

**MODOC**

**LOCAL AGENCY**

**FORMATION COMMISSION**

(LAFCO)

**BYLAWS**

**Adopted February 27, 2007**  
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**LAFCO Resolution 2010-0009**

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**Local Agency Formation Commission (LAFCO)  
MODOC County**

**Bylaws**

**1. Statement of Purpose and Authority**

**1.1. Mission**

The **Modoc** Local Agency Formation Commission ~~of MODOC County~~ is committed to serving the citizens, government agencies, and applicants of its jurisdiction by using its authority, knowledge and expertise to make beneficial changes in the structure of public agencies through special studies, programs and actions resulting in the resolution of conflicts; orderly growth, development, and governance of communities within Modoc County; cost-effective delivery of services; and timely processing of applications.

In accordance with the policies and procedures established by the State Legislature in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Sections 56000 et seq. of the California Government Code, the primary function of California LAFCOs is to encourage orderly growth, discourage urban sprawl, preserve open space and prime agricultural lands and efficiently extend governmental services. LAFCO's responsibilities include review of and action on proposals for 1) formation of new local public agencies, 2) change in boundaries of existing local agencies, and 3) other changes in organization of local agencies, such as consolidations. In making such determinations, LAFCO's efforts are directed to encouraging the efficient and economic delivery of public services, while protecting other important state interests such as the preservation of agricultural and open-space lands.

**1.2. Governing Law**

The conduct of the MODOC Local Agency Formation Commission is governed by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Sections 56000 et. seq. of the California Government Code, as amended (hereinafter referred to as "The LAFCO Act"). In any conflict between provisions of the LAFCO Act and these Bylaws, the former shall prevail.

**1.3. Funding**

Funding for the operational needs of the MODOC County LAFCO shall be provided through a combination of application fees and charges and appropriations from general tax revenue of MODOC County and the City of Alturas as determined by the Commission in accordance with the LAFCO Act.

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**2. Definitions**

**2.1. Alternate Member**

The person appointed to serve and vote in place of a regular member under any of the circumstances set forth in Section 4.3, below.

**2.2. Board of Supervisors**

The MODOC County Board of Supervisors.

**2.3. Commission**

The MODOC Local Agency Formation Commission or Local Agency Formation Commission of MODOC County.

**2.4. Commissioners**

All members of the Commission, both regular and alternate. “Commissioner” has the same meaning as member.

**2.5. County**

The County of MODOC.

**2.6. LAFCO**

The MODOC Local Agency Formation Commission.

**2.7. Members**

All regular and alternate members of the MODOC Local Agency Formation Commission. “Member” has the same meaning as “Commissioner”

**2.8. City Council**

The City Council of the City of Alturas, and/or the City Council of any other city that may be incorporated in Modoc County during the effectiveness of these rules.

**3. Budgeting**

**3.1. General**

Unless otherwise determined by the Commission, the Commission as a whole shall serve as the LAFCO Budget Committee. The Executive Officer shall prepare and submit to the Commission a draft budget for review not later than the April meeting of the Commission. As required under Section 56381, the Commission shall then hold a noticed public hearing on the budget at the April Meeting and adopt a preliminary budget at that meeting. The Commission shall adopt its final budget after noticed public hearing at the May or June meeting anytime prior to June 15<sup>th</sup>. When the Commission has fi-

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nalized the budget, the Executive Officer shall promptly send it on to the County and City as provided by the LAFCO Act, Section 56381.

The Commission may at any time and at its own discretion modify its approved budget.

**3.2. Budgeting Policies**

1. LAFCO ~~shall~~ **may** adopt a work program for the next fiscal year prior to its adoption of the proposed budget. The work program shall set forth the proposed actions, studies, reports and administrative objectives for the coming year. The work program shall be developed considering the following factors:
  - a. Statutory requirements for preparation of Municipal Service Reviews and Updates to Sphere **of Influence** Plans.
  - b. Anticipated Projects.
  - c. Efficient delivery of LAFCO services to the Community.
  
2. LAFCO's budget for the next fiscal year shall normally be set at a level that allows the agency to complete the essential tasks of the approved work program. If the Commission determines that it cannot reasonably ~~require~~ **obtain** funding at the level necessary to fund the work program, the Commission shall eliminate or modify items in the work program to reflect the reductions in funding prior to approval of the reduced budget. The proposed and final budget shall be equal to **or greater than** the budget adopted for the previous fiscal year unless the Commission finds that reduced staffing or program costs will nevertheless allow the Commission to fulfill its purposes and programs as required by the LAFCO Act.(§56381)
  
3. ~~Where~~ **When** feasible, LAFCO shall re-budget carryover from the prior fiscal year or a portion of its carryover funds to reduce costs to the funding agencies. Alternatively, LAFCO may wish to use carryover monies to fund a General Reserve Fund. Appropriations and Expenditures from the General Reserve Fund shall require Commission approval.

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**4. Commission Organization**

**4.1. Composition**

Unless the LAFCo Act otherwise requires, MODOC LAFCO shall consist of five regular voting Commissioners and – three alternate members, as explained in detail below. **All commissioners and alternates must be residents of the County.**

**4.2. Appointment of Members**

a) County

Two Commissioners are appointed by the Board of Supervisors from the Board's membership. The Board of Supervisors shall also appoint a third supervisor to serve as the alternate County member of the Commission.

b) City of Alturas

Two Commissioners shall be appointed by the City of Alturas from among its City Council members. The City shall also appoint an alternate city member in the same manner as it appoints a regular city member.

c) Public

One Commissioner shall be appointed from the general public by vote of the other four regular (voting) members of the Commission. The Commission shall also appoint an alternate public member who shall be selected in the same manner as the regular public member. Neither the regular nor the alternate public member may be an officer or employee of a city, the County, or a district having territory within the County, as provided by Section 56331 of the LAFCO Act.

