

# LAFCO

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## Santa Barbara Local Agency Formation Commission

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April 7, 2011 (Agenda)

Local Agency Formation Commission  
105 East Anapamu Street  
Santa Barbara CA 93101

### Policy Regarding Approval of Out-of-Agency Services

Dear Members of the Commission:

#### RECOMMENDATION

It is recommended the Commission receive this report and provide direction, if any, to the staff regarding the current policy for deciding out-of-agency service agreements.

#### DISCUSSION

At the March 3 meeting staff was directed to schedule a discussion at a future meeting regarding the Commission's policy for out-of-agency service agreements.

#### State Law

Prior to the enactment of the current law, cities and special districts could extend services to territory outside their boundaries without LAFCO approval. There are instances in which special districts extended utility services to territory outside their boundaries even after the local LAFCO had denied the annexation of that territory to the district.

Government Code Section 56133, added to the statutes in 1993, provides that

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

The full text of Section 56133 is attached.

#### Santa Barbara LAFCO Policy

Following is the Commission's adopted policy:

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**Commissioners:** Janet Wolf, Chair ♦ Lupe Alvarez ♦ Doreen Farr ♦ Jeff Moorhouse ♦ Bob Orach ♦ Cathy Schlottmann  
Bob Short ♦ Joe Armendariz ♦ John Fox ♦ Steve Lavagnino ♦ Roger Welt      **Executive Officer:** Bob Braitman

AGENDA ITEM NO. 7

“Considerations for Approving Agreements

“Annexations to cities and special districts are generally preferred for providing public services, however, out-of-agency service agreements can be an appropriate alternative.

“While each proposal must be decided on its own merits, the Commission may favorably consider such agreements in the following situations:

1. Services will be provided to a small portion of a larger parcel and annexation of the entire parcel would be inappropriate in terms of orderly boundaries, adopted land use plans, open space/greenbelt agreements or other relevant factors.
2. Lack of contiguity makes annexation infeasible given current boundaries and the requested public service is justified based on adopted land use plans or other entitlements for use.
3. Where public agencies have a formal agreement defining service areas, provided LAFCO has formally recognized the boundaries of the agreement area
4. Emergency or health related conditions mitigate against waiting for annexation.
5. Other circumstances which are consistent with the statutory purposes and the policies and standards of the Santa Barbara LAFCO.

“Agreements Consenting to Annex

“Whenever the affected property may ultimately be annexed to the agency, a standard condition for approval of an out-of-agency service agreement is recordation of an agreement by the landowner consenting to annex the territory, which agreement shall inure to future owners of the property.

“Approval by Chair

“The Chair may authorize cities and special districts to provide services outside of their boundaries as specified herein.

1. A request and application is received from the affected local agency, including the requisite processing fee.

2. The situation involves public health, safety or welfare to such a degree that delaying the approval of the service agreement until the next LAFCO meeting is deemed by the Chair to represent an intolerable delay or risk to the public health, safety or welfare.
3. The property to which the out-of-agency services will be extended or provided is within the sphere of influence of the affected agency.
4. If the affected property may ultimately be annexed to the service agency, the landowner shall execute and record an agreement consenting to annex the territory to the affected district and shall deposit with LAFCO or the service agency funds sufficient to process said future annexation.
5. In the absence of the Chair or if the Chair is not available to act, the Vice Chair is authorized to exercise the authorities set forth in this resolution.
6. The Executive Officer shall provide a report to the Commission at the next LAFCO meeting of any out-of-agency service agreements that were approved.

“It is intended that the authority delegated to the Chair or Vice-Chair to approve out-of-agency service agreements be exercised in a manner consistent with the Commission’s adopted standards.”

#### History of Out-Of-Agency Service Agreements

Since the law was enacted requiring LAFCO approval of out-of-agency service extensions, there have been 36 such extensions approved by the Commission or by the Chair. These are listed in the attachment.

The majority are related to failed on-site septic systems and the need to connect to a community sewer system without the delay of waiting for the completion of an annexation. As a general rule these property owners are required to record a consent to annex to the agency that provides the service and such follow-up annexations are fairly routine.

