

***MODOC LAFCO***

***MODOC***

***PARKS AND RECREATION DISTRICT***

***MUNICIPAL SERVICE REVIEW***

***AND***

***SPHERE OF INFLUENCE UPDATE***

***Adopted***

***December 11, 2012***

***Resolution 2012-0008 Municipal Service Review***

***Resolution 2012-0009 Sphere of Influence Update***

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## **1 INTRODUCTION**

### **1.1 LAFCO's Responsibilities**

LAFCOs in California are independent agencies created by the California Legislature in 1963 among whose major purposes include encouraging the orderly formation of local governmental agencies and conserving and preserving natural resources.

Statewide there are 58 LAFCOs working with nearly 3,500 governmental agencies (400+ cities, and 3,000+ special districts). Agency boundaries are often unrelated to one another and sometimes overlap at random, often leading to higher service costs to the taxpayer and general confusion regarding service area boundaries. LAFCO decisions strive to balance the competing needs in California for efficient services, affordable housing, economic opportunity, and conservation of natural resources.

LAFCOs are responsible for coordinating logical and timely changes in local governmental boundaries, conducting special studies that review ways to reorganize, simplify, and streamline governmental structure, preparing a review of services called a Municipal Service Review and preparing a Sphere of Influence thereby determining the future "probable" boundary for each city and special district within each county. The Commission's efforts are directed toward seeing that services are provided legally, efficiently and economically while agricultural and open-space lands are protected.

LAFCOs do not have enforcement authority nor do they have the authority to initiate a city or district annexation or detachment proceeding. LAFCOs may initiate consolidation or dissolution proceedings; however, these proceedings are subject to the voter approval or denial. The Legislature has given LAFCOs the authority to modify any proposal before it to ensure the protection of agricultural and open space resources, discourage urban sprawl and promote orderly boundaries and the provision of adequate services.

### **1.2 Municipal Service Review Requirements**

The statute as amended by AB1744 and regulations call for a review of the municipal services provided in the county or other appropriate area designated by the LAFCO. The LAFCO is required to prepare a written statement of its determinations with respect to each of the following:

1. *Growth and Population*
2. *Capacity and Infrastructure*
3. *Financial Ability*
4. *Shared Facilities*
5. *Government Structure and Accountability*

### **1.3 Preparation of the MSR**

Research for this Municipal Service Review (MSR) was conducted during 2011 and 2012. This MSR is intended to support preparation and update of the Sphere of Influence, in accordance with the provisions of the Cortese-Knox-Hertzberg Act. The objective of this Municipal Service Review (MSR) is to develop recommendations that will achieve the following:

- Promote more efficient and higher quality public service patterns.
- Identify areas for public service improvements.
- Assess the adequacy of service provision as it relates to determination of appropriate sphere of influence boundaries.

While LAFCO prepared the MSR document, LAFCO did not engage the services of experts in recreation, engineering, accounting or other specialists in related fields, but relied upon published reports and the Modoc Parks and Recreation District Board for information.

Therefore, this MSR reflects LAFCO's recommendations, based on available information during the research period and provided by Modoc Parks and Recreation District Board members to assist in its determinations related to promoting more efficient and higher quality service patterns; identifying areas for service improvement; and assessing the adequacy of service provision for the Modoc Parks and Recreation District.

This MSR includes relevant information from the various reports. Since the reports were prepared at different times there may be occasional differences in data.

### **1.4 Description of Public Participation Process**

Modoc LAFCO is a legislative body authorized by the California Legislature and delegated powers as stated in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (the Act). The LAFCO proceedings are subject to the provisions of California's open meeting law, the Ralph M. Brown Act (Government Code Sections 54950 et seq.)

The Brown Act requires advance posting of meeting agendas and contains various other provisions designed to ensure that the public has adequate access to information regarding the proceedings of public boards and commissions. Modoc LAFCO complies with the requirements of the Brown Act.

The State MSR Guidelines provide that all LAFCOs should encourage and provide multiple public participation opportunities in the municipal service review process. MSR policies have been adopted by the Modoc LAFCO. Modoc LAFCO has discussed and considered the MSR process in open session, and has adopted a schedule for completing the various municipal service reviews and sphere of influence updates for Modoc County.