**4.3. Role of Alternate Members**

a) In each member category, the alternate member shall serve and vote in place of a regular member who is absent or disqualifies himself or herself from voting on a matter before the Commission.

**b)** All alternate members are encouraged to attend all Commission meetings, even if the regular member(s) is (are) present, because alternate members may at any time be called upon to vote in place of a regular member. All alternate members are expected to remain current in the business of the Commission. **Modoc LAFCO encourages alternate members to**



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participate in public hearings, deliberations and the discussion of issues before the Commission and to attend closed sessions, even when they may not vote.

c)

**4.4. Terms of Office**

- a) Each member shall serve single or multiple term(s) of office for four years each. Terms shall expire on the first Monday in May in the year in which the term of the member expires. A member may continue in office after expiration of his or her term until the appointment and seating of a successor.
- b) Any member may be removed at any time and without cause by the body appointing that member. If a member who is a city, or county ceases to hold that position during his or her term, that member's seat on the Commission shall thereafter be considered vacant for any reason, or if the member was a public member who becomes an officer or employee of a city, the County, or a district having territory within the County.
- c) Any vacancy in the regular membership of the Commission shall be filled for the unexpired term by appointment by the body which originally appointed the member whose office has become vacant. The alternate member in that category shall serve in his/her place until such time as a new regular member has been appointed

**4.5. Removal of Members**

- a) The Commission may recommend to the appointing authority that a member (including alternates) be removed for any of the following reasons:
  - The absence of that member for three (3) consecutive meetings or more than half of the meetings in any twelve-month period unless those absences are excused by a vote of the Commission.
  - Malfeasance of office or dereliction of duty by that member.
- b) Any member may be removed at any time and without cause by the body appointing that member.
- c) Members shall inform the Executive Officer and their alternate as soon as possible in the event they will be absent from a LAFCO meeting. Failure to do so may result in a request by LAFCO to be removed from office.

**4.6 Commission Officers**

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The officers of the Commission shall be a Chair and a Vice-Chair, chosen by the current regular members of the Commission from their number.

- a) The Chair and the Vice- Chair shall be elected each year at the first meeting in the new fiscal year or the next regular meeting thereafter and shall take office immediately. If a vacancy occurs in any Commission office during the year, it shall be filled by election at the next regular meeting following occurrence of the vacancy.
- b) The term of office for the Chair and Vice-Chair shall normally be twelve months or until the officer's membership on the Commission terminates, whichever occurs sooner.
- c) The Chair shall preside at all meetings of the Commission and shall conduct the business of the Commission pursuant to and in compliance with the procedures prescribed by these rules. The Chair shall preserve order and decorum at all meetings and shall decide all questions of order and procedure, subject to the action of the majority of the Commission.
- d) The Chair has the authority to act outside a meeting, in consultation with the Executive Officer ~~and~~ **or** Legal Counsel, on procedural and administrative matters, such as staffing issues and contracts, that cannot reasonably be deferred to the next Commission meeting. The Chair's authority shall include the signing of contracts and claims for urgently needed goods and services if the Executive Officer is unavailable, provided adequate funding has been budgeted.
- e) The Chair has authority to appoint members to all subcommittees of the Commission, including the authority to create special-purpose subcommittees not named in these Bylaws.
- f) In the event of the Chair's absence or inability to act as the Chair, the Vice- Chair shall have all the powers and duties of the Chair.
- g) In the event both the Chair and the Vice-Chair are absent from a Commission meeting at which a quorum is present, the voting members present may select one of themselves by majority vote to act as Chair *pro tempore* for that meeting.

#### **4.7 Compensation**

- a) Members and alternate members ~~will~~ **may** be reimbursed, for reasonable meal expenses and mileage as determined by the Commission, when the expense is reasonably incurred in connection with Commission business. Mileage shall be reimbursed in accordance with IRS mileage in effect at the time the mileage occurred.

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- b) Members may receive a stipend for attending meetings in accordance with a resolution adopted by the Commission from time to time.

**4.8 Financial Disclosure**

- a) LAFCO members and alternate members are subject to the requirements of the California Fair Political Practices Commission, including annual filing with the Executive Officer of a Statement of Economic Interests (Form #700) by **before** April 1 of each year.
- b) Any member of the Commission not in compliance with the requirements of the LAFCO **Conflict of Interest Code** shall be ineligible to take part in LAFCO business until she or he has complied.

**4.9 The Executive Officer**

The Executive Officer of the Commission shall attend all meetings of the Commission, conduct and perform the day-top-day business of the Commission, and maintain a record of all of its proceedings as required by law. All the records of the Commission shall be on file in the LAFCO office where the same may be publicly examined and inspected.

The Executive Officer shall prepare an agenda for each meeting. The agenda shall include those matters addressed to the Commission requiring its action on file with the Executive Officer and all matters which have previously been set for hearing at such meeting provided that the filing deadlines of Section 5.3(c) of these rules shall apply.

The Executive Officer shall notify all Commission members of the time set for any special meeting.

The Executive Officer shall be responsible for conducting all protest hearings on behalf of the Commission pursuant to Part 4 of Division 3 of Title 5 (commencing with section 57000) of the Government Code.

All notices, forms and other documents required to be filed with the Commission on any proposal under Division 3, Title 5 (commencing with section 56000) of the Government Code shall be filed with the Executive Officer of the Commission.

**5. Conduct of Business**

**5.1. Regular Meetings**

Regular meetings of the Commission are scheduled for the second Tuesday of every other month at 4:00 p.m. in the City Council Chambers, 200 North Street, Alturas, California. The Commission may, at its own discretion, meet at a

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different time or place from time to time, provided that public notice of such time and place is given in accordance with the Ralph M. Brown Act, Government Code Section 54954 et. seq. and applicable provisions of the LAFCO Act.