Some of these approvals allow the City of Santa Barbara to provide sewer services to parcels within an unincorporated island located just east of the Earl Warren Showgrounds. Rather than conduct several single-lot annexations with the related expense of multiple maps and legal descriptions, the concept is to annex the entire island at one time when a sufficient number of the parcels have received sewer service (and recorded agreements consenting to annex to the City.)

Some approvals have allowed extending sewer services to properties within agricultural areas without the growth inducement of annexing the entire agricultural parcel. Three examples are:

- City of Lompoc – Beattie (LAFCO 95-14) - sewer service to a farmhouse on a 40-acre agricultural parcel near the City and with a sewer line adjacent to the house
- Carpinteria Sanitary District - Van Wingerden (LAFCO 04-3) – sewer service for a portion of a 13-acre parcel for an approved agricultural processing building
- Carpinteria Sanitary District – Everbloom (LAFCO 04-6) - sewer service for a portion of an 18.5-acre parcel for the cafeteria and office in an existing agricultural greenhouse building.

One approval allowed extension of electrical service to a cellular telephone antenna site on a hillside open-space parcel: City of Lompoc - GTE (LAFCO 95-15).

The recent La Cumbre Mutual Water Company out-of-agency service agreement approved by the Chair on December 7, 2010 allowed a completed water treatment and filtration plant constructed in response to State requirements to remove contaminants from the water supply to begin service before the property could be annexed to the Goleta Sanitary District.

The District submitted to application to annex this property in August 2010. That proposal had been on the Commission agenda twice, each time it was continued at the request of the County Department of Planning & Development.

A meeting was held on the site on November 17 with representatives of County departments including Planning & Development, Building & Safety and Fire Protection, the water company and the District. There was no opposition from these parties to allowing the District to connect and thereby activate the water treatment facility without further delay.

Please let me know if you have any questions.

Sincerely,



BOB BRAITMAN  
Executive Officer

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

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

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

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

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

(d) The executive officer, within 30 days of receipt of a request for approval by a city or district of a contract to extend services outside its jurisdictional boundary, shall determine whether the request is complete and acceptable for filing or whether the request is incomplete. If a request is determined not to be complete, the executive officer shall immediately transmit that determination to the requester, specifying those parts of the request that are incomplete and the manner in which they can be made complete. When the request is deemed complete, the executive officer shall place the request on the agenda of the next commission meeting for which adequate notice can be given but not more than 90 days from the date that the request is deemed complete, unless the commission has delegated approval of those requests to the executive officer. The commission or executive officer shall approve, disapprove, or approve with conditions the contract for extended services. If the contract is disapproved or approved with conditions, the applicant may request reconsideration, citing the reasons for reconsideration.

(e) This section does not apply to contracts or agreements solely involving two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider.

This section does not apply to contracts for the transfer of nonpotable or nontreated water.

This section does not apply to contracts or agreements solely involving the provision of surplus water to agricultural lands and facilities, including, but not limited to, incidental residential structures, for projects that serve conservation purposes or that directly support agricultural industries. However, prior to extending surplus water service to any project that will support or induce development, the city or district shall first request and receive written approval from the commission in the affected county.

This section does not apply to an extended service that a city or district was providing on or before January 1, 2001.

This section does not apply to a local publicly owned electric utility, as defined by Section 9604 of the Public Utilities Code, providing electric services that do not involve the acquisition, construction, or installation of electric distribution facilities by the local publicly owned electric utility, outside of the utility's jurisdictional boundaries.