*Modoc LAFOC  
Modoc Parks and Recreation District MSR AND SOI  
ADOPTED December 11, 2012  
Resolution 2012-0008 (MSR) & Resolution 2012-0009 (SOI)*

Each Municipal Service Review will be prepared as a Draft, and will be subject to public and agency comment prior to final consideration by the Modoc LAFCO. Additional information on local government issues is found in Appendix A at the end of this report.

### **1.5 California Environmental Quality Act (CEQA)**

The Municipal Service Review is a planning study that will be considered by Modoc LAFCO in connection with subsequent proceedings regarding the Modoc Parks and Recreation District and the Sphere of Influence. The Sphere of Influence review or update that will follow has not been approved or adopted by LAFCO.

This MSR is funded in the Modoc LAFCO's 2010-2011 Budget. This MSR includes an analysis, to the extent required by Section 15262 of the CEQA Guidelines, of the environmental factors that may be affected by the Municipal Service Review process, but will not include the preparation of an environmental review document.

## 2 SETTING MODOC COUNTY

The Alturas Chamber of Commerce describes Modoc County as follows:<sup>1</sup>

*Abundant marshes, forests, plains and lakes provide habitat for a wide range of wildlife in the Alturas area. The Modoc National Wildlife Refuge lies mostly to the south of Alturas and covers thousands of acres of hunting, fishing and observational grounds.*

*"The Smiles of God" is what the Native Americans who first settled this land called the Modoc County area. Rich in history as well as geological formations, you will find important scenic and recreational resources to satisfy the curious minded and outdoor enthusiast alike.*

*Alturas' high desert climate makes for warm, dry summers and cold winters, perfect getaway vacation conditions. Importantly, 70 percent of the county is publicly owned forest and wilderness, open to camping, fishing, cross country skiing and other outdoor pursuits. The County is easily accessible by State Route 299 and 139 as well as US Highway 395.*

The following Census data gives a brief overview of Modoc County compared to the State of California:

### MODOC COUNTY POPULATION DATA 2010<sup>2</sup>

	Modoc County	California
Population, 2010	9,686	37,253,956
Population, percent change, 2000 to 2010	2.5%	10.0%
Population, 2000	9,449	33,871,648
Persons under 5 years, percent, 2010	5.6%	6.8%
Persons under 18 years, percent, 2010	21.9%	25.0%
Persons 65 years and over, percent, 2010	19.7%	11.4%
Female persons, percent, 2010	49.6%	50.3%

Modoc County has a slower population growth rate, fewer younger people, and more older people (over 65) than the State of California.

<sup>1</sup> Alturas Chamber of Commerce, <http://www.alturaschamber.org/>, January 4, 2012

<sup>2</sup> US Census Bureau, <http://quickfacts.census.gov/qfd/states/06/06049.html>, January 4, 2012

### **3 MODOC COUNTY PARKS AND RECREATION DISTRICT**

#### **3.1 Recreational Opportunities**

Adin, Bieber and Lookout all have community recreation parks in each community. Bieber has an historical museum.<sup>3</sup> The Modoc National Forest offers numerous campgrounds and other recreational opportunities and is described as follows:

*The Modoc National Forest is a land of contrasts and unspoiled vacation-hideaway settings. Nestled in the extreme northeastern corner of California, the Modoc National Forest is mountains, pine forests and meadows, lakes, streams, rugged canyons, wetlands, lava beds and high desert plateaus. The Modoc offers you beautiful scenery, varied terrain, abundant wildlife and a memorable visitor experience.*<sup>4</sup>

The Modoc National Wildlife Refuge, a 7,000 + acre refuge; was established in 1961 to manage and protect migratory waterfowl. Funds available from the Migratory Bird Hunting Stamp Act helped purchase this refuge, which is located just south of Alturas, California. Both hunting and bird watching opportunities are encouraged.<sup>5</sup>

With these and other Federal and State lands within the County available for recreational opportunities there is little need for a County-wide recreation district.