**5.2. Special Meetings**

The Chair may call a special meeting of the Commission. The Chair shall call a special meeting if requested by two or more Commissioners. Any special meetings of the Commission shall be called in the manner provided by Section 54956 of the Government Code. The order calling the special meeting shall specify the time and place of the meeting and the business to be conducted and no other business shall be conducted at that meeting. The special meeting may be called for any day prior to the date established for the next regular meeting of the Commission.

**5.3. Notice of Meetings**

a) General Notice

The Executive Officer shall provide notice of all regular and special meetings in accordance with the Ralph M. Brown Act, Section 54954.1 of the Government Code, and applicable provisions of the LAFCO Act. Written or ~~faxed~~ **emailed** notice of regular and special meetings of the Commission shall be sent in the form of a meeting agenda to at least the following:

- i) Each LAFCO member, alternate and staff
- ii) Local news media, including but not limited to:
  - ~~The Herald and News~~ **Modoc Record**
- iii) To any person or entity requesting a copy of the agenda in writing.
- iv) By posting the agenda of each meeting at least 72 hours in advance of the meeting.
- v) By posting on the LAFCO website.

b) Special Notice

The Executive Officer shall provide additional notice of specific applications in the manner required by the LAFCO Act for that application. Such special notices shall be sent to the applicant, affected property owners, residents or citizens, property owners and voters within 300 feet of a project consistent with the LAFCO act, and such other persons or entities as the Commission or the Executive Officer may deem appropriate. Notice to affected property owners and citizens shall also comply with

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Commission policy on Notice and Public Participation, as set forth in LAFCO's **Policies and Standards** and the LAFCO Act.

e) ~~Staff Reports and Meeting Packets~~

~~All agenda items shall be filed with the LAFCO Clerk by 5:00 p.m. on the Monday in the week preceding the regular LAFCO Meeting. Any agenda item received by the LAFCO Clerk after that time will be placed on a subsequent agenda, unless the Chair or Executive Officer directs that it be placed on the agenda for the next meeting. Not less than five days prior to the hearing, the Executive Officer shall complete a staff report including his or her recommendations for each item to be heard. Copies, along with the agenda, shall be furnished to each member of the Commission and to other parties as required by the LAFCO Act (Section 56665). Any Commissioner may request postponement of the hearing on a particular item by reason of his or her receiving the agenda packet less than five days prior to the meeting. The Commission may, but is not obligated to, honor such a request.~~

**DISCUSSION REGARDING WHEN HEARING AND NOTICE ARE REQUIRED**

**5.4. Compliance with Open Meeting Laws**

Notwithstanding any other provision of these Bylaws, all meetings of the Commission shall be noticed and held in accordance with the Ralph M. Brown Act, the Open Meeting Law, and Government Code Section 54950-54962.

**5.5. Quorum & Action of Commission**

- a) Three Commissioners present in person shall constitute a quorum. Should the size of the Commission increase beyond five, a majority of the Commissioners then in office shall constitute a quorum.
- b) An affirmative vote of three or more Commissioners is required to make an action of the Commission. Should the size of the Commission increase beyond five, the affirmative votes of a majority of the Commissioners then in office shall be necessary to take an action of the Commission. Proxy votes are not allowed.

**5.6. Adjournment and Continuance of Meetings and Public Hearings**

- a) Any hearing being held, or any hearing noticed or ordered to be held, may by order or notice of continuance or adjournment be continued, re-continued, adjourned, or re-adjourned to any subsequent meeting in the same

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manner and to the same extent set forth for the continuance or adjournment of meetings.

- b) If any meeting or hearing is continued or adjourned to a time less than twenty-four (24) hours after the time specified in the order or notice of meeting or hearing, a copy of the order or notice of continuance or adjournment shall be posted immediately following the meeting at which the order of declaration of continuance or adjournment was adopted or made.
- c) Procedures for adjourned and continued meetings shall also comply with any additional requirements of Sections 54955 and 54955.1 of the Government Code and any other applicable statutes.
- d) If there is not a quorum at any meeting of the Commission, the Chair may adjourn the meeting to another date and time. If all members are absent, the Executive Officer of the Commission may adjourn the meeting to a stated time and place. The Executive Officer shall provide oral notice of such adjourned meeting to all present at the meeting and provide such written and posted notice as required by the Ralph M. Brown Act Government Code Section 54955.

**5.7. Conduct of Meetings**

- a) Agendas

The Executive Officer, in consultation with the Chair, shall prepare the agenda for each meeting. Unless otherwise directed by the Commission, the Executive Officer shall set as many matters for hearing as can be reasonably heard.

- b) Items Limited to One Subject

~~Each agenda item shall specify a single subject to be considered but it may include sub items provided they involve the same subject matter. This requirement is intended as a guidelines for staff and shall not increase the legal obligations of the Commission beyond the requirements of Government Code § 54954.2 or create enforceable rights in any third party.~~

Each agenda item shall specify a single subject to be considered and may include sub-items provided they involve the same subject matter. This requirement is intended as a guideline for staff and shall not affect the legal obligations of the Commission beyond the requirements of Government Code Section 54954.2 or create enforceable rights in any third party.

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c) Agenda Item Requests

Members of the public may request the Commission to ~~take~~ **consider** specific actions by submitting their requests in writing to the LAFCO Executive Officer at least 45 days prior to the next regularly scheduled meeting of the Commission or by attending a previous meeting of the Commission and requesting during the public communications portion of the meeting that action to be taken at its next meeting. If determined by the Chair to be proper for Commission consideration, such an item shall be placed on the agenda.

A quorum of the Commissioners may also request that an item be placed on the agenda for consideration. Requests for special meetings of the Commission shall be directed to the Chair through the LAFCO Executive Officer.

