Luis Obispo such as a \$200 wellness/fitness program.

**4. Term of the Contract**. This Contract shall commence on May 24, 2021, and shall continue until terminated by either party in accordance with the provisions set forth herein.

**5. Compensation.**

**a. Salary.** LAFCO shall pay to Employee as compensation in full for all services performed by Employee pursuant to this Contract an annual salary of \$166,742, per year, payable in bi-weekly increments comparable with employees of the County of San Luis Obispo.

**b. Cost of Living Increase in Salary.** The Employee's salary shall be adjusted to include any consumer price index increases provided to other San Luis Obispo LAFCO employees. The effective date of this salary increase shall be the first full pay period in the fiscal year commencing July 1, 2022.

**c. Salary Increase Based on Performance.** The amount of any salary increase shall be subject to approval by LAFCO, in its sole discretion, and shall be based on an annual performance evaluation process as provided in Paragraph 8 of this Contract. The effective date of this salary increase, if any, shall be the first full pay period in the fiscal year commencing July 1, 2022.

**6. Other Supplemental Benefits.**

**a. Vacation, Holidays, Sick Leave, and Administrative Leave.**

The days specified in this paragraph shall be accrued on the first day of the fiscal year. Employee shall be entitled to twenty (20) vacation days annually and shall be entitled to accrue twenty (20) days of vacation per year subject to a maximum payoff of 320 hours. Employee will be entitled to thirteen (13) paid holidays per year on the same schedule as employees of the County of San Luis Obispo. Employee shall be entitled to twelve (12) days of sick leave per year and shall be entitled to accrue twelve (12) days of sick leave per year up to a maximum of 90-days. Employee shall be entitled to compensation at the end of employment for all unused vacation and sick leave, subject to the limits specified above. Employee is also entitled to paid administrative leave of one (1) day for fiscal year 2020-2021 and thereafter six (6) days per fiscal year.

**b. Retirement.** LAFCO agrees to pay Employee's full contribution to a retirement plan with benefits that are equal to San Luis Obispo County's independent retirement plan at the rates applicable to the County's Confidential and Management Employees. Any future increases required of LAFCO by the San Luis Obispo County Pension Trust above the rates in existence at the execution of this Contract shall be subject to negotiation.

**c. Medical, Dental and Vision.** LAFCO agrees to provide \$1,250.00 per month towards a medical health program for purposes of health coverage, dental and vision insurance premiums. Medical coverage is to be provided through the PERS Health Care Services Division or a comparable provider such as the Special District Risk Management Authority (SDRMA) or other independent insurance policy; and Dental and Vision is to be provided privately.

After payment of all insurance premiums, or if the Employee has other coverage, the Employee is entitled to all unexpended amounts to be paid in cash to Employee. The medical health care allowance shall be automatically adjusted throughout the term of this Contract to be equivalent to the allowance provided to County management employees.

**d. Disability and Life Insurance.** LAFCO shall provide the following benefits: (1) Long-term disability insurance providing 2/3 of gross monthly income to a maximum monthly gross of \$9,000, this percentage to be adjusted to be the same rate as employees of the County of San Luis Obispo; and (2) \$100,000 term life insurance.

**e. Private Vehicle Usage.** LAFCO shall reimburse Employee as such a rate as is allowed by the Internal Revenue Service for the use of a private vehicle on authorized LAFCO business conducted outside of the County of San Luis Obispo. Employee agrees to carry all necessary vehicle insurance.

**f. Severance Pay.** If Employee is terminated by the LAFCO while willing and able to perform the duties of Executive Officer, LAFCO agrees to pay Employee in addition to any other amounts that may be due Employee at the time of separation of employment, a lump sum cash payment equal to six (6) months' salary, retirement and insurance benefits covered by the Contract, or continuation of salary and benefits for a period of six (6) months, the particular method to be negotiated at the time of separation. However, if Employee is terminated pursuant to the provisions of paragraph 8 of this Contract, then LAFCO shall have no obligation to pay the severance set forth herein.

**g. Social Security and Deferred Compensation.** LAFCO shall provide the employer contribution to the Federal Social Security Program. LAFCO shall also match Employee's contribution to a deferred compensation program up to \$10,000 per year.

**h. General Expenses.** Employee shall be permitted to attend relevant conferences, seminars, and other such meetings, the reasonable cost of which shall be paid by LAFCO. LAFCO shall reimburse Employee in accordance with customary expense reimbursement policies and procedures for expenses incurred by Employee in execution of his duties under the Contract.

**i. Car Allowance.** Effective June 1, 2021, Employee's car allowance shall be established as \$450 per month as reimbursement for use of his private vehicle inside the County of San Luis Obispo. Employee shall be compensated for travel outside the County of San Luis Obispo at the mileage rate determined under paragraph 6 (e) of the Contract;

j. **Other Benefits.** Employee, as Executive Officer, shall be entitled to such other benefits which LAFCO may establish in the future for its employees.

7. **Termination of Contract for Convenience.** Either party may terminate this Contract at any time by giving the other party fourteen (14) days' notice of such termination. Termination shall have no effect upon the rights and obligations of the parties arising out of transactions occurring prior to the effective date of such termination. Employee shall be paid for all work satisfactorily completed prior to the effective date of such termination and for all unused vacation, administrative leave and sick leave accrued to date of termination as specified in Section 6 (a).

8. **Termination of Contract for Cause.** If Employee fails to fulfill in a timely and professional manner any obligations under this Contract, LAFCO shall have the right to terminate this Contract effective immediately by giving written notice to Employee. Termination of this Contract under the provisions of this paragraph shall have no effect upon the rights and obligations of the parties arising out of any transaction occurring prior to the effective date of such termination. In the event of termination, Employee shall be paid for all work satisfactorily completed prior to the effective date of such termination, all unused vacation time. All benefits or prorated portion thereof through the date of termination, and all reimbursed Employee expenses pursuant to paragraph 6 (h) therein; however, Employee shall not be entitled to any severance pay.

9. **Performance Evaluation.** LAFCO shall evaluate Employee's performance annually on or about March 1 of each year and/or such other dates as determined appropriate by LAFCO, and shall establish, with Employee, performance goals, and objectives for the ensuing year.

10. **Government Code Provisions**

a. Pursuant to Government Code section 53260, in the event LAFCO provides Employee with a cash settlement related to termination of the Contract, the cash settlement shall not exceed the lesser of (1) an amount equal to the monthly salary of Employee multiplied by 18 or (2) an amount equal to the monthly salary of Employee multiplied by the number of months left on the unexpired term of the Contract.

b. Pursuant to Government Code sections 53243 and 53243.3, in the event LAFCO provides paid leave salary to Employee pending an investigation into Employee, Employee shall fully reimburse LAFCO for any paid leave salary if Employee is convicted of a crime involving an abuse of his office or position.

c. Pursuant to Government Code sections 53243.1 and 53243.3, in the event LAFCO provides funds for Employee's legal criminal defense, Employee

shall fully reimburse LAFCO for any such funds if Employee is convicted of a crime involving an abuse of his office or position.

d. Pursuant to Government Code sections 53243.2 and 53243.3, in the event LAFCO provides Employee with a cash settlement related to Employee's termination, Employee shall fully reimburse LAFCO for any such cash settlement if Employee is convicted of a crime involving an abuse of his office or position.

e. Pursuant to Government Code section 53243.4, an "abuse of office or position" means (a) an abuse of public authority, including, but not limited to, waste, fraud, and violation of the law under color of authority, or (b) a crime against public justice, including, but not limited to, a crime described in Title 5 (commencing with Section 67), Title 6 (commencing with Section 85), or Title 7 (commencing with Section 92) of Part 1 of the Penal Code.

**11. Modification.** This Contract constitutes the entire understanding of the parties hereto and no changes, amendments, or alterations shall be effective unless in writing and signed by both parties.

**12. Non-Assignment of Contract.** This Contract is intended to secure the unique and individual services of the Employee and thus Employee shall not assign, transfer, or delegate this Contract or any interest herein.

**13. Covenant.** The validity, enforceability and interpretation of any of the clauses of this Contract shall be determined and governed by the laws of the State of California.

**14. Enforceability.** The invalidity and unenforceability of any of the terms or provisions hereof shall in no way affect the validity and enforceability of any other terms or provisions.

**15. Nondiscrimination.** There shall be no discrimination against any person employed pursuant to this Contract in any manner forbidden by law.

IN WITNESS WHEREOF, LAFCO and Employee have executed this Contract.

---

Robert Fitzroy, Employee

---

Robert Enns, Chair  
San Luis Obispo Local Agency Formation Commission

APPROVED AS TO LEGAL FORM AND EFFECT

---

Brian Pierik  
LAFCO Legal Counsel



**LAFCO - San Luis Obispo - Local Agency Formation Commission**  
*SLO LAFCO - Serving the Area of San Luis Obispo County*

**TO: MEMBERS, FORMATION COMMISSION**  
**FROM: DAVID CHURCH, INTERIM EXECUTIVE OFFICER**  
**DATE: APRIL 15, 2021**  
**SUBJECT: CONSIDERATION OF THE PROPOSED FISCAL YEAR 2021/22 SAN LUIS OBISPO LAFCO BUDGET**

**Recommendation:** It is respectfully recommended that the Commission:

- 1) Consider and tentatively approve by resolution the budget found in Attachment A for the Fiscal Year 2021/22 with any proposed changes;
- 2) Direct the Executive Officer to distribute the approved Budget and Resolution to the local agencies per the Cortese-Knox-Hertzberg Act;
- 3) Direct the Executive Officer to sign the attached agreement with the County Auditor’s Office for financial services;
- 4) Submit the Final Budget and Resolution to LAFCO for final consideration at its May 20, 2021, meeting.