#### **3.2 Modoc Parks and Recreation District**

##### **3.2.1 Modoc Parks and Recreation District Formation**

The Modoc Parks and Recreation District was formed in 2005 to include the boundaries of the Modoc Joint Unified School District. The vote of approval for the District formation was 68%. The original purpose of the District was to enhance recreation and to manage an Aquatic Center. Although the original vote for funding of the Aquatic Center failed the District is still active.<sup>6</sup>

##### **3.2.2 Modoc Parks and Recreation Board of Directors**

The Board of Directors of the Modoc County Parks and Recreation District are appointed to serve 4 year terms as follows:

Rollie Gilliam, 507 E "D" St., Alturas, CA 96101	(term expires 12/12)
De Funk, PO Box 812 Alturas, CA 96101	(term expires 12/14)
Kip Lybarger, PO Box 734, Alturas, CA 96101	(term expires 12/14)
Emilie Martin, HC 3 Box 514, Alturas, CA 96101	(term expires 12/14)
E-Mail: ronandem@frontiernet.net	
Marti Butow, 509 E. 2 <sup>nd</sup> St. Alturas, CA 96101	(term expires 12/12)

<sup>3</sup> <http://www.californiagenealogy.org/modoc/townsmodoc.htm>, November 15, 2011.

<sup>4</sup> US Forest Service, <http://www.fs.usda.gov/modoc/>, January 4, 2012

<sup>5</sup> US Fish and Wildlife Service, <http://www.fws.gov/modoc/>, January 4, 2012.

<sup>6</sup> Modoc Parks and Recreation District, Board of Directors, January 20, 2012.

### **3.3.3 Facilities**

The Modoc Parks and Recreation District “facilitated the building of the Frisbee Golf Course on 8<sup>th</sup> Street in Alturas, which is used by physical education classes at Modoc Middle School.”<sup>7</sup> The Board of Directors has also sponsored an annual Fandango Days Family Bike Ride during the 4<sup>th</sup> of July weekend in Alturas.

The District hopes to refurbish a tennis court in Alturas and to build a swimming pool for the community.<sup>8</sup>

### **3.3.4 Finances**

The District has \$8,213 in the bank account. According to the Board of Directors,

*Mike Mason, past chairman of the Modoc Aquatic Recreation Committee (M.A.R.C.) was approached in 2011 by a credible donor inquiring about building the Aquatic Center. The donor was considering making a donation large enough to build the facility. Due to economic times and the recent passing of the Hospital District tax this donation was placed in a holding pattern in order to look for ways to maintain and support the operation of the facility.*<sup>9</sup>

The District hopes to apply for grants in the future. The District may also form a 501c3 (nonprofit) corporation to get more donations.

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<sup>7</sup> Modoc Parks and Recreation District, Board of Directors, January 20, 2012.

<sup>8</sup> Modoc Parks and Recreation District, Board of Directors, January 20, 2012.

<sup>9</sup> Modoc Parks and Recreation District, Board of Directors, January 20, 2012.

#### **4 MUNICIPAL SERVICE REVIEW**

Modoc LAFCO is responsible for determining if an agency is reasonably capable of providing needed resources and basic infrastructure to serve areas within its boundaries and, later, within the Sphere of Influence.

MODOC LAFCO will do the following:

1. Evaluate the present and long-term infrastructure demands and resources available to the District.
2. Analyze whether resources and services are, or will be, available at needed levels.
3. Determine whether orderly maintenance and expansion of such resources and services are planned to occur in line with increasing demands.

The Final Municipal Service Review Guidelines prepared by the Governor's Office of Planning and Research recommend issues relevant to the jurisdiction be addressed through written determinations called for in the Cortese-Knox-Hertzberg Act.

Determinations are provided for each of the five factors, based on the information provided in this Municipal Service Review.

##### **4.1 Growth and Population Projections for Modoc County**

*Purpose:*

*To evaluate service needs based on existing and anticipated growth patterns and population projections.*

##### **4.1.1 Population Growth for the Modoc County Area**

Modoc County gained 207 residents between 2000 and 2010 according to the US Census. This is a growth rate of 2.5%.<sup>10</sup> Even though there was an economic recession in 2008 the growth rate for Modoc County is not expected to be substantially higher in the future.

##### **4.1.2 MSR Determinations on Growth and Population for Modoc County**

- 1-1) Although the population of Modoc County is not expected to increase substantially in the near future; the residents living there still needs traditional recreation facilities such as tennis courts and swimming pools.