Notwithstanding the above, any Commissioner may place an item be placed on a future agenda.

d) Order of Business

The Commission agendas shall include the following items:

- Call to Order, Pledge of Allegiance including roll call
- Announcement of Closed Session (if needed)
- Consent Items, including approval of minutes, expenditure report and other items placed on the consent agenda
- Public Communications on Items not on the Agenda (Items not appearing on the agenda must be of interest to the public and within the Commission's subject matter jurisdiction)
- Business Items with Public Hearings
- Business Items without Public Hearings
- Correspondence
- Executive Officer's Report
- Commissioner Reports and Announcements
- Adjournment

**The Chair shall ask for public input on all consent and business items before the Commission. The public is encouraged to participate on all other matters before the Commission, excepting closed session items.**

e) Motions

Any voting Commissioner may introduce or second any motion.

f) Voting

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- i) ~~The question of approval or denial of a change of organization or reorganization, the proposed and final budgets, contracts excepting the approval of invoices and of all resolutions shall be by roll call vote. All other questions may be voted upon by voice vote, or may be put to the question by the Chair with a unanimous vote stipulated and recorded if there is no objection. Notwithstanding the foregoing, and provided that the assent of a the number of Commissions required by law for action of the Commission is expressed and reflected in the minutes, no person may challenge an action taken by the Commission for failure to act by roll call vote.~~

The question of approval or denial of a change of organization or reorganization, proposed and final budgets, and of all resolutions shall be by roll call vote. All other questions may be voted upon by voice vote, or may be put to the question by the Chair with a unanimous vote stipulated and recorded if there is no objection.

- ii) A roll call vote shall be taken on any question upon request of any Commissioner, regular or alternate **and if the action is at a remote teleconferencing meeting.** ~~All votes are final; although matters may be reconsidered by the Commission at a subsequent meeting in the manner provided by law.~~

- g) Rules of Procedure

Except as otherwise provided herein, the rules of order governing the conduct of business at all meetings of the Commission shall be the latest edition of *Rosenberg's Rules of Order*. *Rosenberg's Rules of Order shall be used as a guide.*

**5.8. Public Hearing Procedure**

The Commission shall conduct matters noticed for public hearing as follows:

- a) The Executive Officer shall present the staff report. The report should describe the nature of the application, discuss all factors required in Section 56668 of the Government Code, **if applicable**, factors to be considered that are identified in the adopted policies, standards and procedures, and ~~present~~ **provide** the Executive Officer's recommendations.
- b) Commissioners may ask questions concerning matters in the staff report.
- c) The public hearing shall be opened.



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- i) The applicant or applicant's representative and a representative from the agency involved in the change of organization will be asked to speak first to add any pertinent data or testimony to the staff report.
  - ii) The public will then be invited to give testimony.
  - iii) The applicant's representative may rebut any testimony.
  - iv) Each Commissioner may question any participant in the proceedings.
  - v) The public hearing will be closed.
- d) The Chair may, within reason, allocate and limit the time and scope of testimony from any interested person as necessary for the expeditious conduct of the Commission's business. The total amount of time allotted for receiving public comment on matters set for a public hearing may be limited to 15 minutes. Any individual's testimony may be limited to 5 minutes. Time to address the Commission will be allocated on the basis of the number of requests received.
- e) Following closure of the public hearing, the members will discuss the matter under consideration among themselves. Such discussion may or may not be preceded by a motion made by any Commissioner entitled to vote on the matter and a second made by another Commissioner entitled to vote on the matter. Alternates may participate in Commission deliberations when not serving in lieu of an absent or abstaining Commissioner, but may not make motions or cast votes. Further testimony from the applicant or the public may not be accepted without reopening the public hearing, except that Commissioners may direct questions to specific members of the public who have already offered testimony in order to clarify any point made during the public hearing.

**5.9. Public Testimony**

- a) The applicant and any member of the public desiring to address the Commission shall, when recognized by the Chair, step forward and give his/her name and address to the clerk. A person may refuse to give their name or address or may state only their city or community of residence in lieu of their address, but the Commission may draw any reasonable inference it chooses from a decision to speak anonymously.
- b) The Chair may, within reason, allocate and limit the time and scope of testimony from any interested person as necessary for the expeditious

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conduct of the Commission's business, provided such limits are applied equally among similarly situated persons.

- c) Debate among members of the public shall not be permitted.
- d) When any group wishes to address the Commission, the Chair may request a spokesperson be chosen by the group to address the Commission and may afford that spokesperson more time than is allotted to ordinary individual members of the public.
- e) With respect to action items that are not set for a public hearing, the total amount of time allotted for receiving public comment may be limited to 5 minutes. Members of the public may be limited to testimony of one minute each.

**5.10. Record of Proceedings**

- a) Minutes

The Clerk to the Commission shall record and prepare minutes of each meeting. The minutes shall record the major actions of the Commission at the meeting but are not intended as a complete transcript of discussions at the meeting. Draft copies thereof shall be mailed to all members, usually as part of the agenda packet, prior to the meeting at which they are offered for Commission approval. Normally, minutes shall be submitted to the Commission not later than two meetings after the meeting at which they were taken. Upon approval by the Commission, the minutes, with any corrections thereto, shall become the official record of the action of the Commission upon approval by the Commission.

- b) Recordings

All proceedings of regular and special meetings shall be electronically-recorded. Copies of recordings will be prepared upon request, and the cost will be charged to the person or entity making the request in a manner established by the Executive Officer.

- ~~e) Destruction of Records~~

~~Except as otherwise provided in a records management policy adopted by the Commission, public records that are produced on paper shall be kept for an indefinite period and may be reduced to an electronic media or microfiche copy at the discretion of the Executive Officer at the end of 5 years. Electronic recordings may be destroyed at the end of 2 years.~~

- d) Record Retention Policy

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Documents for Modoc LAFCo shall be maintained in accordance with Attachment #2, Records Retention Policy.