**Introduction.** The Cortese-Knox–Hertzberg Act calls for the budget to be considered by May 1, 2021 and the final budget approved by June 15, 2021. No relief has been granted by the State with regard to this requirement due to the Covid-19 situation.

The County Auditor’s Office provides the San Luis Obispo Local Agency Formation Commission (LAFCO) with financial management services through an agreement (Exhibit D). General Accounting services include the use of the County’s centralized accounting system (SAP), the processing, and recording of financial transactions submitted by LAFCO. LAFCO has access to the general ledger, revenue, expenditure, and budget status reports as needed. Each of LAFCO’s financial transactions must be processed through the Auditor’s office.

The Auditor also provides Accounting Support services including budget monitoring, responding to routine inquiries, and replying to bank confirmations. The agreement for next fiscal year is attached in Exhibit D. It is recommended that the Executive Officer sign this agreement and submit it to the County Auditor/Controller.

**Attachments**

- A:** Proposed FY 2020/21 LAFCO Budget
- B:** FY 2021-22 Work Program
- C:** Draft Resolution Approving the Budget
- D:** Auditor Agreement

- COMMISSIONERS**
- Chairperson  
ROBERT ENNS  
Special District Member
- Vice-Chair  
ED WAAGE  
City Member
- DEBBIE ARNOLD  
County Member
- LYNN COMPTON  
County Member
- MARSHALL OCHYLSKI  
Special District Member
- STEVE GREGORY  
City Member
- TOM MURRAY  
Public Member
- ALTERNATES**
- ED EBY  
Special District Member
- CHARLES BOURBEAU  
City Member
- HEATHER JENSEN  
Public Member
- JOHN PESCHONG  
County Member
- STAFF**
- DAVID CHURCH  
Interim Executive Officer
- BRIAN A. PIERIK  
Legal Counsel
- IMELDA MARQUEZ  
Analyst



## Summary

The overall goal of the FY 2021/22 budget is to provide a financial plan for LAFCO to accomplish its mission of implementing the San Luis Obispo LAFCO's Work Program, and other proposals consistent with the Cortese-Knox-Hertzberg Act and other state laws.

The proposed Fiscal Year 2021/22 budget for LAFCO is found in Exhibit A. The FY 21/22 LAFCO Budget compares the current year's adopted budget (FY 20/21) and shows increases and decreases overall and in the various line items. It also projects the annual revenues and expenses for the current budget FY 20/21. This provides the projected Fund Balance Available that is used to offset and reduce the charges to the agencies. Exhibit B contains the LAFCO work program approved by the Commission in January 2021. The Draft Resolution approving the budget is found in Exhibit C. Exhibit D contains the annual agreement with the County Auditor-Controller for financial services.

SLO LAFCO is experiencing a very robust work load this fiscal year with numerous proposals as well as Sphere of Influence updates that need to be evaluated and brought to hearing. Due to the increased number of applications, and being down a staff person, work on the Sphere of Influence and Municipal Service Review update program has been delayed. The Work Program found in Attachment B provides a listing of proposals currently being processed by LAFCO. It also has proposals that are on the "radar" and should be coming as applications along with the SOI/MSR Update schedule in the coming year.

Since October, 2020 LAFCO has been without a Clerk, and Imelda Marquez the LAFCO Analyst has stepped in by performing both Analyst and Clerk's duties. A new Executive Officer has been selected and Mr. Church will be stepping down from the Interim EO position in May, 2021. The proposed FY 21/22 budget allows for Mr. Church to be available as a temporary employee, as needed, with a cap of up to 100 hours.

The Fiscal Year 21/22 proposed LAFCO budget is \$614,068; an increase of \$25,410 from FY 2020/21. This is a 4% increase from last year's budget. The growth is connected to the hiring of the new Executive Officer at an increased salary and the CPI and merit increase in Analyst's Salary. Overall, salaries are proposed to increase by 4% Benefits and taxes are expected to increase by 6% and Services and Supplies are increasing by 3%. Revenues for applications in Fiscal Year 20/21 (this fiscal year) are up. This increases the fund balance available that can be used in next fiscal year. Also, because LAFCO has operated over the last six months with just an Interim Executive Officer at an hourly rate and an Analyst with no Clerk, there are salary and benefit savings that reduce expenses.

Overall, the proposed annual Consumer Price Index (CPI) increase of 1.6% is based on the average of the Los Angeles (1.0%) and San Francisco (1.6%) indexes. A 1.3% CPI and a 10.7% merit increase (based on outstanding performance) is proposed for the LAFCO Analyst. The newly hired Executive Officer and Analyst are Tier three pension employees which results in pension savings. The new EO would start at a salary of \$166,742. The LAFCO Analyst salary is proposed to increase to \$65,462. The LAFCO Clerk may be hired at a salary of up to \$50,000 depending on experience and skill set.

## Budget Details

**Salaries, Benefits and Taxes.** The proposed FY 21/22 Salaries are proposed to increase by 4%. This includes a merit increase for the Analyst position and Consumer Price Index (CPI) increase of 1.3%. The CPI is based on the average of the Los Angeles (1.0%) and San Francisco (1.6%) CPI. The Commission is hiring a new Executive Officer with an increased salary. The Commission evaluates the performance of the Executive Officer annually. The merit increase for the Analyst position is based on an annual performance evaluation and comparisons of salaries with other LAFCOs. Benefit, payroll tax and pension expenses are estimated to increase proportionately with the proposed salary increase based on set formulas. FICA, Medicare, State Disability Insurance, and Federal Unemployment Tax are calculated based on a percentage of salaries. Mr. Church is proposed to stay on as a temporary employee through August 31, 2021, at an hourly rate of \$76.57 for up to 100 hours. No pension or medical benefits are associated with Mr. Church's hourly rate. Total salaries, benefits and taxes proposed are \$477,521.

**Pension Costs.** San Luis Obispo LAFCO is a member of San Luis Obispo County Pension Trust. Pension costs are directly correlated to salaries. Pension expenditures are calculated based on the rates established by the San Luis Obispo County Pension Trust. Since 2012 any increases in pension rates are split (50-50) by LAFCO and the employees. As pension rates rise the employee portion of the contribution continues to increase. Please note that the Pension Costs found in the line items of the attached budget were prepared by LAFCO Staff and reviewed for accuracy by the SLO County Pension Trust Staff.

The FY 21/22 budget would result in an increase of pension costs by \$6,529, or an 8% increase. The increase is due to the hiring of the new Executive Officer at a higher salary. Also the Analyst position is proposed for an increase in salary which increases the pension costs.

New employees are hired on the tier 3 pension plan. Pension expenditures are calculated based on the rates established by the San Luis Obispo County Pension Trust. New employees would be subject to the most recent policies of the Pension Trust and anticipated to be at Tier 3. San Luis Obispo County Pension Trust anticipates a pension rate increase of 3.91% for next year. LAFCO would fund 1.86% of this increase and the employees would fund 1.85% of the anticipated rate increase. This increase is built into this year's budget and would be implemented in July, 2021.

The Pension Obligation Bond (POB) was issued by the County to help cover unfunded pension costs. The POB is refinanced by the SLO Pension Trust to avoid increases in the variable interest rates. This year the rate for the POB remains at 6.03%. The POB payment increases are commensurate with an increase in salaries.

**Services and Supplies.** Services and Supplies are proposed at \$136,547, an increase of 3% from last year. The primary increase is in the Insurance Line Item due to rate increase by the Special Districts Risk Management Authority of \$2,200. Also increasing is the Car Allowance for the Executive Officer for a full year at \$450/month; a \$2,000 increase. Professional Memberships are proposed to increase by \$1,000. This is for the CALAFCO, SDRMA, and CSDA.

The Services and Supplies budget category also contains a number of line items that are fixed costs such as; the County Auditor, legal services, insurance (workers compensation and general liability), phones/internet and rent.

The Auditor provides LAFCO with General Accounting, Accounts Payable, and Accounting Support services using the County Financial system (SAP) for each transaction. The agreement for next year is attached for your Commission's consideration.

The Special District Risk Management Association has estimated that workers' compensation coverage is to remain unchanged. Due to the recent disasters insurance companies, SDRMA included are increasing Property and Liability Program rates again (\$3,000 increase). The current lease for the LAFCO office has not increased over the last nine years. Per the lease agreement, rent could be increased based on the average Los Angeles and San Francisco CPIs. The landlord has not exercised this provision; however, LAFCO continues to plan for that possibility in the budget. The total Legal Counsel costs are proposed to increase by \$100/month to \$26,400, as called for in the contract.

**Revenues from Applications.** Revenues from application fees is projected to remain unchanged at \$21,000. Interest earned on revenues is anticipated to remain level at \$4,000. It is challenging to anticipate revenues from applications from year to year. This year's revenues are up to \$37,000 and were projected in the adopted FY 17/18 budget to be \$21,000. Next year's revenues could be lower or higher depending on the applications that are submitted to LAFCO.

**Designated Fund Balance and Fund Balance Available.** In April 2008 the Commission adopted a reserve/fund balance guideline of maintaining at least a 15% contingency or reserve. These funds have been used in the budget to reduce the costs to agencies by building these back into the revenues side of the budget. Fund Balance (Reserves or Savings) are held in two places; Designated Fund Balance and the Fund Balance Available carryover from year to year with the budget. Designated Fund Balance can only be used with specific Commission approval and are at \$57,850 and Fund Balance Available, which is more flexible is at \$155,365 for a total of \$213,215. This is 36% of the current budget.

It is projected that at the end of this fiscal year Revenues will exceed Expenses by about \$51,000. This would increase the reserves to an estimated \$264,000. This is due to savings achieved throughout the year in expenses and the increase in processing fees received in FY 2020/21.

The proposed FY 2021/22 budget recommends using \$35,000 of reserves/fund balance to offset expenses and help reduce the agency shares. This brings Designated Fund Balance/Fund Balance Available to 37% of the proposed Budget.