<sup>10</sup> US Census Bureau, <http://quickfacts.census.gov/qfd/states/06/06049.html>, January 4, 2012

## **4.2 Capacity and Infrastructure**

*Purpose:*

*To evaluate the infrastructure needs and deficiencies in terms of supply, capacity, condition of facilities and service quality.*

### **4.2.1 Infrastructure Background**

The Modoc Parks and Recreation District has limited facilities at this time but hopes to develop more facilities in the future.

### **4.2.2 MSR Determinations Regarding Capacity and Infrastructure for Modoc Parks and Recreation District**

- 2-1) Since the District was formed in 2005 there has not been adequate time and resources to develop the planned Aquatic Center.

## **4.3 Financial Ability**

*Purpose:*

*To evaluate factors that affect the financing of needed improvements and to identify practices or opportunities that may help eliminate unnecessary costs without decreasing service levels.*

### **4.3.1 Financial Considerations**

The District has plans to apply for grants and to raise money through donations.

### **4.3.2 MSR Determinations on Financial Ability for Modoc Parks and Recreation District**

- 3-1) The Modoc Parks and Recreation District has plans to apply for grants and to raise money through donations.
- 3-2) When the economic climate improves, the District may request tax funding from the voters.

#### **4.4 Opportunities for Shared Facilities**

*Purpose:*

*To evaluate the opportunities for a jurisdiction to share facilities and resources to develop more efficient service delivery systems.*

##### **4.4.1 District Facilities**

The Modoc Parks and Recreation District works with the School District to promote use of the Frisbee Golf Course in Alturas.

##### **4.4.2 MSR Determinations on Shared Facilities for Modoc Parks and Recreation District**

- 4-1) The Modoc Parks and Recreation District will work with all other agencies to improve recreation facilities in the area. However, most of the other agencies have insufficient funds for mandated services and none available for recreation.

#### **4.5 Government Structure and Accountability**

*Purpose:*

*To consider the advantages and disadvantages of various government structures that could provide public services, to evaluate the management capabilities of the organization and to evaluate the accessibility and levels of public participation associated with the agency's decision-making and management processes.*

##### **4.5.1 Government Structure**

The Modoc Parks and Recreation District has a board of Directors but they do not have regular meetings.

##### **4.5.2 MSR Determinations on Government Structure and Accountability for Modoc Parks and Recreation District**

- 5-1) The Modoc Parks and Recreation District Board of Directors should have a regular time and place of meeting and should hold quarterly meetings.

## **5 SPHERE OF INFLUENCE**

### **5.1 Sphere of Influence Overview**

#### **5.1.1 Sphere of Influence Requirements**

In determining the Sphere of Influence for each local agency, LAFCO must consider and prepare a written statement of determinations with respect to each of the following:

1. The present and planned land uses in the area, including agricultural and open space lands;
2. The present and probable need for public facilities and services in the area;
3. The present capacity of public facilities and adequacy of public services which the agency provides, or is authorized to provide; and
4. The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.

#### **5.1.2 Possible Approaches to the Sphere of Influence**

LAFCO may recommend government reorganizations to particular agencies in the county, using the SOIs as the basis for those recommendations. Based on review of the guidelines of Modoc LAFOC as well as other LAFCOs in the State, various conceptual approaches have been identified from which to choose in designating an SOI. These seven approaches are explained below:

- 1) Coterminous Sphere:  
A Coterminous Sphere means that the sphere for a city or special district that is the same as its existing boundaries. This is the recommendation for the Modoc Parks and Recreation District.
- 2) Annexable Sphere:  
A sphere larger than the agency's boundaries identifies areas the agency is expected to annex. The annexable area is outside its boundaries and inside the sphere.
- 3) Detachable Sphere:  
A sphere that is smaller than the agency's boundaries identifies areas the agency is expected to detach. The detachable area is the area within the agency bounds but not within its sphere.
- 4) Zero Sphere:  
A zero sphere indicates the affected agency's public service functions should be reassigned to another agency and the agency should be dissolved or combined with one or more other agencies.