**Section 5.11 Legislative Process Participation**

- a) ~~In situations when~~ **If** a legislative bill affecting LAFCO cannot be considered by the full Commission due to timing, the Executive Officer, in consultation with the Chair, is authorized to provide written or email comments communicating the Commission's position.
- b) The Chair would review the letter or email prior to it being submitted for consideration.
- c) The Executive Officer will forward the email or letter to the Commissioners as soon as possible.
- d) The item will be discussed at the Commission's next regular meeting.

**6. Conflict of Interest**

- a) As required by the Political Reform Act of 1974, no Commissioner shall vote or otherwise participate in on any matter where it is reasonably foreseeable that the action of the Commission could materially affect a financial interest of the Commissioner.
- b) As required by Government Code § 84308, a provision of the Political Reform Act of 1974, a LAFCo Commissioner must disqualify herself or himself from voting on an application involving an "entitlement for use" (such as an annexation or sphere amendment) if, within the last twelve months, the Commissioner has received \$250 or more in campaign contributions from an applicant, any financially interested person who actively supports or opposes an application, or an agency (such as an attorney, engineer, or planning consultant) representing an applicant or interested participant. The law (Government Code Section 84308) also requires any applicant or other participant in a LAFCo proceeding to disclose the amount and name of a Commissioner to whom he or she gave such a donation on the official record of the proceeding.
- c) Government Code Section 84308 requires that a Commissioner disqualify him- or herself from voting on an application involving an "entitlement for use" (such as an annexation or sphere amendment) if, within the last twelve months, the Commissioner has accepted campaign contributions of \$250 or more from an individual or firm who actively supports or opposes

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such application or from an agent (e.g., attorney, engineer, or planning consultant) representing an applicant or other interested participant.

- d) Commissioners having a conflict of interest on any matter before the Commission shall publicly disclose such conflict and thereafter shall not participate in any discussions, **deliberations**, debates, questioning or votes on the matter in their official capacity. This restriction shall not prevent a disqualified Commissioner from testifying as a member of the **or from participation as a Commissioner when otherwise permitted by the Political Reform Act and its implementing regulations** ~~public to the extent permitted by Regulation 18702.4 of the Fair Political Practices Commission (2 CCR § 18702.4).~~
- e) Unless provided by the appointing authority pursuant to Sections 56332(d) or 56335, no member shall be disqualified from participation in the consideration of a matter as a result of his or her membership on an agency affected by the Commission's decision on the matter. (Govt. Code, section 56336.)
- f) Even where not legally required to disqualify himself or herself, a Commissioner may voluntarily recuse himself or herself from any action if the Commissioner feels that they are unable to objectively and independently act on the matter.

**~~6.1 Procedures for the Disclosure of Contributions and Expenditures in Support of and Opposition to Proposals~~**

~~a) Effective Date~~

~~The effective date of these policies and procedures (for disclosure of Contributions and Expenditures) is upon adoption of these Bylaws.~~

~~b) Policy~~

~~The Commission has determined that the public interest would be served by adoption of procedures for the public disclosure of contributions and expenditures relating to proposals to LAFCO as provided in this section and as authorized by Government Code 56100.1.~~

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~~e) General Requirements of Disclosure~~

~~Any person or combination of persons acting in concert who directly or indirectly contribute \$1,000 or more in support of or in opposition to a change of organization or reorganization that has been submitted to LAFCO must comply with the disclosure requirements of the Political Reform Act of 1974. These requirements contain provisions for making disclosures of contributions and expenditures at specified intervals, and may be reviewed at Government Code §§56700.1 and 81000 et seq. Additional information about the requirements pertaining to the local initiative measures to be presented to the electorate can be obtained by calling the Fair Political Practices Commission at (916) 322-5660.~~

~~d) Filing Office~~

~~Filing office shall be the MODOC County Elections Department with a copy mailed to LAFCO. Filings shall be in the form specified by the MODOC County Elections Office for compliance with Political Reform Act Disclosures for municipal initiatives.~~

~~e) Filing Schedule (Note: This section must be further reviewed with the County Elections Office prior to implementation.)~~

~~Any required disclosures shall be filed with the MODOC County Elections Department thirty days before the noticed date of the public hearing on the proposal at LAFCO. The period covered by this report shall be from any prior filing period to thirty five days preceding the LAFCO hearing date. Additionally, late contributions and late expenditures for the period commencing thirty four days before the LAFCO hearing and ending one day before the LAFCO hearing shall also be filed with the MODOC County Elections Department and LAFCO no later than 24 hours before the LAFCO hearing begins. After a final LAFCO decision by resolution, the filing schedule for further disclosures shall conform to the schedule required for local initiative measures as adopted by the Fair Political Practices Commission and the MODOC County Elections Officer pursuant to the Political Reform Act.~~

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a) ~~Notice~~

~~The following notice shall be added to the application forms, the notices of public hearings, meeting agendas of each meeting, and the commission's website:~~

~~Pursuant to Government Code Sections 56100.1, 56300(c), and 56700.1, and 81000 et seq., relating to the Disclosure of Contributions and Expenditures in Support of and Opposition to Proposals, any person or combination of persons acting in concert who directly or indirectly contribute \$1000 or more or expend \$1000 or more in support of or in opposition to a change of organization or reorganization that has been submitted to MODOC LAFCO must comply with the disclosure requirements approved by MODOC LAFCO. These requirements contain provisions for making disclosures of contributions and expenditures at specified intervals. Additional information may be obtained at the MODOC County Elections Department.~~

g) ~~Enforcement~~

~~Enforcement and Penalties shall be the same as for violations of the Political Reform Act of 1974 and Title 2, Division 6, California Code of Regulations as to both substance and procedure.~~

**7. Subcommittees of the Commission**

**7.1. Committees**

The Commission or the Chair may establish committees deemed necessary for the conduct of its proceedings. If such a committee is appointed by the Chair between meetings of the Commission, he or she shall report this action to the Commission at its next regular meeting.