**Agency Shares.** Charges to each of the funding agencies (County, Cities and Special Districts) are proposed to increase by 12%. This increase is caused by the significant reduction in the budget last year. The one-third agency share in this year's budget is proposed at \$186,023. This is an increase of \$20,351 per each of the one-third shares. These shares are allocated to the Cities and Special Districts based on their total revenues as reported to the State Controller. The County Auditor uses the most recent

Cities and Special Districts Annual Report prepared by the State Controller to allocate the charges to each of the agencies in the County on a prorated basis.

**Distribution.** As required by Government Code Section 56381, the Commission's proposed Fiscal Year 2021/22 budget has been transmitted to the Board of Supervisors, each City Manager, and each Independent Special District. The budget has also been sent to the County Administrative and Auditor's Offices. A legal notice of the public hearing was published in advance of the hearing and the agencies were notified via email 21 days in advance of the budget hearing. Upon approval of the proposed budget, the final FY 2021/22 budget and resolution shall be submitted to the Commission at the May 20, 2021 LAFCO meeting.

# Attachment A

Proposed FY 2020/21 LAFCO Budget

**Exhibit A**  
**San Luis Obispo Local Agency Formation Commission**  
**Draft Budget - Fiscal Year 2021-2022**

Proposed 4/15/2021

<b>EXPENDITURES SUMMARY</b>	<b>Current Year</b>	<b>Expense YTD</b>	<b>Proj. Yr End</b>	<b>Proposed 21-22</b>	<b>Inc/Dec</b>	<b>% Inc/Dec</b>
Salaries <sup>1)</sup>	279,293	218,300	268,860	289,892	10,599	4%
Benefits and Taxes	177,380	79,022	105,362	187,628	10,248	6%
Services and Supplies	131,984	89,041	108,958	136,547	4,563	3%
<b>Total Expenses</b>	<b>588,658</b>	<b>386,364</b>	<b>483,180</b>	<b>614,068</b>	<b>25,410</b>	<b>4%</b>

1) Adjustment made in FY 20-21: Sick Leave Payout

<b>EXPENDITURES DETAIL</b>	<b>Current Year</b>	<b>Expense YTD</b>	<b>Proj. Yr End</b>	<b>Proposed 21-22</b>	<b>Inc/Dec</b>	<b>% Inc/Dec</b>
<b>Salaries and Benefits</b>						
Salaries	279,293	218,300	268,860	289,892	10,599	4%
Benefits and Taxes	177,380	79,022	105,362	187,628	10,248	6%
<b>Subtotal Salaries &amp; Benefits</b>	<b>456,673</b>	<b>297,322</b>	<b>374,222</b>	<b>477,521</b>	<b>20,848</b>	<b>5%</b>
<b>Variable Costs (%) :</b>						
FICA -Employer Match	14,486	11,906	16,138	17,971	3,485	24%
Medicare - Employer Match	3,435	3,326	4,000	4,261	826	24%
Retirement-Employer Contribution *	82,518	33,393	45,000	89,047	6,529	8%
Retirement-Employer for Employee	12,921	6,407	6,407	-	(12,921)	-100%
Retirement - Employee Contribution *	20,615		10,000	39,195	18,580	90%
Pension Obligation Bond Payment	14,521	7,016	9,662	18,850	4,329	30%
SUI-Employer Contribution	1,500	0	500	1,500	-	0%
Fed Unemploy Tax-Employer Cont	300	0	-	-	(300)	-100%
<b>Fixed Costs (\$) :</b>						
Health Plan/Café Cash	41,700	16,574	22,455	45,000	3,300	8%
Life Insurance	500	0	-	1,000	500	0%
Def Comp - EO Employer Match	5,500	400	1,200	10,000	4,500	82%
<b>Total Benefits</b>	<b>177,380</b>	<b>79,022</b>	<b>105,362</b>	<b>187,628</b>	<b>10,247</b>	<b>6%</b>

\* Split Employer/Employee 2.6% pension rate increase

<b>Services and Supplies</b>	<b>Current Year</b>	<b>Expense YTD</b>	<b>Proj. Yr End</b>	<b>Proposed 21-22</b>	<b>Inc/Dec</b>	<b>% Inc/Dec</b>
Food	800	105	300	600	(200)	-25%
Maintenance - Equipment	300	-	100	30	(270)	-90%
Maintenance - Software	500	412	500	50	(450)	-90%
CALAFCO/Other Memberships	7,000	6,404	6,404	8,000	1,000	14%
Office Supplies	2,500	347	1,000	2,500	-	0%
Commissioner/Consultant	10,000	4,367	6,000	10,000	-	0%
Publication/Legal Notices	1,000	1,370	1,400	1,000	-	0%
Rent	37,000	30,565	37,000	37,000	-	0%
Small Equipment	400	199	200	400	-	0%
Large Equipment	1,000	(514)	1,200	1,000	-	0%
Computer Software	500	446	500	500	-	0%
Employee Mileage	200	-	-	200	-	0%
Commissioner Mileage	1,800	-	-	1,200	(600)	-33%
Airfare/Public Transportation	500	-	500	-	(500)	-100%
Accommodations/Travel	3,000	-	-	2,500	(500)	-17%
Auto Allowance	3,323	208	208	5,400	2,077	63%
Training/Conf Registration	3,500	-	-	3,500	-	0%
Utilities	4,000	2,850	3,600	4,200	200	5%
Car/Vehicle Rentals	1,000	-	-	500	(500)	-50%
Postage	1,000	368	500	1,000	-	0%
Custodian	1,000	755	1,000	1,100	100	10%
Copying	800	-	200	300	(500)	-63%
ITD-SAP/Board Chambers	850	-	-	850	-	0%
Phones	2,800	2,213	3,000	3,000	200	7%
County Auditor	8,511	8,511	8,511	8,817	306	4%
Insurance/Worker Comp/Property/Liability	13,500	11,635	11,635	16,500	3,000	22%
Legal Counsel/Other Co Billings	25,200	18,800	25,200	26,400	1,200	5%
<b>Subtotal Services &amp; Supplies</b>	<b>131,984</b>	<b>89,041</b>	<b>108,958</b>	<b>136,547</b>	<b>4,563</b>	<b>3%</b>

<b>Total Expenses</b>	<b>588,658</b>	<b>386,364</b>	<b>483,180</b>	<b>614,068</b>	<b>25,410</b>	<b>4%</b>
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**Exhibit A**  
**San Luis Obispo Local Agency Formation Commission**  
Proposed Budget - Fiscal Year 2021-2022 - page 2

REVENUE DETAIL	Current Year	Realized YTD	Proj. Yr End	Proposed 21-22	Inc/Dec	% Inc./Dec.
Interest	4,000	2,586	3,000	4,000	-	0%
Environmental Fees	1,000	5,000	5,000	1,000	-	0%
Sphere of Influence Fee	2,000	6,000	6,000	2,000	-	0%
LAFCO Processing Fees	14,000	23,179	23,179	14,000	-	0%
				-		
<b>Sub-Total w/out Agency Charges</b>	<b>21,000</b>	<b>36,765</b>	<b>37,179</b>	<b>21,000</b>	<b>-</b>	<b>0%</b>
LAFCO Charge to Agencies	497,016	497,016	497,016	558,068	61,052	12%
<b>Total Revenue (Includes use of Fund Balance)</b>	<b>543,016</b>	<b>533,781</b>	<b>534,195</b>	<b>579,068</b>	<b>36,052</b>	<b>7%</b>
Other Revenue/Fund Balance-if Needed	25,000	Not Needed	Not Needed	(35,000)	(60,000)	0%

RESERVES and FUND BALANCE	January 2021 Fund Balance	% of Budget	Proj. Year End Fund Balance	Projected Year End Reserves	Estimated Res./FB FY 21-22	% of Budget
Fund Balance Available	155,365		213,215	264,230	229,230	
Designated Fund Balance	57,850					
Projected Year End Fund Balance			51,015			
Use of Fund Balance in 21/22 Budget				(35,000)		
<b>Total</b>	<b>213,215</b>	<b>36%</b>	<b>264,230</b>	<b>229,230</b>	<b>229,230</b>	<b>37%</b>

**CHARGES TO AGENCIES**

Agency Share	FY 2020-21	FY 2021-22	Inc/Dec	% Inc/Dec	
Cities	165,672	186,023	20,351	12%	20,350.68
County	165,672	186,023	20,351	12%	12%
Special Districts	165,672	186,023	20,351	12%	
<b>Total</b>	<b>497,016</b>	<b>558,068</b>	<b>61,052</b>	<b>12%</b>	

# Attachment B

FY 2021-22 Work Program





# SAN LUIS OBISPO LAFCO

## WORK PLAN - JANUARY 2021

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This document is the Work Plan for San Luis Obispo Local Agency Formation Commission (LAFCO) in 2021. LAFCO's overarching legislative goals include the following:

- **Encourage Orderly Growth and Development.** LAFCO considers proposals for the formation of new local governmental agencies including Cities and Special Districts. LAFCO is also responsible for considering annexations and detachments for agencies. LAFCO also determines the Sphere of Influence, which is a plan for the probable physical boundary of a City or Special District.
- **Promoting Efficient Provision of Public Services.** LAFCO reviews proposals based on a variety of factors including: a plan for services submitted by the agency, resource and infrastructure capacity, and the need for services.
- **Preserve Agricultural Land Resources.** LAFCO considers the impact that a proposal may have on existing agricultural lands with focus on prime agricultural lands. San Luis Obispo LAFCO has adopted specific policies regarding the preservation of agricultural resources.
- **Discourage Urban Sprawl.** Urban sprawl can best be described as irregular and disorganized growth occurring without apparent design or plan. By discouraging sprawl, LAFCO limits the misuse of land resources and promotes a more efficient system of services by local governmental agencies.

