



## Solano Local Agency Formation Commission

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### Staff Report

DATE: August 14, 2017  
TO: Local Agency Formation Commission  
FROM: Roseanne Chamberlain, Interim Executive Officer  
SUBJECT: **Policies for Out of Agency Service Agreements**

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*Continued from the Commission's June 12, 2017 Meeting*

### RECOMMENDATION

Approve the attached draft policies for approval of Out of Agency Service Agreements, defining when the Executive Officer is permitted to authorize emergency service connections.

### BACKGROUND & DISCUSSION

On February 11, 2013 the Commission delegated authority to the Executive Officer for approval of Out of Agency Service Agreements. The commission requested a process and or policy be defined for this arrangement. No subsequent action by the Commission was taken, although the Executive Officer at the time presented a memo on April 13, 2013 describing the requirements specified in statute.

The attached policies define the circumstances when an emergency authorization for service can be granted by the Executive Officer. Circumstances when the commission should review the request are also clearly stated.

Attachment: Proposed Policies for OASA  
Excerpt of Government Code §56133

#### Commissioners

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#### Alternate Commissioners

Len Augustine • Shawn Smith • Skip Thomson

#### Staff

Rich Seithel, Executive Officer • Michelle McIntyre, Analyst • P. Scott Browne, Legal Counsel

**SERVICE BY CONTRACT OUTSIDE OF AGENCY BOUNDARIES (OASA) & DELEGATION OF AUTHORITY TO EXECUTIVE OFFICER (Adopted 8/14/17)**

Requests for extensions of service beyond the boundaries of the providing agency (OASA) shall be considered and acted upon by the Commission pursuant to the provisions of Government Code §56133.

Government Code §56133 permits approval of extension requests to be delegated by the Commission to the Executive Officer and Solano LAFCO delegated authority for such approvals on February 11, 2013.

It is the policy of the Commission to delegate to the Executive Officer the authority to issue written approval for extension of service requests under the following conditions:

(1) There is an impending threat to the public health and safety of the residents of the affected territory and the affected agency or landowners have submitted documentation of such to the satisfaction of the Executive Officer; and

2) The Executive Officer has notified any alternate service provider that has filed a map and a statement of its service capabilities with the Commission; and

(3) The Executive Officer has provided notice to the Solano County Public Health Department of the request and has provided a reasonable amount of time for their review and comment.

(4) The delegation of authority shall only apply to requests for extension of services that are within the Sphere of Influence of the affected agency.

(5) The delegation of authority to the Executive Officer does not apply to requests for service that require significant extensions of infrastructure, mitigations under the California Environmental Quality Act, or conditions of approval restricting or limiting service.

Applications for OASAs shall include the service provider agency's agreement or contract for the provision of service and appropriate CEQA documentation.

Should the Executive Officer determine, for any reason, to not exercise her/his delegated authority, the Executive Officer shall process the request consistent with the directives of Government Code Section 56133 for approval by the Commission.

Applications for OASAs shall include the service provider agency's agreement or contract for the provision of service and appropriate CEQA documentation.

Commission approval of an OASA shall be made by resolution.

As a condition of approval the Commission may restrict or limit service or require the completion of annexation to the service provider agency within a specified time frame and may impose other conditions as necessary.

**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.