

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Planning & Community Development

BOARD AGENDA # D-1

Urgent _____ Routine X

AGENDA DATE: March 20, 2001

CEO Concurs with Recommendation YES _____ NO _____
(Information Attached)

4/5 Vote Required YES _____ NO X

SUBJECT:

APPROVAL OF AND AUTHORIZATION FOR CHAIR TO EXECUTE AGREEMENT BETWEEN STANISLAUS COUNTY AND THE LOCAL AGENCY FORMATION COMMISSION (LAFCO) PROVIDING SUPPORT SERVICES FOR THE REMAINDER OF FISCAL YEAR 2000-2001

STAFF RECOMMENDATION:

1. APPROVE AN AGREEMENT BETWEEN STANISLAUS COUNTY AND THE LOCAL AGENCY FORMATION COMMISSION; AND,
2. AUTHORIZE CHAIR TO EXECUTE AGREEMENT ON BEHALF OF STANISLAUS COUNTY.

FISCAL IMPACT:

The agreement stipulates that the funding for support services to LAFCO will be paid from the LAFCO budget approved by the Board of Supervisors as part of the County's FY2000-2001 budget.

BOARD ACTION

No. 2001-210

On motion of Supervisor Mayfield, Seconded by Supervisor Caruso
and approved by the following vote,

Ayes: Supervisors: Mayfield, Blom, Caruso, and Chair Paul

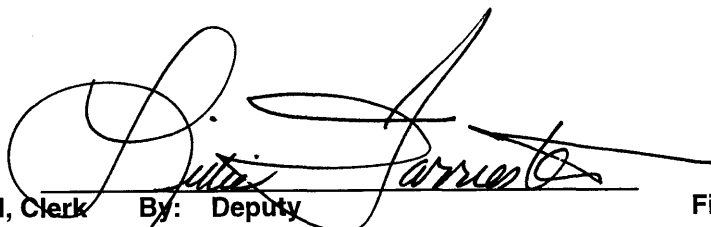
Noes: Supervisors: None

Excused or Absent: Supervisors: Simon

Abstaining: Supervisor: None

- 1) X Approved as recommended
- 2) _____ Denied
- 3) _____ Approved as amended

Motion:



ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

By: Deputy

File No.

SUBJECT: APPROVAL OF AND AUTHORIZATION FOR CHAIR TO EXECUTE AGREEMENT BETWEEN STANISLAUS COUNTY AND THE LOCAL AGENCY FORMATION COMMISSION (LAFCO) PROVIDING SUPPORT SERVICES FOR THE REMAINDER OF FISCAL YEAR 2000-2001

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DISCUSSION: The legislature approved and the governor signed Assembly Bill 2838 into law in September of last year. This bill incorporated previous law with new legislation to form the Cortese-Knox-Hertzberg Local Government Reorganization Act. Effective January 1, 2001, this Act became the law governing LAFCOs statewide. Under previous law, the Stanislaus County Board of Supervisors approved and funded LAFCO's budget and provided all necessary quarters, equipment and supplies. Under the new Act, LAFCO is responsible for making its own provisions for necessary quarters, equipment, and supplies, as well as personnel, and setting its own budget to provide for these beginning with Fiscal Year 2001-02. In addition, the Act provides formulae for the apportionment of LAFCO's costs between those agencies represented among its membership. For Stanislaus LAFCO, these agencies are the County of Stanislaus and the Cities of Ceres, Hughson, Modesto, Newman, Oakdale, Patterson, Riverbank, Turlock and Waterford.

The Cortese-Knox-Hertzberg Act does not explain clearly how LAFCO's are to be funded for the remainder of Fiscal Year 2000-2001. A memorandum prepared by the Office of the Attorney General advocates that counties continue to fund LAFCOs with adopted FY 2000-01 budgets and that LAFCOs begin operating under their own budget authority beginning in FY 2001-02. This is the action being that is taken by counties throughout the state.

In light of the new legislation, the proposed agreement between the County and LAFCO would formalize a commitment on behalf of the Board of Supervisors to fund LAFCO's FY 2000-2001 adopted budget through the remainder of the fiscal year with funds already appropriated in the County's FY 2000-2001 budget.

The agreement maintains the financial and staff services arrangements reflected in the adopted budget that existed prior to the enactment of the Cortese-Knox-Hertzberg Local Government Reorganization Act on January 1, 2001.