### **Goals in 2021**

1. Serve the Commission and the public by providing accurate, clear and well-organized information for decision making.
2. Treat the public, applicants, Commissioners, and any stakeholders with respect and patience. Listening with consideration and responding in a calm, courteous manner.
3. Serve the Cities, County and Special Districts by providing information about LAFCO's purpose and the processes LAFCO is authorized to complete.
4. Process proposals in an efficient manner; consistent with the Cortese-Knox-Hertzberg Act, Local Policies and Procedures, CEQA and other state laws.
5. Implement the Sphere of Influence/Municipal Service Review Update Work Plan, while working on applications and other topics at the same time.
6. Provide the Commission with regular status reports regarding upcoming proposals, Sphere of Influence Updates, Legislative Activities, and the Budget.
7. Participate in CALAFCO events to improve the Commission and Staff's expertise.
8. Inform the Commission and Public regarding various local governance issues and processes by providing regular status reports and study sessions.
9. Monitor the new legislation in the State legislature that may affect LAFCO.

## **RADAR: ANNEXATIONS – DETACHMENTS – OTHER ACTIONS**

Several Cities and Districts may have annexation or detachment proposals on the horizon. The Memoranda of Agreement between the Cities and County help set the path for these annexations by providing the provisions for development of an area. Annexation Proposals that may be on the horizon include:

- Gateway Annexation (Furlotti), City of Paso Robles
- Torres Annexation, Nipomo CSD
- Morro Bay Water Reclamation Facility Annexation
- Cayucos Water Reclamation Facility Annexation & Sphere of Influence
- County Service Area 23-Santa Margarita Annexation
- County Service Area 16 – Detachment Shandon
- Froom Ranch, City of San Luis Obispo
- Divestiture of Fire Service, Oceano CSD
- Dana Reserve Annexation, Nipomo CSD
- County Service Area 16-Shandon: Detachment
- Cayucos Water Reclamation Facility Annexation
- Morro Bay/Cayucos Boundary changes

It is uncertain if these proposals will be submitted this year or the next, but planning and environmental work is being completed on each of these proposals. LAFCO Staff continues to monitor each project and provide comments at the appropriate times.

## **OTHER ACTIVITIES**

- Conduct a recruitment and selection process for an Executive Officer; including preparation of a Job Flyer, Job description and salary survey of coastal LAFCOs.
- Conduct the selection process for the LAFCO Public Member.
- Conduct the Special District Association's Election of a LAFCO Representative
- Complete the protest process for San Simeon CSD activation of the Solid Waste Power and the Fiero Lane Annexation to the City of San Luis Obispo.
- Coping with Covid-19 – Continuing to process Applications, work with the public, agencies and applicants, and update Sphere of Influence and Municipal Service Reviews in the midst of the pandemic.

## **SPHERE OF INFLUENCE/MUNICIPAL SERVICE REVIEW UPDATE**

The Sphere of Influence (SOI) is a boundary that identifies areas a jurisdiction might serve over the next 20 years. The Municipal Service Review (MSR) provides information about a jurisdiction's ability to serve its existing service area and other SOI

areas. The MSR is an informational document that summarizes the existing service situation of a jurisdiction. The Service Review compiles information provided by the jurisdiction.

Other information from the County Planning Department, State Controller's Office, County Auditor's Office, and other agencies is also used to prepare the SOI and MSR. LAFCO Staff reviews, summarizes and evaluates the various studies and data and prepares a Draft Sphere of Influence Update and Municipal Service Review.

A Municipal Service Review is prepared in accordance with Section 56430 of the California Government Code. This code section was updated in 2012 to include seven factors instead of the previous six factors. The Service Review contains written determinations that address the following seven factors. Information and written determinations regarding each of the factors is provided in the Service Review and include:

1. Growth and Population projections for the affected area.
2. Location and characteristics of any disadvantaged unincorporated communities
3. Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies
4. Financial ability of agencies to provide services
5. Status of, and opportunity for, shared facilities
6. Accountability for community service needs including governmental structure and operational efficiencies
7. Any other matter related to effective or efficient service delivery, as required by commission policy

Also, administrative and organizational information is collected and evaluated. In order to complete a review LAFCO relies on Audit Reports submitted to the County Auditor Controller's Office pursuant to state law, original formation filing documents, State Controllers Special Districts Annual Financial Reports, the General Plan, Capital Improvement Plans, various studies and information from various websites.

## **CITIES**

The 2021 Work Plan will focus on those Cities which have passed, or are approaching the five-year requirement for an SOI update. In 2020 Staff completed the update process for the Cities of Arroyo Grande and Grover Beach nearing completion of an administrative draft with the goal of producing a Public Review Draft in the first quarter of the year. Work will then begin on the City of Paso Robles. Annexations or other

proposals may temporarily delay these updates while applications are being processed. Below are the Cities and the five-year update schedule:

Jurisdiction	Completion Date	Update 5-Year Date	Status/Action
Pismo Beach	September 2019	September 2024	<b>Completed in 2019</b>
Atascadero	November 2019	November 2024	<b>Completed in 2019</b>
Arroyo Grande	November 2012	November 2017	<b>Completed in 2020</b>
Grover Beach	November 2012	November 2017	<b>Completed in 2020</b>
Paso Robles	February 2013	February 2018	Begin the update process-2021
San Luis Obispo	October 2016	October 2021	Begin the update process-2022
Morro Bay	March 2017	March 2022	Begin the update process-2023

**Memorandum of Agreement (MOA).** A MOA was developed to improve communication and coordination in planning for future growth and development between a City and the County. Each City, with the exception of Grover Beach, has an MOA with the County. The Memorandum of Agreement between the City and County is reviewed and amended to reflect any changes to the Sphere of Influence and provisions that are agreed to by the County and City.

MOA's are in the process of updating to provide more detail about what type of development might be expected in the SOI and assist in defining the boundary. This helps clarify expectations and provides guidelines that help guide future projects in the SOI. The MOA has also been used to specify a particular planning process or policies for areas. Also, the MOA should address other issues such as water resources and agricultural/open space preservation. Round three should focus on areas of communication and coordination between the Cities and County.

## SPECIAL DISTRICTS

The 2021 Work Plan will focus on those Districts which have passed, or are approaching, the five-year requirement for update. Staff recommends that the schedule for updating the SOIs and MSR for the Districts be followed as shown in the table below.

## COMMUNITY SERVICES DISTRICTS

There are numerous Community Services Districts that are providing a variety of services to County residents. These Districts found below provide services that have been activated by LAFCO including: water and wastewater, Fire Protection, Street lighting, Roads, and Solid Waste. Each of these Districts is subject to the principal act in the Government Code 61000 – 61250 and has an independent Board of Directors.

Jurisdiction	Completion Date	Update 5-Year Due	Status/Action
Nipomo	May 2018	May 2023	<b>Completed in 2018</b>
Oceano	Nov 2012	Nov 2017	<b>Completed in 2020</b>
Templeton	Nov 2013	Nov 2018	Begin the update process-2020
San Miguel	Nov 2013	Nov 2018	Begin the update process-2020
Heritage Ranch	Nov 2013	Nov 2018	Begin the update process-2020
Avila Beach	Aug 2014	Aug 2019	Begin the update process-2021
Cambria	Aug 2014	Aug 2019	Begin the update process-2021
Los Osos	Aug 2014	Aug 2019	Begin the update process-2021
San Simeon	Aug 2014	Aug 2019	Begin the update process-2021
Cal Valley <b>(R-S)</b>	Dec 2015	Dec 2020	Begin the update process-2022
Independence Ranch <b>(R)</b>	Dec 2015	Dec 2020	Begin the update process-2022
Linne <b>(R)</b>	Dec 2015	Dec 2020	Begin the update process-2022
Squire Cyn <b>(R)</b>	Dec 2015	Dec 2020	Begin the update process-2022
Ground Squirrel Hollow <b>(R-S)</b>	Dec 2015	Dec 2020	Begin the update process-2022

**(R)** These Districts provide only Road Maintenance Services.

**(R-S)** California Valley and Ground Squirrel Hollow provides Road Maintenance and Solid Waste Services.

## OTHER SPECIAL DISTRICTS

There are numerous other Special Districts that are providing services to County residents and visitors. These Special Districts found below provide a variety of services under their Principal Acts including: soils management, Fire Protection, Harbor and Marine, groundwater management and Healthcare and Sanitary. Each of these Districts has an independent Board of Directors.

Jurisdiction	Completion Date	Update 5-Year Due Date	Status/Action
So. County Sanitation	Nov 2012	Nov 2017	<b>Completed in 2020</b>
Coastal San Luis RCD	Nov 2014	Nov 2019	Begin the update process-2021
Upper Salinas/Las Tablas RCD	Nov 2014	Nov 2019	Begin the update process-2021
Santa Margarita Fire	Nov 2014	Nov 2019	Begin the update process-2021
Garden Farms Co. Water District	Nov 2014	Nov 2019	Begin the update process-2021
Port San Luis Harbor District	Nov 2014	Nov 2019	Begin the update process-2021
Cambria Healthcare	Aug 2014	Aug 2019	Begin the update process-2021
Cayucos Sanitary	Jan 2015	Jan 2020	Begin the update process-2021
Shandon-San Juan Water District	Oct 2016	Oct 2021	Begin the update process-2022
Estrella-El Pomar-Creston Water District	Apr 2017	Apr 2022	Begin the update process-2022

## COUNTY SERVICE AREAS (CSA)

These special districts are governed by the County Board of Supervisors. The SOI and MSR Update were completed for all CSAs as part of one document in 2017. This is an efficient manner in which to update these Spheres of Influence and Municipal Services Reviews and allows for the compilation of data from the County at one time. It is anticipated to re-look at the CSA SOI/MSR Update in the coming years.