**7.2. Open Meeting Law Requirements**

Permanent standing committees established by the Commission shall be subject to the Ralph M. Brown Act, Temporary Ad Hoc committees, composed of only of Commissioners constituting less than a quorum of the Commission, are not subject to the Ralph M. Brown Act.

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**8. Policies and Standards**

The Commission has adopted policy guidelines to assist in reviewing any proposal brought before it. These guidelines are contained in the LAFCO **Policies and Standards**.

~~9. Public Office Hours.~~

~~The LAFCO office hours shall be established from time to time by resolution of the Commission, as necessary.~~

**10. Finance and Expenditure Policies**

**10.1 Business & Travel Expense**

LAFCO will reimburse reasonable business travel expenses incurred by its officers and employees while on assignments away from the normal work location. The Executive Officer is hereby delegated the authority to authorize business travel for other LAFCO officers and employees, provided funds are allocated for such purpose in a budget approved by the Commission. ~~All business travel must be approved in advance by the Executive Officer.~~

When approved, the costs of travel, meals, lodging, and other expenses directly related to accomplishing business travel objectives will be reimbursed by LAFCO. Expenses are expected to be reasonable amounts and must comply with Government Code §53232.2.

Expenses that generally will be reimbursed include the following:

- a. Airfare or train fare for travel in coach or economy class or the lowest available fare.
- b. Car rental fees, only for compact or mid-sized cars.
- c. Fares for shuttle or airport bus service, where available; costs of public transportation for other ground travel.
- d. Taxi fares, only when there is no less expensive alternative.

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- e. Cost of standard accommodations in hotels, motels, or similar lodgings using the government or conference rate when available.
- f. Meal allowances include a per diem amount, as follows:

Breakfast	12.00
Lunch	18.00
Dinner	30.00
- g. No alcoholic beverages will be reimbursed even with the cost of meals.
- h. Charges for telephone calls, internet, fax, and similar services shall be allowed during travel provided these charges are required for business purposes.
- i. Mileage Reimbursement shall be at the rate established by the Internal Revenue Service at the time the mileage expense is incurred.
- j. A LAFCO officer or employee involved in an accident while traveling on business must promptly report the incident to the Executive Officer.
- k. When travel is completed, claims shall be submitted for reimbursement within 180 days. Claims should be accompanied by receipts for all expenses, with the exception of per diem amounts for meals under paragraph f above.

**10.2 Commission Travel**

- i. All conference travel shall be as established in the annual LAFCO budget as appropriate for LAFCO.
- ii. Members and alternate members will be reimbursed for reasonable meal and travel expenses as stated above.
- iii. On occasions when a Commission meeting must be recessed for a meal break or when a meal is served at a meeting, members and



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alternate members shall be reimbursed for reasonable meal expenses consistently with this policy.

**10.3 Expenditure Policies**

- 10.3.1 All documents relating to reimbursements of expenditures shall be available for review by the Commission at a LAFCO meeting. All back-up billing information in the possession of the Commission shall be available.
- 10.3.2 The LAFCO Executive Officer is hereby responsible for managing the day-to-day business of the Commission and for making or authorizing expenditures for that purpose within the guidelines established by the adopted budget. This responsibility shall include the authority conferred to make expenditures on behalf of the Commission provided these expenditures are within the scope of the adopted budget. This responsibility shall also include the power to approve contracts of up to \$5,000.00 on behalf of the Commission. The Executive Officer shall obtain the concurrence of the Chair and consult with LAFCO Counsel prior to entering into any contract outside the usual course of Commission business including contracts for legal, consulting, or other professional services. Staff shall promptly notify the members of the Commission regarding establishment of contracts entered into on the Commission's behalf.
- 10.3.3 Members and Alternate Members may be reimbursed, consistent with an amount as determined from time to time by the Commission, for reasonable and necessary expenses incurred for meeting attendance. Each member and alternate member in attendance at any Commission meeting may also receive a per meeting stipend as established by the Commission. LAFCO shall inform the Modoc County Auditor's office and City of Alturas of changes to meeting stipend rates.

**10.4. General Finance Provisions**

- 10.4.1 These expenditure and travel policies are not intended to conflict with or modify LAFCO's duties and obligations under the LAFCO Act or with Government Code Section 53202 et. Seq.
- 10.4.2 In the event of a conflict between any County or City Travel policy or ordinance, with any adopted LAFCO's Bylaw, Policies and Standards, Fee

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Resolution, or any other adopted LAFCO policy, the LAFCO regulation or policy shall prevail.

- 10.4.3 So long as the County and (or) City of Alturas is handling LAFCO financial transactions, amendments to Bylaws, Fee Resolutions, Policies and Standards or any other adopted LAFCO policy shall be transmitted to the County Auditor (and (or) City Treasurer upon adoption. Any dispute or disagreement with the County (City) regarding reimbursement or payment of any claim shall be referred to the Local Agency Formation Commission for final determination. A minute order reporting the Commission's action shall be transmitted to the County Auditor (City Treasurer).
- 10.4.4 LAFCO shall follow the budget process contained in the LAFCO Act, as amended and these adopted Bylaws and Financial and Travel Policies.
- 10.4.5 After a financial claim is approved by the Commission (or the Chair or Vice-chair in the event a meeting is not held within a particular month). The Local Agency Formation Commission hereby authorizes the LAFCO Executive Officer to sign any and all financial claims for the LAFCO account submitted to the Auditor's office of Modoc County or City Treasurer's office at the City of Alturas in accordance with the above policies. The Commission further authorizes the Executive Officer to sign any signature authorization forms required by the County Auditor or City Treasurer's office, as may be the case.