- 5) Consolidated Sphere:  
A consolidated sphere includes two or more local agencies and indicates the agencies should be consolidated into one agency.
- 6) Limited Service Sphere:  
A limited service sphere is the territory included within the SOI of a multi-service provider agency that is also within the boundary of a limited purpose district which provides the same service (e.g., fire protection), but not all needed services. Territory designated as a limited service SOI may be considered for annexation to the limited purpose agency without detachment from the multi-service provider.

A limited service sphere is generally adopted when the following conditions exist:

- a) The limited service provider is providing adequate, cost effective and efficient services.
- b) The multi-service agency is the most logical provider of the other services.
- c) There is no feasible or logical SOI alternative.
- d) Inclusion of the territory is in the best interests of local government organization and structure in the area.

Government Code §56001 specifically recognizes that in rural areas it may be appropriate to establish limited purpose agencies to serve an area rather than a single service provider, if multiple limited purpose agencies are better able to provide efficient services to an area rather than one service district.

Moreover, Government Code Section §56425(i), governing sphere determinations, also authorizes a sphere for less than all of the services provided by a district by requiring a district affected by a sphere action to “establish the nature, location, and extent of any functions of classes of services provided by existing districts” recognizing that more than one district may serve an area and that a given district may provide less than its full range of services in an area.

- 7) Sphere Planning Area:

LAFCO may choose to designate a sphere planning area to signal that it anticipates expanding an agency’s SOI in the future to include territory not yet within its official SOI.

### **5.1.3 SOI Update Process**

LAFCO is required to establish SOIs for all local agencies and enact policies to promote the logical and orderly development of areas within the SOIs. Furthermore, LAFCO must update those SOIs every five years. In updating the SOI, LAFCO is required to

conduct a municipal service review (MSR) and adopt related determinations. Development of actual SOI update will involve additional steps as follows:

- Opportunity for public input at a Modoc LAFOC public hearing
- Consideration of changes requested by LAFOC Commissioners

LAFOC must notify affected agencies 21 days before holding a public hearing to consider the SOI and may not update the SOI until after that hearing. The Modoc LAFOC Executive Officer must issue a report including recommendations on the SOI amendments and updates under consideration at least five days before the public hearing.

#### **5.1.4 SOI Amendments and CEQA**

LAFOC has the discretion to limit SOI updates to those that it may process without unnecessarily delaying the SOI update process or without requiring its funding agencies to bear the costs of environmental studies associated with SOI expansions. Any local agency or individual may file a written request for an SOI amendment. The request must state the nature of and reasons for the proposed amendment, and provide a map depicting the proposal.

Certain types of SOI amendments are likely exempt from CEQA review. Examples may include SOI expansions that involve territory already within the bounds or service area of an agency, SOI reductions, and zero SOIs, or annexable Spheres where the City already provides services.

SOI expansions for limited purpose agencies that provide services (e.g., fire protection, levee protection, cemetery, and resource conservation) needed by both rural and urban areas are typically not considered growth-inducing and are likely exempt from CEQA. Similarly, SOI expansions for districts serving rural areas (e.g., irrigation water) are typically not considered growth-inducing.

Remy et al. write as follows:

*In City of Agoura Hills v. Local Agency Formation Commission (2d Dist.1988) 198 Cal.App.3d480, 493-496 [243 Cal.Rptr.740] (City of Agoura Hills), the court held that a LAFOC's decision to approve a city's sphere of influence that in most respects was coterminous with the city's existing municipal boundaries was not a "project" because such action did not entail any potential effects on the physical environment.<sup>11</sup>*

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<sup>11</sup> Remy, Michael H., Tina A. Thomas, James G. Moose, Whitman F. Manley, Guide to CEQA, Solano Press Books, Point Arena, CA, February 2007, page 111.

**5.2 Present and Planned Land Uses in the Area, Including Agricultural and Open Space Lands and Land Use**

**5.2.1 Land Use in the Modoc County Area**

In Modoc County 70 percent of the land is owned by Federal and State agencies.<sup>12</sup> Most of the remainder is zoned for agriculture and grazing except for the City of Alturas and the various small community areas.