Jurisdiction	Completion Date	Update Due	Status/Action
<b>COUNTY SERVICE AREAS</b>			
CSA 1 - and Nipomo Lighting District	Aug 2017	Aug 2022	Completed in 2017
CSA 7 - Oak Shores	Aug 2017	Aug 2022	Completed in 2017
CSA 9 - Los Osos	Aug 2017	Aug 2022	Completed in 2017
CSA 10 - Cayucos	Aug 2017	Aug 2022	Completed in 2017
CSA 12 - Lopez Water	Aug 2017	Aug 2022	Completed in 2017
CSA 16 - Shandon	Aug 2017	Aug 2022	Completed in 2017
CSA 18 - Country Club	Aug 2017	Aug 2022	Completed in 2017
CSA 21 - Countywide	Aug 2017	Aug 2022	Completed in 2017
CSA 22 - Airport	Aug 2017	Aug 2022	Completed in 2017
CSA 23-Santa Margarita	Aug 2017	Aug 2022	Completed in 2017

## CEMETERY DISTRICTS

There are 11 Cemetery Districts that are providing services to County residents. The Cemetery Districts found below provide internment services. Each of these Districts has an independent Board of Directors.

Jurisdiction	Completion Date	Update 5-Year Due Date	Status/Action
Adelaida	Nov 2010	Nov 2023	Completed in 2018
Arroyo Grande	Nov 2010	Nov 2023	Completed in 2018
Atascadero	Nov 2010	Nov 2023	Completed in 2018
Cambria	Nov 2010	Nov 2023	Completed in 2018
Cayucos-Morro	Nov 2010	Nov 2023	Completed in 2018

Jurisdiction	Completion Date	Update 5-Year Due Date	Status/Action
Pleasant Valley	Nov 2010	Nov 2023	Completed in 2018
Paso Robles	Nov 2010	Nov 2023	Completed in 2018
San Miguel	Nov 2010	Nov 2023	Completed in 2018
Santa Margarita	Nov 2010	Nov 2023	Completed in 2018
Shandon	Nov 2010	Nov 2023	Completed in 2018
Templeton	Nov 2010	Nov 2023	Completed in 2018

## CALAFCO ACTIVITIES

CALAFCO is LAFCO’s statewide organization that provides educational opportunities, follows and facilitates the discussion of issues on a statewide basis. The LAFCO Executive Officer serves CALAFCO by providing help as needed and requested. Staff and Commissioners have been involved in the continuing education process by participating in the annual CALAFCO Conference and attending the Staff Workshop.



# Attachment C

Draft Resolution Approving the Budget

**IN THE LOCAL AGENCY FORMATION COMMISSION  
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA**

Date:

**PRESENT:**

**ABSENT:**

**RESOLUTION NO. 2021-\_\_**

**RESOLUTION ADOPTING THE FINAL FISCAL YEAR 2021-22  
LAFCO BUDGET**

The following resolution is now offered:

**WHEREAS**, the Executive Officer has given the notices required by law and forwarded the LAFCO budget to officers, persons and public agencies as prescribed by law; and

**WHEREAS**, the matter was set for public hearing at 9:00 a.m. on Thursday, April 15, 2021 and May 20, 2021, a staff report prepared, and the public hearing was duly conducted under the Covid-19 modified meetings laws and the proposed LAFCO Budget for Fiscal Year 2021-2022 was considered; and

**WHEREAS**, at said hearing, this Commission heard and received all written protests, objections and evidence which were made, presented, or filed, and all persons present were given the opportunity to hear and be heard in respect to any matter relating to said proposed budget; and

**WHEREAS**, the Commission considered the Proposed Budget at the April 15, 2021 meeting and approved the Adopted Final Budget for Fiscal Year 2021-2022 on May 20, 2021;

**WHEREAS**, the San Luis Obispo LAFCO finds that it can accomplish its legislative purpose and adopted work plan with the reduced final budget as required by Cortese-Knox-Hertzberg Act; and

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED** by the Local Agency Formation Commission of the County of San Luis Obispo, State of California, as follows:

1. That the recitals set forth hereinabove are true, correct, and valid.

2. That pursuant to Government Code Section 56381(a), the Commission hereby adopts a Final Budget for Fiscal Year 2021-22 in the amount set forth in Exhibit A. The amount charged to the Cities, Special Districts and County, after deducting fees from applications and the use of reserves/fund balance is also found in Exhibit A. This amount will be charged to the Funding Agencies based on the formula and procedure contained in the Cortese-Knox-Hertzberg Act and as implemented by the County Auditor-Controller's office.
3. That the Commission finds that it can accomplish its legislative purpose and adopted work plan with the adopted reduced budget as required by Cortese-Knox-Hertzberg Act.
4. That the Executive Officer of this Commission is authorized to mail and email copies of the Final Budget in the manner provided by law.

Upon a motion of Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, and on the following roll call vote:

AYES:

NAYS:

ABSTAIN:

\_\_\_\_\_  
Robert Enns, Chairperson                      Date  
Local Agency Formation Commission

**ATTEST:**

\_\_\_\_\_  
David Church                      Date  
LAFCO Interim Executive Officer

**APPROVED AS TO FORM AND LEGAL EFFECT:**

\_\_\_\_\_  
Brian Pierik                      Date  
LAFCO Legal Counsel

# Attachment D

Auditor Agreement



## COUNTY OF SAN LUIS OBISPO

### AUDITOR - CONTROLLER • TREASURER - TAX COLLECTOR

James W. Hamilton, CPA Auditor-Controller • Treasurer-Tax Collector

Lydia J. Corr, CPA Assistant Auditor-Controller • Treasurer-Tax Collector

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April 1, 2021

To the Board of Directors and Management  
SLO County Local Agency Formation Commission (LAFCO)

We are pleased to confirm our understanding of the terms and costs of our services under this agreement for the 2021-2022 fiscal year.

#### Scope of Services

We will provide the following services:

1. **General Accounting** - includes use of the County's centralized accounting system and recording of financial system entries submitted by the agency. Transactions will be reviewed for authorization by appropriate agency personnel prior to processing. In addition, access to the accounting system's financial reports will be available to the agency as needed.
2. **Accounts Payable** - includes processing payment claims by warrant or ACH. Claims will be reviewed to validate two authorized agency signers have approved the payment prior to processing, recording and mailing payments. Any invoices submitted with payment claims will be scanned and archived for retention. Review of invoices for mathematical accuracy and appropriateness of expenditure is not part of this service agreement.
3. **Accounting Support** - includes recording your Agency's budget, ensuring expenditures do not exceed authorized budget, responding to routine inquiries, working with external auditors, and replying to bank confirmations.
4. **Term** - Our services and responsibility end on June 30, 2022.

#### Our Responsibilities

Our responsibility is to perform the services enumerated above. We will not audit accounting entries, payment claims or budget transactions, nor will we validate the appropriateness of accounting transactions or claims for payment. Our service does not include annual preparation of 1099's or preparation of payroll reports.

Our services are not designed to detect instances of fraud, noncompliance with laws or regulations or significant errors; however, we will communicate to you any known and suspected fraud, noncompliance with laws or regulations or significant errors that come to our attention.

Your Responsibilities

You are responsible for (1) ensuring all transactions are submitted and/or approved by authorized staff, (2) reviewing all transactions prior to submittal to ensure appropriateness of the expenditure, compliance with laws or regulations and to check for significant errors and fraud, (3) retaining all source documents, and (4) providing all Board authorized budgets and budget amendments. You are encouraged to routinely provide accounting reports and payment registers to your Board for review.

You agree to inform us of significant noncompliance, fraud and/or errors immediately upon discovery.

For all services we provide to you, management agrees to assume all management responsibilities; oversee the services by designating an individual who possesses suitable skill, knowledge, and/or experience to understand the services; evaluate the adequacy and results of the services; and accept responsibility for the results of the services.

Annual Cost and Billing

The annual cost for the services identified above is \$8,596. Your agency will be billed by journal entry during the first quarter of the fiscal year for the entire annual costs. A copy of the journal entry will be provided to your agency.

Agreement

We appreciate the opportunity to be of service to you and believe this letter accurately summarized the significant terms of our agreement. This letter constitutes the entire agreement regarding these services and supersedes all prior agreements.

Sincerely,

*James Hamilton*

James W. Hamilton, CPA  
Auditor-Controller-Treasurer-Tax Collector

Authorized Signature Director \_\_\_\_\_ Date \_\_\_\_\_

Authorized Signature Board Chair \_\_\_\_\_ Date \_\_\_\_\_



LAFCO - San Luis Obispo - Local Agency Formation Commission  
SLO LAFCO - Serving the Area of San Luis Obispo County

**TO: MEMBERS, FORMATION COMMISSION**  
**FROM: BRIAN PIERIK, LAFCO LEGAL COUNSEL**  
**DATE: APRIL 15, 2021**  
**SUBJECT: FIRST AMENDMENT TO CONTRACT FOR TEMPORARY EMPLOYMENT WITH DAVID CHURCH**

**Recommendation.** Motion to approve First Amendment To Contract For Temporary Employment With David Church.

**Summary.**

On November 19, 2021, the Commission approved a Contract for Temporary Employment between the San Luis Obispo Local Agency Formation Commission (LAFCO) and David Church for Interim Executive Officer Services to commence on November 22, 2020. The former Executive Officer was Michael Prater who took the position of Executive Officer of Santa Barbara LAFCO.

Since November 22, 2020, there has been a recruiting process for the position of Executive Officer. Rob Fitzroy was one of the candidates for the Executive Officer position and the resume of Mr. Fitzroy is attached to this Staff Report. Mr. Fitzroy is being presented to the Commission as a separate Agenda item for consideration of appointment to the position of Executive Officer.