The agreement requires LAFCO to operate within the given appropriation budget for fiscal year 2000-2001. However, if expenses should exceed the appropriations identified for FY 2000-2001, the excess shall be charged as an expense in LAFCO's FY 2001-02 budget and shall be reimbursed to the County in fiscal year 2001-02. This provision is included in the agreement to allow LAFCO staff to comply with the new requirements of AB 2838 which became effective January 1, 2001 and which were not contemplated in the adopted FY 2000-2001 LAFCO budget.

In order for the agreement to become effective, approval will be required by both the LAFCO and the Stanislaus County Board of Supervisors. LAFCO will consider approval of this agreement on March 21, 2001.

POLICY

ISSUES: It is the policy of the County to comply with State law and to provide for coordinated and efficient governmental services.

STAFFING

IMPACT: None.

**AGREEMENT BETWEEN THE COUNTY OF STANISLAUS
AND
THE LOCAL AGENCY FORMATION COMMISSION
OF STANISLAUS COUNTY FOR SUPPORT SERVICES**

This Agreement is entered into this 20th day of March , 2001 by and between the County of Stanislaus (hereinafter "County") and Local Agency Formation Commission of Stanislaus County (hereinafter "LAFCO").

RECITALS

WHEREAS, pursuant to Government Code Section 56380 of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (hereinafter "Act"), LAFCO is authorized to contract with any public agency for the necessary personnel, facilities, and equipment to carry out and effect its functions and responsibilities; and

WHEREAS, LAFCO requires professional and technical assistance for personnel, accounting, and legal services, as well as, office space for its operations; and

WHEREAS, County has provided ongoing funding for LAFCO and the County Planning and Community Development Director has acted as the LAFCO Executive Officer; and

WHEREAS, LAFCO is working towards independent staffing and funding for its operations commencing fiscal year 2001-02 pursuant to recently enacted A.B. 2838, which provides for the comprehensive restructuring of the Act; and

WHEREAS, County is willing and able to assist LAFCO during the transition to independent operations which is set to commence July 1, 2001; and

WHEREAS, County is willing and able to furnish assistance to LAFCO to fulfill its goal of independent staffing and funding under the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the foregoing and the mutual promises hereinafter expressed, the parties mutually agree as follows:

1. **TERM.** The term of the Agreement shall become effective upon approval by the Governing Boards of both parties and shall expire on June 30, 2001.
2. **SERVICES TO BE PROVIDED BY COUNTY.**
 - a. **LAFCO STAFFING.** County shall provide part-time staffing as currently appropriated in the adopted LAFCO budget for fiscal year 2000-2001, to function and perform the duties of the Executive Officer, Assistant Executive Officer and clerical staff, as specified in the Cortese-Knox-Hertzberg Local Government Reorganization Act and other applicable laws and such other duties as specified by LAFCO. These services shall include, but are not limited to:

- Preparing staff analyses, reports, proposed findings and other agenda materials for LAFCO relating to boundary proposals, contracts for provision of new and extended services outside city and district jurisdictional boundaries, sphere of influence amendments, periodic review of sphere of influence designations and any other matters that are within LAFCO's authority under the Act.
 - Calling and noticing LAFCO meetings in accordance with the Act and LAFCO policies and procedures.
 - Preparing, mailing, filing, publishing and keeping records of agendas, notices and other required official documents on behalf of LAFCO.
 - Responding to inquiries and providing information and technical assistance to interested public agencies and individuals.
 - Providing supporting fiscal services such as the development of the annual LAFCO budget, management of LAFCO financial accounts, including the processing of LAFCO fees and charges, the processing of payment of LAFCO charges and expenses, and the preparation of required fiscal reports.
 - Informing LAFCO Commissioners of new legislation, correspondence to the Commission, CALAFCO activities, current events and matters of interest relating to LAFCO.
- b. **LEGAL SERVICES.** County, through the Stanislaus County Counsel, shall provide legal services to LAFCO, including legal advice, document drafting, and representation of LAFCO in connection with the operations LAFCO.
- c. **AUDITOR-CONTROLLER SERVICES.** County, through the Stanislaus County Auditor-Controller, shall provide LAFCO with the following services relating to LAFCO financial operations:
- Accounts payable, purchasing and contracts payment processing service
 - Accounts receivable (deposit) services
 - Services relating to preparation, adoption and administration of LAFCO's budget
 - Accounting services
 - Payroll services
 - Audit services upon request by LAFCO
 - Assistance in determining the apportionment of costs and collection of payments in support of LAFCO pursuant to Government Code Section 56831.
- d. **TREASURER-TAX COLLECTOR SERVICES.** County, through the Stanislaus County Treasurer-Tax Collector, shall provide LAFCO with banking investment services at the level of service provided to LAFCO during County fiscal year 1999-00. The scope of the services shall include:
- Banking services for LAFCO funds, including warrant processing and bank reconciliation.