**10.5 Fixed Assets Policy**

- 10.5.1 LAFCO adopts a fixed assets capitalization policy with a useful life of 5 years or more and a value at purchase of \$5,000, or greater, per item.
- 10.5.2 It is LAFCO's policy to capitalize fixed assets. LAFCO will maintain an inventory of fixed assets, including equipment and furniture. The inventory will be maintained by staff and will be updated annually at the close of the fiscal year. Fixed assets are depreciated using the straight-line method over the estimated useful life of each asset.
- 10.5.3 An asset become obsolete when it is no longer operable, has been replaced, or is no longer available for use. A list of obsolete assets is

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provided to the Commission annually in conjunction with the audit and obsolete assets are removed from the capital assets list thereafter.

10.5.4 The Commission shall review and approve a list of any fixed assets to be declared surplus property. The Commission may dispose of surplus property by making the property available for donation to any non-profit or other agency listed or authorized by either the State of California or Modoc County to receive surplus property donations. The Commission may dispose of surplus property through a negotiated contract with an auction company or in any other manner that the Commission or Executive Officer determines to be reasonable. Costs of assets sold or retired (and related amounts of accumulated depreciation) are eliminated from the accounts in the year of sale or retirement.

## **11 Amendments**

### **11.1 Regular Amendments**

Regular Amendments to these Bylaws shall be made as follows:

- a) The full text of any proposed amendment shall be sent to all Commission members in the same manner as agenda packets, as specified in Section 5.3 c), above.
- b) The proposed amendment to the Bylaws, shall also be circulated to the following entities for their review and comment ~~at least 14 days~~ prior to adoption:

City of Alturas                  County of MODOC

### **11.2 Urgency Amendments**

An amendment to the Bylaws may be adopted as an urgency amendment effective immediately when the amendment is determined to be essential to the immediate functioning of the Commission. Any such urgency amendment may only be adopted by the affirmative vote of at least four Commissioners. Nothing in this section is intended to relieve the Commission or its staff of the obligations imposed by the Ralph M. Brown Act.

### **11.3 Filing of Bylaws**

Upon approval of these Bylaws and any amendments thereto, a signed copy shall be filed with the City of Alturas and MODOC County and maintained on file in the offices of the Commission.

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**Passed and Adopted by Resolution 2007-01 of the MODOC Local Agency Formation Commission the 27th day of February 2007**

**Amended by Resolution 2010-0009 on October 12, 2010 thereby revising Finance and Expenditure Policies**

## *Appendix 1*

### **Public Member Selection Process**

As authorized by Sections 56325 and 56331 of the LAFCO Act, the Public Member and Alternate Public Member shall be appointed to LAFCO by the members of the Commission representing the City and the County.

The Commission will conduct the selection process in the following manner:

1. Whenever a vacancy occurs in the public member or alternate public member position, the commission shall cause a notice of vacancy to be posted as provided in section 56158. A copy of this notice shall be sent to the clerk or secretary of the legislative body of each local agency within the County. Prior to the expiration of terms of the public member and the alternate public member, the positions will be posted and advertised for at least 21 days in the newspaper of general circulation in the county.
2. The Commission may design an interview procedure, schedule interviews, and formulate questions to be asked of all applicants.
3. In the event interviews are scheduled, interviews of the applicants shall be conducted by the City and County members of the Commission.
4. The City and County members of the Commission shall cast written ballots for each open position. The ballots shall be called and tallied in open session. The candidates receiving the highest number of votes will take office at the next LAFCO meeting, recognizing that the votes of a majority of a quorum are required for any action of the Commission.

## *Appendix 2*

### **MODOC LAFCO RECORDS RETENTION POLICY**

#### **Section 5.11 Records Retention Policy:**

Records must be kept indefinitely in original, photographic, or electronic form pursuant to Government Code section 56382.

The Commission authorizes the destruction of original records more than two years old, if a photographic or electronic copy of the original record is made and preserved in compliance with Government Code section 56382, which shall be considered permanently retained pursuant to the Records Retention Schedule. Documents that are not herein defined as “records” are not “records” pursuant to Government Code section 56382 and will be retained and disposed of according to the Records Retention Schedule in Exhibit A.

For purposes of compliance with Government Code §56382 and implementation of the Commission’s Records Retention Schedule as set forth in pages 2-5 of this Exhibit A, “records” include the following:

- LAFCO Meeting Minutes
- LAFCO Resolutions
- Documents related to LAFCO proposals such as the:
  - Application, petition or other initiating documents
  - Assessor’s Statement of Property Valuation
  - Agreement to Pay / Indemnification
  - Certificate of Completion
  - Certificate of Filing
  - Environmental Review/CEQA documents such as Initial Study, Exemptions, Notices of Completion and Determination, Comments and Response to Comments, Negative Declaration, mitigation monitoring, Statements of Overriding Consideration
  - Map and Legal Description
  - Notices
  - Order for Change of Organization
  - Staff Reports
  - Statement of Boundary Change
  - Statement of Tax Rate Area

## RECORDS RETENTION SCHEDULE

After 2 years, records may be imaged for permanent preservation and original destroyed CCP – Code of Civil Procedure (CA)  
GC Government Code (CA), CFR Code of Federal Regulations (CFR)