If the Commission approves the Employment Contract with Rob Fitzroy as Executive Officer, then the recommendation in this Staff Report is for the Commission to approve the attached First Amendment To Contract For Temporary Employment With David Church. This First Amendment will allow for David Church to be available on as needed basis to assist Rob Fitzroy for up to 100 hours during the period of May 24, 2021, through August 27, 2021. The compensation for Mr. Church in the First Amendment is at an hourly rate of \$75.59 through June 30, 2021, and at the hourly rate of \$76.57 commencing July 1, 2021.

**COMMISSIONERS**

Chairperson  
ROBERT ENNS  
Special District Member

Vice-Chair  
ED WAAGE  
City Member

DEBBIE ARNOLD  
County Member

LYNN COMPTON  
County Member

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Public Member

**ALTERNATES**

ED EBY  
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CHARLES BOURBEAU  
City Member

HEATHER JENSEN  
Public Member

JOHN PESCHONG  
County Member

**STAFF**

DAVID CHURCH  
Interim Executive Officer

BRIAN A. PIERIK  
Legal Counsel

IMELDA MARQUEZ  
Analyst

# Attachment A

First Amendment To Contract For Temporary Employment With David  
Church



**FIRST AMENDMENT TO CONTRACT FOR TEMPORARY EMPLOYMENT  
BETWEEN  
THE LOCAL AGENCY FORMATION COMMISSION  
AND DAVID CHURCH**

This First Amendment to Contract for Temporary Employment ("First Amendment") is effective on the 24th day of May, 2021, and is entered into by and between the Local Agency Formation Commission Of San Luis Obispo County (hereinafter referred to as LAFCO), and David Church (hereinafter referred to as David Church). LAFCO and David Church are hereafter collectively referred to as the "Parties".

**RECITALS**

WHEREAS, on November 22, 2020, LAFCO and David Church entered into a Contract for Temporary Employment for the position of Interim Executive Officer to provide services to LAFCO during the period of time that LAFCO was recruiting an Executive Officer; and

WHEREAS, LAFCO will be considering hiring Rob Fitzroy as the Executive Officer at the LAFCO meeting on April 15, 2021 with a proposed start date of May 24, 2021; and

WHEREAS, LAFCO desires to contact with David Church as a temporary employee to serve as the Interim Deputy Executive Officer of the LAFCO pursuant to Government Code Section 56384; and

WHEREAS, David Church desires to serve as the Interim Deputy Executive Officer of the LAFCO pursuant to the terms of this First Amendment; and

WHEREAS, LAFCO, as appointing authority, and David Church desire to specify in this First Amendment the terms and conditions of David Church's temporary employment as Interim Deputy Executive Officer of LAFCO.

NOW, THEREFORE, the Parties do mutually agree that the foregoing Recitals are true and correct and are hereby incorporated by this reference and further agree as follows:

1. Temporary Employment

LAFCO hereby engages David Church as the Interim Deputy Executive Officer of LAFCO and David Church hereby agrees to perform for LAFCO the services hereinafter set forth for the compensation hereinafter set forth, all pursuant to the terms and conditions of this First Amendment.

2. Scope of Services

Pursuant to this First Amendment, David Church will assist the LAFCO Executive Officer upon request of the Executive Officer on an as needed basis.

3. Status

David Church will be a temporary employee of LAFCO and shall provide the Services specified in this First Amendment. David Church shall receive compensation based on an hourly rate as specified in this First Amendment and shall not receive any benefits or other consideration for his Services except that David Church shall be entitled to thirteen (13) paid holidays per calendar year on the same schedule as the employees of the County of San Luis Obispo.

4. Term of the First Amendment

The Term of the Contract for Temporary Employment for the position of Interim Executive Officer shall end on May 23, 2021. The Term of this First Amendment shall commence on May 24, 2021, and shall continue until August 27, 2021 or until terminated by either party in accordance with the provisions of this First Amendment whichever is earlier.

5. Compensation

LAFCO shall pay to David Church as compensation in full for all Services performed by David Church pursuant to this First Amendment for the position of Interim Deputy Executive Officer at an hourly rate of \$75.59 through June 30, 2021 and at the hourly rate of \$76.57 commencing July 1, 2021. .

6. Maximum Number of Hours

David Church shall keep time records on a daily basis showing the amount of time he performs the Services. David Church shall not perform more than 100 hours of work for the Term of this First Amendment.

7. Termination of First Amendment

Either party may terminate this First Amendment at any time, with or without cause, by giving the other party 30 (thirty) days' written notice of such termination. Termination shall have no effect upon the rights and obligations of the Parties arising out of transactions occurring prior to the effective date of such termination. David Church shall be paid for all work satisfactorily completed prior to the effective date of such termination

8. Modification

This First Amendment constitutes the entire understanding of the Parties

hereto and no changes, amendments, or alterations shall be effective unless in writing and signed by both Parties.

9. Covenant

The validity, enforceability and interpretation of any of the clauses of this First Amendment shall be determined and governed by the laws of the State of California.

10. Enforceability

The invalidity and unenforceability of any of the terms or provisions of this First Amendment shall in no way affect the validity and enforceability of any other terms or provisions of this First Amendment.

IN WITNESS WHEREOF, LAFCO and David Church hereby agree to the foregoing terms of this First Amendment

\_\_\_\_\_  
DAVID CHURCH, Temporary Employee

\_\_\_\_\_  
ROBERT ENNS, Chairperson  
San Luis Obispo Local Agency Formation Commission

APPROVED AS TO LEGAL FORM AND EFFECT

\_\_\_\_\_  
BRIAN PIERIK  
LAFCO Legal Counsel



LAFCO - San Luis Obispo - Local Agency Formation Commission  
SLO LAFCO - Serving the Area of San Luis Obispo County

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Interim Executive Officer

BRIAN A. PIERIK  
Legal Counsel

IMELDA MARQUEZ  
Analyst

**TO: MEMBERS, FORMATION COMMISSION**

**FROM: BRIAN PIERIK, LAFCO LEGAL COUNSEL**

**DATE: APRIL 15, 2021**

**SUBJECT: Request for Amicus Support by the San Luis Obispo Local Agency Formation Commission, regarding the City of Pismo Beach, et. al. Superior Court Case No. CV130383; 2d Civ. No. B296968**

**Recommendation.** It is recommended that the Commission direct legal counsel to request Amicus Support for the above lawsuit from various organizations.

**Summary.** The Opinion of the Court of Appeal affirmed the decision of the Superior Court awarding judgment in favor of the City of Pismo Beach and Central Coast Development. This decision was made on the cross-complaint of the San Luis Obispo Local Agency Formation Commissions (SLO LAFCO) and the Special District Risk Management Association (SDRMA) for recovery of attorney's fees and costs incurred in successfully defending the Central Coast v. SLO LAFCO action. As you will recall, the cross-complaint of SLO LAFCO and SDRMA was based on the "Cost Accounting and Indemnification Agreement" contained in the annexation application in which both the City and Central Coast signed agreeing to indemnify SLO LAFCO for the cost of a challenge to its determination of the application. Indemnification agreements are commonly used by public agencies to reduce exposure of tax payer funded agencies to expensive litigation.

The SDRMA has funded SLO LAFCO's defense throughout this case and is seeking review of the Court of Appeal decision by the California Supreme Court. At its meeting on March 18, 2021, the Commission authorized SLO LAFCO to join in seeking review by the California Supreme Court of the Court of Appeal decision.

Amicus support from other organizations impacted by this case help bolster the case if it is to be considered by the Supreme Court. CALAFCO has been requested to provide an amicus support letter and has consented to do so. Other organizations that may wish to support this effort include the League of Cities, California State Association of Counties and the California Special District Association.

A Petition for Review is due on April 30, 2021. If authorized by the Commission, letters of amicus support of the petition for review would be requested from the above mentioned organizations.

# Attachment A

Court Decision

**CERTIFIED FOR PUBLICATION**

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

SAN LUIS OBISPO LOCAL  
AGENCY FORMATION  
COMMISSION et al.,

Cross-complainants and  
Appellants,

v.

CITY OF PISMO BEACH et al.,

~~Cross-defendants-a-BH~~  
Respondents.

2d Civ. No. B296968  
(Super. Ct. No. CV130383)  
(San Luis Obispo County)

COURT OF APPEAL - SECOND DIST.  
**FIL IBD**  
Mar 03, 2021  
DANIEL P. POTTER, Clerk  
P. Siiva Deputy Clerk

Even broadly construed statutes have boundaries. It is the Legislature's responsibility to amend statutes. Courts may not do so under the guise of implied powers.

A city and a developer applied to the San Luis Obispo Local Agency Formation Commission (LAFCO) to annex a parcel of real property to the city. LAFCO denied the application and the city and developer brought an action to challenge that decision. LAFCO prevailed and brought this action to recover attorney fees under an indemnity agreement contained in the annexation application. The trial court granted the city and developer

judgment on the pleadings because LAFCO has no authority to require such fees. We affirm.

## FACTS

### *Background*

Local agency formation commissions are established in each of California's 58 counties by the Cortese-Knox-Hertzberg Act (CKH Act). (Gov. Code,<sup>1</sup> § 56000 et seq.) Their purpose is to ensure planned, well-ordered, efficient urban development patterns. (§ 56300, subd. (a).) Included in their powers is the power to approve or disapprove applications for an annexation to a city. (§ 56375, subd. (a).) Their operating costs are divided one-third each among the county, the cities, and independent special districts. (§ 56381, subd. (b)(I)(A).)

Local agency formation commissions may also establish a schedule of fees and service charges. (§ 56383, subd. (a).) The fees and charges shall not exceed the costs of the services provided. (*Id.*, subd. (b).)