**5.2.2 SOI Determinations on Present and Planned Land Use for Modoc Parks and Recreation District**

1-1] The Sphere of Influence for the Modoc Parks and Recreation District should be a coterminous sphere and the District should have the sphere boundary the same as the District boundary.

**5.3 Municipal Services: Present Need**

**5.3.1 Service Need for Modoc Parks and Recreation District**

There was a need for the Modoc Parks and Recreation District when it was formed in 2005 and the need still exists.

**5.3.2 SOI Determinations on Facilities and Services: Present and Probable Need**

2-1] The needs for park and recreation services in Modoc County will have to be met gradually as finances become available.

<sup>12</sup> Alturas Chamber of Commerce, <http://www.alturaschamber.org/>, January 4, 2012

#### **5.4 Public Facilities Future Capacity**

##### **5.4.1 Facilities and Capacity**

The capacity of the Modoc Parks and Recreation District is limited at this time but as the District does what can be done successfully it will be able to do more and larger projects.

##### **5.4.2 SOI Determinations on Public Facilities for Modoc Parks and Recreation District**

3-1] The Modoc Parks and Recreation District has limited public facilities but hopes to develop more in the future.

#### **5.5 Social or Economic Communities of Interest**

##### **5.5.1 Modoc Parks and Recreation District**

The people of Modoc County clearly form a community of social and economic interest. The commitment to local public recreation facilities will increase over time.

##### **5.5.2 SOI Determinations on Social or Economic Communities of Interest**

4-1] The community of social or economic interest associated with the Modoc Parks and Recreation District is developing slowly as the District adds facilities and activities in the community.

## **APPENDIX A - LOCAL GOVERNMENT ISSUES**

### **1 Municipal Financial Constraints**

Municipal service providers are constrained in their capacity to finance services by the inability to increase property taxes, requirements for voter approval for new or increased taxes, and requirements of voter approval for parcel taxes and assessments used to finance services. Municipalities must obtain majority voter approval to increase or impose new general taxes and two-thirds voter approval for special taxes.

Limitations on property tax rates and increases in taxable property values are financing constraints. Property tax revenues are subject to a formulaic allocation and are vulnerable to State budget needs. Agencies formed since the adoption of Proposition 13 in 1978 often lack adequate financing.

#### **1.1 California Local Government Finance Background**

The financial ability of the cities and special districts to provide services is affected by financial constraints. City service providers rely on a variety of revenue sources to fund city operating costs as follows:

- Property Taxes
- Benefit Assessments
- Special Taxes
- Proposition 172 Funds
- Other contributions from city or district general funds.

As a funding source, property taxes are constrained by statewide initiatives that have been passed by voters over the years and special legislation. Seven of these measures are explained below:

##### **A. Proposition 13**

Proposition 13 (which California voters approved in 1978) has the following three impacts:

- Limits the ad valorem property tax rate
- Limits growth of the assessed value of property
- Requires voter approval of certain local taxes.

Generally, this measure fixes the ad valorem tax at one percent of value; except for taxes to repay certain voter approved bonded indebtedness. In response to the adoption of Proposition 13, the Legislature enacted Assembly Bill 8 (AB 8) in 1979 to establish property tax allocation formulas.

##### **B. AB 8**

Generally, AB 8 allocates property tax revenue to the local agencies within each tax rate area based on the proportion each agency received during the three fiscal years preceding adoption of Proposition 13. This allocation formula benefits local agencies, which had relatively high tax rates at the time Proposition 13 was enacted.

##### **C. Proposition 98**

Proposition 98, which California voters approved in 1988, requires the State to maintain a minimum level of school funding. In 1992 and 1993, the Legislature began shifting billions of local property taxes to schools in response to State budget deficits. Local property taxes were diverted from local governments into the Educational Revenue Augmentation Fund (ERAF) and transferred to school districts and community college districts to reduce the amount paid by the State general fund.

Local agencies throughout the State lost significant property tax revenue due to this shift. Proposition 172 was enacted to help offset property tax revenue losses of cities and counties that were shifted to the ERAF for schools in 1992.

D. Proposition 172

Proposition 172, enacted in 1993, provides the revenue of a half-cent sales tax to counties and cities for public safety purposes, including police, fire, district attorneys, corrections and lifeguards. Proposition 172 also requires cities and counties to continue providing public safety funding at or above the amount provided in FY 92-93.