- Portfolio Management for all LAFCO accounts, including receipt, safeguarding, and disbursement.

LAFCO shall be permitted electronic access, through County's ORACLE computerized systems, to all reports detailing deposits received. These reports shall specify amount and source of revenue, as well as the date of deposit.

e. **PERSONNEL SERVICES.** County, through the Personnel Division of the Stanislaus County Chief Executive Office, shall provide the following services to LAFCO within the financial and policy guidelines established by LAFCO.

- Recruitment and selection: shall include consultation regarding hiring procedures, advertising, screening of applications, and development of a hiring list.
- Personnel transactions: shall include implementation of PAFs (hires, release, promotions, salary increases, etc.).
- Labor relations: shall include negotiations with employee union representatives regarding wages, hours, terms and conditions of employment; consultation on disciplinary and grievance issues; administration and coordination of worker's compensation cases.
- Training: shall include County workshops for employees and supervisors when attended by LAFCO staff.

f. **INSURANCE, PURCHASING, ADMINISTRATION SERVICES.** County, through the Stanislaus County Chief Executive Office, shall provide:

- Administration and Supervision: shall administer and supervise all County departments providing services to LAFCO.
- Purchasing: upon request by the LAFCO Executive Officer, shall provide purchasing services for LAFCO, including solicitation and evaluation of proposals for goods and services, issuance of purchase orders and/or development of purchase agreements, and processing of payment upon receipt of the purchased goods/services. Nothing in this section shall preclude LAFCO from purchasing goods or services without utilizing the services of County.
- Insurance: shall obtain insurance coverage for LAFCO personnel and operations and provide claims/litigation administration.

3. **OFFICE SPACE.** County shall provide LAFCO with office space located at 1010 10th Street, Suite 3400, Modesto, California. County shall further furnish furniture, equipment, utilities, telephone and fax service and information technology service as needed by LAFCO.

4. **ADMINISTRATION OF SERVICES.** The provision of services under this Agreement shall be under the administrative supervision and direction of LAFCO's Executive Officer on behalf of LAFCO, and the County Chief Executive Officer on behalf of County.

5. **APPROPRIATIONS.** It is LAFCO's responsibility to operate within the given appropriations budgeted for fiscal year 2000-01. The process for reimbursement of expenses that exceed the given appropriation shall involve review and approval by LAFCO prior to submittal to the County Board of Supervisors for approval of a contingency transfer. Any County appropriations in excess of LAFCO's budget for fiscal year 2000-01 shall be charged as an expense in LAFCO's 2001-02 budget and shall be reimbursed to County in fiscal year 2001-02 based upon the funding appropriation in Government Code Section 56381.
6. **CONFLICTS OF INTEREST.** During the term of this Agreement, Executive Officer and all other LAFCO staff shall not perform any work under this Agreement which action is considered detrimental to LAFCO's interest. LAFCO staff shall take such measures as are deemed necessary in the performance of this Agreement to prevent actual conflicts of interest.
7. **INDEPENDENT CONTRACTOR.** County shall perform this Agreement as an independent contractor. County and its officers, agents and employees are not, and shall not be deemed, LAFCO employees for any purpose, including workers' compensation. County shall determine, at its own risk and expense, the method and manner by which duties imposed on County in general and its officers, agents and employees in particular by this Agreement shall be performed, provided, however, that LAFCO may monitor the work performed.
8. **INDEMNIFICATION.** County and LAFCO shall each defend, indemnify and hold harmless each other as well as those of their respective officers, agents and employees who perform any services or duties under this Agreement from any claims, loss or liability, including without limitation, those for personal injury (including death) or damage to property, arising out of or connected with any aspect of the performance by that party or its officers, agents, or employees, of the services or obligations required of that party under this Agreement.
9. **TERMINATION.** This Agreement may be terminated prior to the expiration date only with the mutual written consent of both County and LAFCO.
10. **WAIVER.** Waiver by either party of any breach or violation of any requirement of this Agreement shall not be deemed to be a waiver of any such breach in the future, or of the breach of any other requirement of this Agreement.
11. **NOTICES.** All notices required or authorized by this Agreement shall be in writing and shall be delivered in person; or by deposit in the United States mail, first class postage, prepaid; or by deposit in a sealed envelope in County's internal mail system, when available; or by fax transmission; or by electronic mail. Such notices shall be addressed as noted below, in accordance with the mode of communication selected. Either party may change its addresses by notifying the other party of the change. Any notice delivered in person shall be effective as of the date of delivery. Any notice sent by fax transmission or electronic mail shall be deemed received as of the recipient's next working day. Any notice sent by U.S. mail or County internal mail shall be deemed to have been received as of the date of actual receipt or five days following the date of deposit, which ever is earlier.