### *Dispute*

Central Coast Development Company (Central Coast) owns a 154-acre parcel of property within the sphere of influence of the City of Pismo Beach (City). Central Coast wants to construct 252 single family residences and 60 senior housing units on the parcel. The City approved Central Coast's application for a development permit for the property. The City and Central Coast applied to LAFCO to annex the property.

The LAFCO application signed by the City and Central Coast contained the following indemnity agreement:

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<sup>1</sup>All statutory references are to the Government Code unless stated otherwise.

"As part of this application, Applicant agrees to defend, indemnify, hold harmless and release the San Luis Obispo Local Agency Formation Commission (LAFCO), its officers, employees, attorneys, or agents from any claim, action or proceeding brought against any of them, the purpose of which is to attack, set aside, void, or annul, in whole or in part, LAFCO's action on the proposal or on the environmental documents submitted to or prepared by LAFCO in connection with the proposal. *This indemnification obligation shall include, but not be limited to, damages, costs, expenses, attorneys' fees, and expert witness fees that may be asserted by any person or entity, including the Applicant,* arising out of or in connection with the application. In the event of such indemnification, LAFCO expressly reserves the right to provide its own defense at the reasonable expense of the Applicant." (Italics added.)

LAFCO denied the annexation application. The City and Central Coast sued LAFCO. LAFCO prevailed and presented a bill to the City and Central Coast for more than \$400,000 in attorney fees and costs. The City and Central Coast refused to pay.

The Special District Risk Management Authority (SDRMA), a public entity self-insurance pool, paid for LAFCO's fees and costs. LAFCO and the SDRMA sued the City and Central Coast to recover its fees and costs. The suit was based on the indemnity provision of the annexation application.

The trial court granted the City and Central Coast (hereafter collectively "the City") judgment on the pleadings against LAFCO and the SDRMA (hereafter collectively "LAFCO"). The court denied LAFCO's request for leave to amend its pleadings.



## DISCUSSION

### I

#### *Contract*

LAFCO contends the indemnity agreement is a valid contract provision.

A contract requires consideration. (*US Ecology, Inc. v. State of California* (2001) 92 Cal.App.4th 113, 128.)

Consideration consists of either a benefit to the promisor or a detriment to the promisee. (*Speirs v. BlueFire Ethanol Fuels, Inc.* (2015) 243 Cal.App.4th 969, 987.) A promise to do something the promisor is legally bound to do is not consideration. (*General Motors Acceptance Corp. v. Broion* (1934) 2 Cal.App.2d 646, 650.)

LAFCO has a statutory duty to accept all completed applications (§ 56658, subd. (e)) and to review and approve or disapprove the application (§ 56375, subd. (a)(I)).

LAFCO argues it has the power under section 56383, subdivision (a) to charge fees to cover its costs. These fees include fees for filing and processing applications. (§ 56383, subd. (a)(I).) LAFCO claims it is entitled to charge anticipated attorney fees as part of the application fee. It contends the indemnification agreement is given in consideration for not requiring anticipated attorney fees to be paid as part of the application fee at the beginning of the process.

As we explain, section 56383 does not apply to post-administrative matters, such as the action that generated the fees at issue here. LAFCO has given no consideration in exchange for the indemnity agreement.

## II

### *Authority Under Section 56383*

LAFCO contends it has the authority under section 56383 to require the indemnity agreement.

Section 56383, subdivision (a)(1)-(4) provides: "The commission may establish a schedule of fees and a schedule of service charges pursuant to this division, including, but not limited to, all of the following: [if] (1) Filing and processing applications filed with the commission. [if] (2) Proceedings undertaken by the commission and any reorganization committee. [if] (3) Amending or updating a sphere of influence. [if] (4) Reconsidering a resolution making determinations."

LAFCO ignores subdivision (b) of section 56383. That section provides that the fees and charges "shall be imposed pursuant to Section 66016." (§ 56383, subd. (b).)

Section 66016, subdivision (a) provides, in part: "Prior to levying a new fee or service charge, or prior to approving an increase in an existing fee or service charge, a local agency shall hold at least one open and public meeting, at which oral or written presentations can be made, as part of a regularly scheduled meeting. Notice of the time and place of the meeting, including a general explanation of the matter to be considered, and a statement that the data required by this section is available, shall be mailed at least 14 days prior to the meeting to any interested party who files a written request with the local agency for mailed notice of the meeting on new or increased fees or service charges."

LAFCO did not comply with section 66016, subdivision (a). When a statute mandates a particular procedure, it does not

imply that the procedure may be avoided by inserting a provision in an application form.

Moreover, section 56383 contemplates that the fees charged thereunder will be limited to those necessary to the administrative process, not to post-decision court proceedings. Section 57200, subdivision (a)(1) requires LAFCO's executive officer to execute and file a certificate of completion upon the "completion of all commission actions," including the time period allowed to file and act upon requests for reconsideration. Section 56383, subdivision (c) provides, in part: "The executive officer shall provide the applicant with an accounting of all costs charged against the deposited amount. If the costs are less than the deposited amount, the executive officer shall refund the balance to the applicant after the executive officer verifies the completion of all proceedings. If the costs exceed the deposited amount, the applicant shall pay the difference prior to the completion of all proceedings."

The clear mandate of section 56383, subdivision (c) is that the executive officer must settle the costs charged under the section at the end of the administrative proceedings. The section does not provide for costs that may accrue thereafter.

LAFCO cites section 56107, subdivision (a) for the proposition that the CKH Act must be liberally construed to effectuate its purposes. Yes, liberal construction requires broad rather than narrow construction. (*McKeag v Bd. of Pension Comms.* (1942) 21 Cal.2d 386, 390.) But the construction may not be so broad as to ignore the express mandates of the statute. Nothing in section 56383, no matter how broadly construed, authorizes the indemnity agreement.

III

*Power Implied from LAFCO'S Purpose*

LAFCO contends that it has the power implied from its purpose to require the indemnity agreement.

LAFCO relies on *Zack v. Marin Emergency Radio Authority* (2004) 118 Cal.App.4th 617. In *Zack*, the question was whether a joint powers agency had the implied power to construct and operate an emergency communications system. The court recognized that such agencies have implied powers necessarily arising or reasonably inferred from those expressly granted, or indispensable to fulfill the purposes for which it was organized. (*Id.* at p. 633.) But *Zack* did not involve attorney fees. We are constrained by Code of Civil Procedure section 1021. That section provides: "Except as attorney's fees are specifically provided for by statute, the measure and mode of compensation of attorneys and counselors at law is left to the agreement, express or implied, of the parties; but parties to actions or proceedings are entitled to their costs, as hereinafter provided."

Here attorney fees in post-administrative actions are not "specifically provided for by statute." Nor is there a valid agreement for such fees. LAFCO's remedy is with the Legislature.

The judgment is affirmed. Costs are awarded to respondents.

CERTIFIED FOR PUBLICATION.

GILBERT, P. J.

We concur:

YEGAN, J.

PERREN, J.

Ginger E. Garrett, Barry T. LaBarbera,\* Judges

Superior Court County of San Luis Obispo

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McCormick, Barstow, Sheppard, Wayte & Carruth, James P. Wagoner, Timothy J. Buchanan, Brandon M. Fish and Lejf E. Knutson for Cross-complainants and Appellants San Luis Obispo Local Agency Formation Commission and Special District Risk Management Authority

Best Best & Krieger, Clark H. Alsop and Gregg W. Kettles for California Association of Local Agency Formation Commissions as Amicus Curiae on behalf of Cross-complainant and Appellant San Luis Obispo Local Agency Formation Commission.

Office of the County Counsel County of Santa Clara, James R. Williams, County Counsel, Steve Mitra, Assistant County Counsel, Christopher R. Cheleden, Lead Deputy County Counsel, and John A. Castro, Deputy County Counsel, for California State Association of Counties as Amicus Curiae on behalf of Cross-complainants and Appellants San Luis Obispo Local Agency Formation Commission and Special District Risk Management Authority.

Richards, Watson & Gershon, T. Peter Pierce, Saskia T. Asamura and Kyle H. Brochard for Cross-defendant and Respondent City of Pismo Beach.

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\* Barry T. LaBarbera, retired judge of the San Luis Obispo Sup. Ct. assigned by the Chief Justice pursuant to art. VI, § 6 of the Cal. Const.

Jackson Tidus, Michael L. Tidus, Gregory P. Regier and  
Nedda Mahrou for Cross-defendant and Respondent Central  
Coast Development Company.



LAFCO - San Luis Obispo - Local Agency Formation Commission  
SLO LAFCO - Serving the Area of San Luis Obispo County

**TO: MEMBERS, FORMATION COMMISSION**  
**FROM: DAVID CHURCH, INTERIM EXECUTIVE OFFICER  
IMELDA MARQUEZ, ANALYST**  
**DATE: APRIL 15, 2021**  
**SUBJECT: STATUS REPORT OF SUBMITTED PROPOSALS AND  
UPCOMING PROPOSAL ACTIVITIES**

**Recommendation.** This item is informational only and does not require action by the Commission.

**Summary.** This status report is to bring the Commission up-to-date regarding the submitted proposals and upcoming proposal activity that involve staff time and resources.

**Active Proposals**

**LAFCO No. 2-R-21 | Cayucos Sanitary District (Water Resource Facility) Annexation /SOI Amendment.** This project proposal includes an annexation of approximately 257.87 acres of property into the Cayucos Sanitary District. The property is located in Toro Creek Valley, a designated rural area, approximately 0.75 miles inland from State Route 1 in Cayucos. The annexation and sphere of influence amendment is for the district's new Water Reclamation Facility and Solar Farm that are being constructed on the property. The public lot within the area would be within the parent parcel of approximately 8 acres.