E. Proposition 218

Proposition 218, which California voters approved in 1996, requires voter- or property owner-approval of increased local taxes, assessments, and property-related fees. A two-thirds affirmative vote is required to impose a Special Tax, for example, a tax for a specific purpose such as a fire district special tax.

However, majority voter approval is required for imposing or increasing general taxes such as business license or utility taxes, which can be used for any governmental purpose. These requirements do not apply to user fees, development impact fees and Mello-Roos districts.

F. Mello-Roos Community Facilities Act

The Mello-Roos Community Facilities Act of 1982 allows any county, city, special district, school district or joint powers authority to establish a Mello-Roos Community Facilities District (a "CFD") which allows for financing of public improvements and services. The services and improvements that Mello-Roos CFDs can finance include streets, sewer systems and other basic infrastructure, police protection, fire protection, ambulance services, schools, parks, libraries, museums and other cultural facilities. By law, the CFD is also entitled to recover expenses needed to form the CFD and administer the annual special taxes and bonded debt.

A CFD is created by a sponsoring local government agency. The proposed district will include all properties that will benefit from the improvements to be constructed or the services to be provided. A CFD cannot be formed without a two-thirds majority vote of residents living within the proposed boundaries. Or, if there are fewer than 12 residents, the vote is instead conducted of current landowners.

In many cases, that may be a single owner or developer. Once approved, a Special Tax Lien is placed against each property in the CFD. Property owners then pay a Special Tax each year.

If the project cost is high, municipal bonds will be sold by the CFD to provide the large amount of money initially needed to build the improvements or fund the services. The Special Tax cannot be directly based on the value of the property. Special Taxes instead are based on mathematical formulas that take into account property characteristics such as use of the property, square footage of the structure and lot size. The formula is defined at the time of formation, and will include a maximum special tax amount and a percentage maximum annual increase.

If bonds were issued by the CFD, special taxes will be charged annually until the bonds are paid off in full. Often, after bonds are paid off, a CFD will continue to charge a reduced fee to maintain the improvements.

#### G. Development Impact Fees

A county, cities, special districts, school districts, and private utilities may impose development impact fees on new construction for purposes of defraying the cost of putting in place public infrastructure and services to support new development.

To impose development impact fees, a jurisdiction must justify the fees as an offset to the impact of future development on facilities. This usually requires a special financial study. The fees must be committed within five years to the projects for which they were collected, and the district, city or county must keep separate funds for each development impact fee.

#### **1.2 *Financing Opportunities that Require Voter Approval***

Financing opportunities that require voter approval include the following five taxes:

- Special taxes such as parcel taxes
- Increases in general taxes such as utility taxes
- Sales and use taxes
- Business license taxes
- Transient occupancy taxes

Communities may elect to form business improvement districts to finance supplemental services, or Mello-Roos districts to finance development-related infrastructure extension. Agencies may finance facilities with voter-approved (general obligation) bonded indebtedness.

#### **1.3 *Financing Opportunities that Do Not Require Voter Approval***

Financing opportunities that do not require voter approval include imposition of or increases in fees to more fully recover the costs of providing services, including user fees and Development Impact Fees to recover the actual cost of services provided and infrastructure.

Development Impact Fees and user fees must be based on reasonable costs, and may be imposed and increased without voter approval. Development Impact Fees may not be used to subsidize operating costs. Agencies may also finance many types of facility improvements through bond instruments that do not require voter approval.

Water rates and rate structures are not subject to regulation by other agencies. Utility providers may increase rates annually, and often do so. Generally, there is no voter approval requirement for rate increases, although notification of utility users is required. Water providers must maintain an enterprise fund for the respective utility separate from other funds, and may not use revenues to finance unrelated governmental activities.

## **2 Public Management Standards**

While public sector management standards do vary depending on the size and scope of an organization, there are minimum standards. Well-managed organizations do the following eight activities:

1. Evaluate employees annually.
2. Prepare a budget before the beginning of the fiscal year.
3. Conduct periodic financial audits to safeguard the public trust.
4. Maintain current financial records.
5. Periodically evaluate rates and fees.
6. Plan and budget for capital replacement needs.
7. Conduct advance planning for future growth.
8. Make best efforts to meet regulatory requirements.

