

RESOLUTION NO. 116

**FRESNO LOCAL AGENCY FORMATION COMMISSION
FRESNO COUNTY, CALIFORNIA**

In the Matter of

LAFCO Determination No. 116

REQUEST TO AMEND LAFCO)
POLICIES, STANDARDS, AND)
PROCEDURES SECTION 102-04)
CONCERNING TRANSITION)
AGREEMENTS BETWEEN FIRE)
PROTECTION DISTRICTS AND)
CITIES)

APPROVED AMENDMENT TO
SECTION 102-04 OF LAFCO'S
POLICIES, STANDARDS, AND
PROCEDURES

WHEREAS, this Commission adopted its Policies, Standards, and Procedures on April 3, 1986; and

WHEREAS, this Commission on occasion reviews its Policies, Standards, and Procedures, considering and periodically approving amendments, revisions, additions, or deletions, when necessary; and

WHEREAS, this Commission directed the Executive Officer to review its Policies, Standards, and Procedures, Section 102-04 concerning "transition agreements" between fire protection districts and cities; and

WHEREAS, the Executive Officer reviewed said sections of Policies, Standards, and Procedures, and prepared a report and proposed amendment options, and made recommendations, said report having been mailed prior to and considered by this Commission at a public hearing held on the 11th day of September, 2013; and

WHEREAS, the Commission considered all public testimony presented at said public hearing,

NOW, THEREFORE, BE IT RESOLVED that the Fresno Local Agency Formation Commission does HEREBY RESOLVE, DETERMINE, AND ORDER as follows:

Adopted the proposed amendment attached as Exhibit "A".

ADOPTED THIS 11TH DAY OF SEPTEMBER, 2013, BY THE FOLLOWING VOTE:

AYES: COMMISSIONERS PEREA, LOPEZ, SANTOYO, SILVA


NOES: COMMISSIONER POOCHIGIAN

ABSENT: NONE

**STATE OF CALIFORNIA)
COUNTY OF FRESNO)**

CERTIFICATION

I, David E. Fey, Executive Officer of the Local Agency Formation Commission certify that the foregoing resolution was adopted by the Local Agency Formation Commission of Fresno County, California, at a regular meeting held on the 11th day of September, 2013.



David E. Fey, AICP
Executive Officer

EXHIBIT A

LAFCo POLICY AND PROCEDURE NO. 102-04

Where a special district is within a city's sphere of influence, the city is encouraged to develop annexation policies that will anticipate the total inclusion of the district's territory rather than a portion of its territory so as not to impose an unbearable tax burden upon citizens within the balance of the district's territory. The city's proposed services in the affected territory to be annexed to the city should be of equal or higher quality than the detaching special district's services provided in that territory.

Because the terms of each city's transition agreement may vary, cities are encouraged to include stakeholders, which may include the development community, in the preliminary formulation of agreements.

LAFCo POLICY AND PROCEDURE NO. 102-04-041

- 041 When a proposed reorganization includes annexation of territory to a city and detachment from a fire protection district (hereinafter, a "City/Fire Protection District Reorganization"), a transition agreement shall be required to provide for the orderly transition of services from the district to the city.

If the city and the district are unable to execute a transition agreement, the Commission may impose its own conditions of approval to ensure an orderly transition of services. Such conditions shall be deemed to satisfy this policy.

~~When a proposed reorganization includes the annexation of territory to a city and detachment from a fire protection district (a "City/Fire Protection District Reorganization"), the Commission may require the parties to provide evidence to the Executive Officer that a transition agreement is in place to provide for the orderly transition of services from the district to the city. If the city and the district are unable to agree upon a transition agreement, the Commission may impose its own conditions of approval to ensure an orderly transition of services.~~

- | 1. The terms of any fire transition agreement may include, but not be limited to, the length of the agreement, the transfer of stations, personnel, equipment, and property taxes, all as mutually determined by the city and the district. The transition agreement must provide a rationale for the terms contained therein (the "Transition Plan"). The Transition Plan must specify how generally the fire district will use any payments made by the city to the district, what service changes will be made to nearby areas, if any, and how the district will adjust its service plans for the loss of property tax revenues associated with the City/Fire Protection District Reorganization Proposal. In lieu of specific terms specified in the agreement, the Transition Plan may be attached to the transition agreement

or incorporated by reference. The Commission recognizes that the negotiation of a transition agreement may be a lengthy and complex process and strongly encourages the city and district to craft an agreement that would last a period of years and cover multiple City/Fire Protection District Reorganizations.