SANTA BARBARA LAFCO  
PROPOSAL LOG

No.	Short Title	Action/Date	Record Date	Record No.
94-12	Out-Of-Agency Service Agreement - City of Buellton (N&G Investments)	Approved 3/3/94		
94-25	Out-of-Agency Service Agreement - City of Santa Barbara (Rockhar)	Approved 2/9/95		
95-5	Out-of-Agency Service Agreement - City of Santa Barbara (Sunset Road Properties)	Approved 5/4/95		
95-7	Out-of-Agency Service Agreement - City of Santa Maria (Brunello Project)	Approved 9/7/95		
95-14	Out-of-Agency Service Agreement City of Lompoc (Beattie)	Approved 9/7/95		
95-15	Out-of-Agency Service Agreement City of Lompoc (GTE)	Approved 11/2/95		
96-8	Out-of-Agency Service Agreement City of Buellton (Zaca Creek Restaurant)	Approved 7/25/96		
96-11	Out-of-Agency Service Agreement City of Santa Barbara (MacIntyre)	Approved 10/3/96		
97-3	Out-of-Agency Service Agreement - Carpinteria Sanitary District (Ziegler)	Approved 5/8/97		
98-2	Out-of-Agency Service Agreement – City of Lompoc (Campbell)	Approved 2/5/98		
98-4	Out-of-Agency Service Agreement – City of Santa Barbara (Kruft)	Approved 7/2/98		
99-2	Out-of-Agency Service Agreement – City of Santa Barbara (Johnson)	Approved 2/4/99		
99-14	Out-of-Agency Service Agreement – City of Santa Barbara (Northridge Road)	Approved 12/9/99		

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PROPOSAL LOG

No.	Short Title	Action/Date	Record Date	Record No.
00-14	Out-of-Agency Service Agreement – City of Lompoc (Bodger)	Approved July 6, 2000		
00-21	Out-of-Agency Service Agreement – Carpinteria Sanitary District (Whitney)	Approved 9/14/2000		
00-22	Out-of-Agency Service Agreement – Carpinteria Sanitary District (Wudl)	Approved 11/2/00		
01-9	Out-of-Agency Service Agreement – City of Santa Maria (Machinist Union)	Approved 8-2-01		
01-12	Out-of-Agency Service Agreement – City of Santa Maria (Terra Cotta Place II)	Approved 10-4-01		
02-3	Out-of-Agency Service Agreement – Carpinteria Sanitary District (Reed)	Chair signed 2-25-02		
02-4	Out-of-Agency Service Agreement – City of Santa Maria (Orcutt Apartments)	Approved 9-5-02		
02-8	Out-of-Agency Service Agreement – City of Lompoc (Perry)	Approved 6-6-02		
02-12	Out-of-Agency Service Agreement – City of Santa Barbara (Schechter)	Approved 9-5-02		
04-3	Out-of-Agency Service Agreement – Carpinteria Sanitary District (Van Wingerden)	Approved 5-6-04		
04-6	Out-of-Agency Service Agreement – Carpinteria Sanitary District (Everbloom)	Approved 8-5-04		
04-7	Out-of-Agency Service Agreement – City of Santa Barbara (Voss)	Approved 8-5-04		
05-4	Out-of-Agency Service Agreement – City of Santa Barbara (Kennedy)	Approved 4-7-05		



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PROPOSAL LOG

No.	Short Title	Action/Date	Record Date	Record No.
05-14	Out-of-Agency Service Agreement – City of Solvang (Seltzer)	Approved 9-1-05		
06-1	Out-of-Agency Service Agreement – City of Santa Barbara (Prestigiacomo)	Approved 2-2-06		
06-9	Out-of-Agency Service Agreement – Santa Ynez Community Services District (Stewart)	Approved 4-7-06		
06-12	Out-of-Agency Service Agreement – City of Santa Barbara (Kimball)	Approved 7-6-06		
07-14	Out-of-Agency Service Agreement – City of Santa Barbara (Abrego et al)	Approved 9-6-07		
08-3	Out-of-Agency Service Agreement – City of Solvang (Skytt)	Approved 5-1-08		
09-3	Out-of-Agency Service Agreement – City of Santa Barbara (Rivera Trust)	Approved 7-2-09		
10-4	Out-of-Agency Service Agreement – Goleta Sanitary District (Brewer)	Chair signed 8/27/10		
10-6	Out-of-Agency Service Agreement - Goleta Sanitary District (La Cumbre Mutual Water Company)	Chair signed 12-7-10		
10-7	Out-of-Agency Service Agreement - Goleta Sanitary District (Lee)	Chair signed 12-14-10		