Most of the professionally managed and staffed agencies implement many of these best management practices. LAFCO encourages all local agencies to conduct timely financial record-keeping for each city function and make financial information available to the public.

### **3 Public Participation in Government**

The Brown Act (California Government Code Section 54950 et seq.) is intended to insure that public boards shall take their actions openly and that deliberations shall be conducted openly. The Brown Act establishes requirements for the following:

- Open meetings
- Agendas that describe the business to be conducted at the meeting
- Notice for meetings
- Meaningful opportunity for the public to comment

Few exceptions for meeting in closed sessions and reports of items discussed in closed sessions.

According to California Government Section 54959

*Each member of a legislative body who attends a meeting of that legislative body where action is taken in violation of any provision of this chapter, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled under this chapter, is guilty of a misdemeanor.*

Section 54960 states the following:

*(a) The district attorney or any interested person may commence an action by mandamus, injunction or declaratory relief for the purpose of stopping or preventing violations or threatened violations of this chapter by members of the legislative body of a local agency or to determine the applicability of this chapter to actions or threatened future action of the legislative body,...*

Modoc LAFOC  
Modoc Parks and Recreation District MSR AND SOI  
ADOPTED December 11, 2012  
Resolution 2012-0008 (MSR) & Resolution 2012-0009 (SOI)

## **REFERENCES**

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## ABBREVIATIONS

<b>AB</b>	Assembly Bill
<b>CEQA</b>	California Environmental Quality Act
<b>CKH</b>	Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000
<b>ERAF</b>	Educational Revenue Augmentation Fund
<b>LAFCO</b>	Local Agency Formation Commission
<b>MSR</b>	Municipal Service Review (LAFCO)
<b>OPR</b>	Office of Planning and Research (California)
<b>SOI</b>	Sphere of Influence (LAFCO)

## DEFINITIONS

**Bond:** An interest-bearing promise to pay a stipulated sum of money, with the principal amount due on a specific date. Funds raised through the sale of bonds can be used for various public purposes.

**California Environmental Quality Act (CEQA):** A State Law requiring State and local agencies to regulate activities with consideration for environmental protection. If a proposed activity has the potential for a significant adverse environmental impact, an environmental impact report (EIR) must be prepared and certified as to its adequacy before taking action on the proposed project.

**Local Agency Formation Commission (LAFCO):** A five-or seven-member commission within each county that reviews and evaluates all proposals for formation of special districts, incorporation of cities, annexation to special districts or cities, consolidation of districts, and merger of districts with cities. Each county's LAFCO is empowered to approve, disapprove, or conditionally approve such proposals. The LAFCO members generally include two county supervisors, two city council members, and one member representing the general public. Some LAFCOs include two representatives of special districts.

**Proposition 13:** (Article XIII A of the California Constitution) Passed in 1978, this proposition enacted sweeping changes to the California property tax system. Under Proposition 13, property taxes cannot exceed 1% of the value of the property and assessed valuations cannot increase by more than 2% per year. Property is subject to reassessment when there is a transfer of ownership or improvements are made.<sup>13</sup>

**Proposition 218:** (Article XIII D of the California Constitution) This proposition, named "The Right to Vote on Taxes Act", filled some of the perceived loopholes of Proposition 13. Under Proposition 218, assessments may only increase with a two-thirds majority vote of the qualified voters within the District. In addition to the two-thirds voter approval requirement, Proposition 218 states that effective July 1, 1997, any assessments levied may not be more than the costs necessary to provide the service, proceeds may not be used for any other purpose other than

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<sup>13</sup> [http://www.californiataxdata.com/A\\_Free\\_Resources/glossary\\_PS.asp#ps\\_08](http://www.californiataxdata.com/A_Free_Resources/glossary_PS.asp#ps_08)

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providing the services intended, and assessments may only be levied for services that are immediately available to property owners.<sup>14</sup>

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<sup>14</sup> [http://www.californiataxdata.com/A\\_Free\\_Resources/glossary\\_PS.asp#ps\\_08](http://www.californiataxdata.com/A_Free_Resources/glossary_PS.asp#ps_08)

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