2. The Commission is not a party to these agreements and other than the terms specified in section 1, above, will not dictate the terms of the transition agreement. The intent of the transition agreement is to provide for the orderly transition of services. Therefore, the Commission expects the parties to negotiate the transition agreements in good faith and to obtain terms and conditions in such agreements that are reasonable under the circumstances.

- 4.3. Applicants for a City/Fire Protection District Reorganization—whether by application of the city, by a private party, or by petition—shall include a copy of the transition agreement as part of their complete application.

In the case of a City/Fire Protection District Reorganization, the Executive Officer shall request written verification of an existing transition agreement between the city and the district in the mailed notice to the District in accordance with section 56658(b)(1).~~No less than thirty (30) days prior to issuing a certificate of filing under Government Code section 56658 for a City/Fire Protection District Reorganization, the Executive Officer shall provide written notice to the applicable district of a pending application. Such notice shall request written verification of an existing transition agreement between the city and the district.~~

- 2.4. In the event that the district and the city are not parties to a transition agreement affecting the subject territory, the Executive Officer shall request that the city and the district immediately commence discussions regarding entering into a transition agreement affecting the subject territory and, if possible, future City/Fire Protection District Reorganizations.

5. The city and district shall have thirty (30) days to enter into a transition agreement providing for the requirements contained herein. If, at the end of this period, the parties are unable to agree upon the terms of a transition agreement, the parties shall engage in a mediation process to resolve any outstanding disagreements regarding the transition agreement. The city and district shall immediately agree upon a qualified mediator to assist in and commence negotiations. The cost of the mediator shall be borne equally by the city and district unless the parties agree to alternate arrangements. No less than thirty (30) days after the commencement of mediation, either party may inform the Executive Officer that the city and district are unable to resolve their differences.

In the event of an impasse, mediator shall prepare an impartial mediation summary for the Executive Officer, which shall include a summary of each parties' points and the mediator's observations regarding the obstruction to an agreement.

- 3-6. Once the Executive Officer receives notice from either the district or the city that the parties are unable to come to terms on a mediated resolution to the transition agreement, the Executive Officer shall then issue certificate of filing for City/Fire Protection District Reorganization proposal, if all other Commission requirements are complete.
- 4-7. Upon issuing the certificate of filing and establishing a date for hearing for the City/Fire Protection District Reorganization Proposal, the Executive Officer shall request in writing the following information from the District and the City, as applicable to each party: (i) whether the parties believe that a transition agreement is necessary, (ii) what the issues are preventing the parties from entering into a transition agreement; (iii) whether the City/Fire Protection District Reorganization Proposal will have any specific adverse effects on the district; (iv) if the fire protection district alleges that the City/Fire Protection District Reorganization Proposal will have specific adverse impacts on the district, a detailed analysis of those specific adverse impacts; (v) a description of any instant/mutual aid agreements between the district and city; and (vi) answers to any other questions by the Executive Officer concerning the proposed reorganization. The Executive Officer may also require local agencies to provide records, information, or studies that may be necessary to prepare the staff report for the Commission hearing on a proposed City/Fire Protection District Reorganization.
- 5-8. The Executive Officer shall make reasonable attempts to obtain such information prior to the Commission's consideration of the City/Fire Protection District Reorganization. After reviewing the information, the Executive Officer shall prepare a staff report for the City/Fire Protection District Reorganization proposal, which among other things describes the parties' efforts to negotiate a transition agreement, states that efforts for the parties to enter into a transition agreement have failed, and may include the recommendation to the Commission that it impose certain conditions of approval to provide for the orderly transition of services.
- 6-9. The Commission's imposition of conditions shall be consistent with Government Code section 56886 and include, but not be limited to, the transfer of fire stations, personnel, equipment, and/or property tax revenues. The Commission may at its discretion include additional conditions of approval not otherwise contained in the staff report.

The Commission reserves the right to waive the mediation requirements contained herein with respect to any one particular City/Fire Protection District Reorganization, if the Commission determines, in its sole discretion, that it is in the public's interest to waive such requirements for that particular City/Fire Protection District Reorganization.