Type of Record/ Document	Description or Example of Record/Document	Legal Authority	Minimum Legal Retention Period
<b>Administrative Documents</b>			
Accounts Payable	Invoices and back-up documents, purchase orders, travel expense reimbursements, petty cash, postage, check requests, receipt books, etc.	CCP 337 26 CFR 31.6001-1(e)(2); Sec. of State Guidelines recommendation	Until audited + 4 years
Accounts Receivable	Invoices, checks, reports, investments, receipt books	26 CFR 31.6001-1(e)(2)	4 years
Agreements/ Contract	Original contracts and agreements and back-up materials, including leases, rentals and any amendments	CCP 337 CCP 337.2	4 years after termination/ completion
Annual Reports			2 years
Audit Reports	Financial services; internal and/or external reports; independent auditor analyses		2 years
Brochures/ Publications			2 years or longer for historical value
Budget, Annual	Adjustments, journal entries, account transfers, budget preparation documents including adopted budgets,		Until audited + 2 years
Claims Against the Commission	Paid/denied		Until settled + 2 years
Correspondence (General)	General correspondence, including letters, and; various files not otherwise specifically covered by the retention schedule; compliments, complaints and inquiries; transmittal letters; requests for comments and responses		90 days, recommended longer if useful. (complaints and inquiries should be kept until matter resolves)
Economic Interest Statements - Form 700 (copies)	Copies of statements forwarded to Fair Political Practices Commission	GC 81009(f), (g)	4 years (can image after 2 years)

Type of Record/ Document	Description or Example of Record/Document	Legal Authority	Minimum Legal Retention Period
Economic Interest Statements - Form 700 (originals)	Originals of statements of designated employees	GC 81009(c), (g)	7 years (can image after 2 years)
Email (other than those exempt under PRA 6254(a))	General correspondence with the exception of CEQA correspondence which shall be kept indefinitely	GC 34090	90 days, recommended longer if useful. (complaints and inquiries should be kept until matter resolves) CEQA emails kept indefinitely
Ethics Training Compliance	Note: records should contain date of training and name of training provider	GC 53235.2	5 years after receipt of training
Forms	Administrative - blank		Until superseded
General Ledgers	All annual financial summaries	CCP 337 Sec. of State Local Gov't. Records Retention Guidelines	Permanent
Gifts/Bequests	Receipts or other documentation		Until completed + 2 years
Grants Federal, State, or other grants	Grants documents and all supporting documents: applications, reports, contracts, project files, proposals, statements, sub-recipient dockets, environmental review, grant documents, inventory, consolidated plan, etc.	24 CFR 570.502 24 CFR 85.42	Until completed + 4 years
Grants – Unsuccessful	Applications not entitled		2 years
Newsletters	May wish to retain permanently for historic reference		2 years
Political Support or Opposition	Related to legislation		2 years
Press Releases	Related to Commission actions/activities		2 years
Procedure Manuals	Administrative		Current + 2 years
Public Records Request	Requests from the public to inspect or copy public documents		2 years



Type of Record/ Document	Description or Example of Record/Document	Legal Authority	Minimum Legal Retention Period
Purchasing, Requisitions, Purchase Orders	Original documents	CCP 337	Until audited + 4 years
Recruitments and Selection	Records relating to hiring, promotion, selection for training	29 CFR 1627.3	3 years
Requests for Qualifications (RFQs) and Requests for Proposals (RFPs)	Requests for Qualifications, Requests for Proposals, and related responses		Current + 2 years
Records relating to LAFCO Meetings or Applications			
Affidavits of Publication/Post ing	Proof of publication of legal notices for public hearings		2 years
Agenda / Agenda Packets	Agendas, agenda packets, staff reports and related attachments, supplemental items and documentation submitted by staff/public in relation to agenda items.		2 years
Audio Recording of LAFCO Meetings			30 days after the LAFCO meeting minutes are approved
Elections	Impartial analysis		2 years
Environmental Review (for projects without a LAFCO application)	Correspondence, consultants, issues, comments and responses.		Completion + 2 years
Mailing Lists for Public Hearing Notices	Owners/voter		1 year after filing Notice of Completion or Commission action, whichever is later
Minutes	Meeting minutes		*Permanent
Notices /Agenda	Regular and Special meetings		2 years
Policies & Procedures	All policies and procedures adopted by the Commission		Current + 2 years

Type of Record/ Document	Description or Example of Record/Document	Legal Authority	Minimum Legal Retention Period
LAFCO Proposals- Annexations, Reorganizations, or other proposals	Application, petition or other initiating documents, Assessor's Statement of Property Valuation, Agreement to Pay / indemnification, Certificate of Completion, Environmental Review / CEQA documents (such as Initial Study, Exemptions, Notices of Completion and Determination, Comments and Response to Comments, Negative Declaration, mitigation monitoring, Statements of Overriding Consideration), Map and Legal Description, Notices, Order for Change of Organization, Staff Reports, Statement of Boundary Change, Statement of Tax Rate Area		*Permanent
Resolutions			*Permanent
Other Misc. Records / Documents			
Demographic/ Statistical Data			Current + 2 years
Legal Opinions	Confidential - not for public disclosure (attorney-client privilege)		Until superseded + 2
Litigation	Case files, including matters in mediation and/or arbitration		Until settled or adjudicated + 2 years and the time
Reference Files	reports, procedures, research, pre- application research and correspondence		2 years minimum, recommend
Exempt Records: Documents and writings that are not public records because they are exempt from disclosure under the Public Records Act shall be subject to special Retention rules as follows.			
Deliberative Process Documents	GC 6254(a)	Documents, including documents solely in electronic format such as emails which come within the scope of G.C. 6254(a) "Preliminary drafts, notes, or interagency or intra agency memoranda" shall be deleted or destroyed as soon as they are no longer needed in the <del>deliberative process</del>	
Attorney Client Privileged Communication. Documents		Includes documents solely in electronic format such as emails from or to LAFCo counsel shall be retained or destroyed as determined by the Executive Officer in consultation with LAFCo legal counsel.	
Documents of Historic Significance to Modoc LAFCo		Permanent, Do not destroy originals	

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