The resolution of application was submitted to LAFCO on February 19, 2021. A 30-day review of the application was conducted by staff and an information hold letter was submitted to the District on March 19, 2021. Staff has initiated a Notice to Commence Property Tax Negotiation.

**LAFCO No. 1-R-21 | Froom Ranch Annexation to the City of SLO.** This proposal would annex 110 acres located immediately west of Los Osos Valley Road between U.S. Highway 101 and the Irish Hills Plaza outside the City limits of San Luis Obispo. The plan for the project provides for approximately 39.1 acres of mixed residential uses (Life Plan Community known as Villaggio with independent and assisted living, multi-family housing, and affordable housing), 3.1 acres of commercial development (including potentially a 70,000 square foot hotel) and 66.2 acres of open space. The area is within the City's sphere of influence.

The resolution of application was submitted to LAFCO on February 9, 2021.

**COMMISSIONERS**

Chairperson  
ROBERT ENNS  
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Interim Executive Officer

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Legal Counsel

IMELDA MARQUEZ  
Analyst

A 30-day review of the application was conducted by staff and an information hold letter was submitted to the City on March 9, 2021. On April 6, 2021, the County Board of Supervisors formally commenced negotiations for the exchange of property tax revenue for this annexation.

**LAFCO No. 3-R-20 | Gateway SOI Amendment/Annexation to the City of Paso Robles.** This proposal is to annex 170 acres located in the vicinity of the northwest corner of Highway 101 and Highway 46 West and outside the City limits of Paso Robles. This proposal would seek the concurrent processing of an amendment to the City's sphere of influence and annexation. The project provides 49.7 acres of Agriculture Land, 32.3 acres of Agriculture in Conservation Easement, 16.6 acres of Open Space, 0.2 acres of Multi-Family Residential (limited number of units and possibly single-family residential), 59.3 acres of Hotel (two hotels and possibly a third), 10.6 acres of Commercial Centers, and 3.2 acres of Public Roads.

The resolution of application was submitted to LAFCO on October 7, 2020. A 30-day review of the application was conducted by staff and an information hold letter was submitted to the City on November 5, 2020. The City responded to the information hold letter on March 16, 2021. The County Board of Supervisors formally commenced negotiations for the exchange of property tax revenue for this annexation on January 26, 2021. These negotiations remain ongoing.

**LAFCO No. 4-R-20 | Torres Annexation to Nipomo CSD.** The proposed project includes an annexation of approximately 0.25-acres of property into the Nipomo Community Service District for sewer and water. The property is in the sphere of influence and is located on Oakglen avenue.

The petition of application was submitted to LAFCO on October 26, 2020. A 30-day review of the application was conducted by staff and an information hold letter was submitted to the landowner (applicant) on November 20, 2020. Staff is asking the applicant if they would like to withdraw the application. The Districts costs for annexation are significant and it is likely the applicant will not move forward with this proposal.

**LAFCO No. 2-S-19 | Morro Bay SOI Amendment (WRF).** The application is to amend the City of Morro Bay's Sphere of Influence for a new Water Reclamation Facility (WRF). This proposal includes 368.7-acre "Remainder Parcel" of the larger 396.3-acre Tri-W Enterprises property, a 27.6-acre portion of which will be split off as a separate lot to be owned by the City for the construction and operation of the City's new WRF.

The resolution of application was submitted to LAFCO on October 15, 2019. A 30-day review of the application was conducted by staff and an information hold letter was submitted to the City on November 14, 2019.

### **Post Approval**

**LAFCO No. 1-R-20 | Fiero East-West Annexation to the City of SLO.** This proposal was approved at the November 19, 2020, meeting. A Conducting Authority Hearing (Protest Hearing) was then held on January 21, 2021, for landowners and the results determined the annexation be approved. Staff has filed with the State Board of Equalization (BOE) and is waiting for the final acknowledgment letter that will complete this annexation.



**LAFCO No. 1-R-19 | Shandon San Juan Water District Detachment #1.** This proposal was approved at the September 19, 2019, meeting. A Certificate of Completion has not been filed by LAFCO because conditions have not been met. Pursuant to GC 57001 a one-year extension was granted by the Commission at the September 17, 2020, Meeting to allow additional time for condition compliance.

**LAFCO No. 2-R-19 | Estrella-EI Pomar-Creston Water District Detachment #1.** This proposal was approved at the September 19, 2019, Meeting. A Certificate of Completion has not been filed by LAFCO because conditions have not been met. Pursuant to GC 57001 a one-year extension was granted by the Commission at the September 17, 2020, Meeting to allow additional time for condition compliance.

### **Possible / On the Radar**

**Cayucos/Morro Bay Boundary Adjustments.** The City of Morro Bay would purchase the Dog Beach from the Cayucos Sanitary District (SD). When Cayucos SD acquired the Dog Beach Lots from Chevron, Chevron retained a right to reacquire the lots under certain circumstances. Chevron has agreed to remove its repurchase right from record title if the City authorized submittal of an application to LAFCO to amend the City's SOI to include five lots above the Panorama area (Panorama Lots).

Additionally, a small portion of land would be proposed to be detached from the City resulting in the lot being located within unincorporated County of San Luis Obispo. Property is owned by the Cayucos Sanitary District and contains a sewer lift station operated by Cayucos SD.

The City of Morro Bay approved the adoption of resolution of application authorizing City Staff to submit detachment proceedings to LAFCO. This application is expected sometime mid-year.

**Moro Bay SOI Amendment – Panorama Lots.** This proposal would include 5 lots located on Panorama Drive. These lots are owned by Chevron and they would wish to annex the lots into the City in the future. Each of the 5 lots would accommodate one single family residence. The City of Morro Bay approved the adoption of resolution of application authorizing City Staff to submit to LAFCO. This application is expected sometime mid-year.

**CSA 10 Annexation (Valley Lots).** The County Service Area (CSA) 10 in Cayucos may see an annexation of lots on the southern part of town if a Minor Use Permit (MUP) is approved by the County. County Public Works has indicated a willingness to provide service. The MUP would provide the land use approval for a residential construction project. Water service from CSA 10 would be needed. A LAFCO action should follow the land use approval.

**CSA 23 (Tract 2586) Annexation.** County Service Area No. 23 includes the Santa Margarita area. This proposal would annex the County approved Santa Margarita Ranch Residential Agricultural Cluster subdivision of Tract 2586. Tract 2586, at the Santa Margarita Ranch, is an approved 3-phase agricultural cluster subdivision allowing for the development of 111 individual residential home sites on lots ranging in size between 1.0 and 2.0 acres each. While the overall tract covers approximately 3,770 ac, only 150 acres (+/-) will be developed with residential uses, the majority of the site would continue to be utilized for agricultural and recreational /visitor serving uses. This annexation could allow

for the combining of the water distribution systems creating a more efficient joint system with CSA 23, Santa Margarita Ranch Mutual Water, and Atascadero Mutual Water. The proposed CSA 23 annexation is intended to provide service only to the 111 developed home sites. There is no anticipated application date at this time.

**CSA 16 Detachment.** The County Service Area No. 16 includes the Shandon area. This proposal would detach a 8.31 acre parcel from CSA 16. In 2005 LAFCO approved a Sphere of Influence Amendment (85 acres) and Annexation of this property (8.31 acres). At that time the landowner requested this action to allow water service to a County approved Chevron Gas Station. The County approved the Commercial Service project which consists of a 3,737 square foot convenience store and gas station. The Gas Station was never built. The Sphere of Influence revision and annexation enabled the proponents to receive water service from CSA 16 to meet water needs associated with the retail business and fire suppression requirements using a community water system rather than constructing a large storage tank on the site. The addition of the 85-acre area to the SOI is consistent with the County's General Plan Urban Reserve/Services boundary.

The landowner would be seeking detachment so he will no longer be billed for water service that is not needed. The main water line was completed along with a meter. The water system on occasion needs to be maintained and pipelines flushed for water quality purposes. Do to the design of the infrastructure this flushing result in charges to the property owner for unused or poor quality water. The detachment would resolve the property owners' concerns. The property owner is waiting on Caltrans mapping of emanant domain as the detachment would no longer include the full 8.31acres that were initially annexed. This application is expected in the new fiscal year.

**Dana Reserve Annexation into Nipomo CSD.** This proposal would annex 288 acres located within the Sphere of Influence and immediately north of the Urban Reserve Line of Nipomo Community Services District (NCSO). The property is bounded by Willow Road and Cherokee Place to the north, existing residential ranchettes to the south and west, and U.S. Highway 101 to the east. The landowners have filed a subdivision application with the County for a 42-lot multi-use subdivision and corresponding Specific Plan for approximately 1,270 single and multi-family homes including residential, commercial, and recreation/open space, among others. LAFCO has provided input regarding the annexation process. The EIR is being prepared and LAFCO will provide comments on that document. This future application would likely take a year or two before coming to LAFCO.

**Templeton CSD Cemetery Service Divesture.** The Templeton CSD is no longer providing support services to the Templeton Cemetery District and has inquired about divesting that power. The District is exploring this action at this point. This action is advisable if the power is no longer needed or used.

**Oceano CSD Fire Service.** The Oceano Community Services District has entered into a 3<sup>rd</sup> Amendment with the Joint Powers Authority (JPA) partners to fund fire service over the next three years, until 2023. The District is exploring a ballot measure for 2022 to maintain fire services with the Five Cities Fire Authority and continue their partnership with the JPA. The District is anticipating submittal of a divestiture application to LAFCO in summer of 2021 to begin conversations with the County regarding what fire service might look like for their citizens.

**Shandon San Juan Water District Detachment.** Additional property owners have inquired about detaching from the water district. One landowner has 1,200 acres, another owns 3,357 acres, and others are smaller acreages. LAFCO would typically consolidate applicants under one action for detachment for a broader perspective, ease and reduced processing costs. There is no anticipated application date at this time.