LAFCO

Mail: Ron E. Freitas
LAFCO Executive Officer
1010 10th Street, Suite 3400
Modesto, CA 95354

COUNTY

Reagan Wilson
Chief Executive Office
Stanislaus County
1010 10th Street, Suite 6800
Modesto, CA 95354

Fax: (209) 525-5911

(209) 544-6226

12. **CONFIDENTIALITY.** Confidential information is defined as all information disclosed to County in the course of County's performance of services under this Agreement, where such information relates to LAFCO's past, present, and future activities, as well as activities under this agreement shall use their best efforts to hold all such information as they may receive, if any, in trust and confidence, except with the prior written approval of LAFCO expressed through its Chair or its Executive Officer. Notwithstanding the foregoing, nothing in this Paragraph or Agreement shall be construed to abrogate the independent authority and responsibilities of the County.
13. **ASSIGNMENTS AND DELEGATION.** Neither party may delegate its obligations hereunder, either in whole or in part, without the prior written consent of the other party; provided, however, that obligations undertaken by County pursuant to this Agreement may be carried out by means of subcontract, provided such subcontracts are approved in writing by LAFCO, meet the requirements of the Agreement as they relate to the service or activity under subcontract, and include any provision that LAFCO may require. No subcontract shall terminate or alter the responsibilities of either party pursuant to this Agreement. LAFCO may not assign its rights hereunder, either in whole or in part, without prior written consent of the County.
14. **AMENDMENT/MODIFICATION.** Except as otherwise provided herein, this Agreement may be modified or amended only in writing and with the prior written consent of both parties. Except where otherwise provided in this Agreement only LAFCO, through its Chair or Executive Officer, in the form of an amendment of this Agreement, may authorize extra or changed work if beyond the scope of services prescribed by the Agreement.
15. **INTERPRETATION.** The headings used herein are for reference. The terms of the Agreement are set out in the text under the headings. This Agreement shall be governed by the laws of the State of California. The venue for any legal action filed by either party in State Court to enforce any provision of the Agreement shall be Stanislaus County, California.
16. **SEVERABILITY.** If any provision of this Agreement, or any portion thereof, is found by any court of competent jurisdiction to be unenforceable or invalid for any reason, such provision shall be severable and shall not in any way impair the enforceability of any other provision of this Agreement.
17. **ENTIRE AGREEMENT.** This Agreement contains the entire and complete understanding of the parties and supersedes any and all other agreements, oral or written, with respect to the provision of administrative services under this Agreement.

IN WITNESS WHEREOF, this Agreement was executed by the parties hereto as of the date first above written.

COUNTY OF STANISLAUS, a political subdivision of the State of California

By: Pat Paul
Pat Paul, Chair of the Board of Supervisors
Stanislaus County, State of California

ATTEST:

CHRISTINE FERRARO TALLMAN, Clerk of the Board
of Supervisors of the County of Stanislaus,
State of California

By: Christine Ferraro Tallman deputy clerk

Approved by the Board of Supervisors on March 20, 2001

LOCAL AGENCY FORMATION COMMISSION OF STANISLAUS COUNTY

By: John Shores
John Shores, Chairman of the
Local Agency Formation Commission
"LAFCO"

Approved by LAFCO on March 21, 2001

APPROVED AS TO FORM:
Stanislaus County Counsel

APPROVED AS TO FORM
Legal Counsel for LAFCO

By: E. Vernon Seeley
E. Vernon Seeley

By: Dean Wright
Dean Wright