

Modoc Local Agency Formation Commission

SPECIAL MEETING AGENDA

Website: [www.modoclafco.org](http://www.modoclafco.org)

Tuesday October 4, 2016 – 4:00 PM

City Council Chambers  
Alturas City Hall  
200 North Street, Alturas, CA 96101

1. Call to order / Pledge of Allegiance

Commissioners

Alternate Members

David Allan, County Member  
Jim Irvin, City Member,  
T.J. Jerry Shea, Public Member  
John Dederick, City Member, Vice Chair  
Kathie Rhoads, County Member, Chair

Richard Read, Public Member Alt.  
  
Geri Byrne, County Member Alt.  
Cheryl Nelson, City Member Alt.

LAFCO Staff

John Benoit, Executive Officer  
Scott Browne, LAFCO Counsel  
Kim Hunter, Clerk

2. Approval of the Agenda (Additions and Deletions)

3. Correspondance

4. Consider Minutes for August 9, 2016

a. *Approve minutes from the August 9<sup>th</sup>, 2016 LAFCo Meeting*

5. Public Comment

This is the time set aside for citizens to address the Commission on any item of interest to the public that is within the subject matter jurisdiction of the Commission. For items that are on the agenda, public comment will be heard when the item is discussed. If your comments concern an item that is noted as a public hearing, please address the Commission after the public hearing is opened for public testimony. The Chair reserves the right to limit each speaker to three (3) minutes. Please understand that by law, the Commission cannot make decisions on matters not on the agenda.

**6. Ratify Claims for August 2016 and Authorize Payment of Claims for September 2016**

- a. *Approve payment of expenses for August 2016 and September 2016.*

**Public Hearing**

**7. Service Review and Sphere of Influence Update for the Newell County Water District.**

- a) *Review service review and sphere of influence update report and conduct public hearing.*  
b) *Consider Resolution 2016-0006 adopting a service review for services provided by the Newell County Water District.*  
c) *Consider Resolution 2016-0007 adopting a sphere of influence update for the Newell County Water District.*

**Other Items:**

**8. Review Modoc LAFCO's conflict of interest code and authorize Chair to sign and file the 2016 Local Agency Biennial Notice for filing.**

- a. *Review Modoc LAFCO's Conflict of Interest and authorize chair to sign the 2016 Biennial Notice for filing.*

**9. Authorize the Executive Officer to vote on behalf of Modoc LAFCo at the 2016 Annual Calafco Conference**

- a. *Authorize the Executive Officer to vote on behalf of Modoc LAFCo at the 2016 Calafco Annual Conference.*

**10. Correspondence: Report from Calafco to the Little Hoover Commission regarding Special Districts**

**11. Executive Officer's Report:**

- a. *Lighting Districts Service Review and Sphere of Influence*  
b. *Ethics training November 3<sup>rd</sup>, 2016 Veterans Hall 3:00 PM to 5:00 PM*  
c. *Calafco Conference October. 25<sup>th</sup> to 28<sup>th</sup>*

**12. Commissioner Reports - Discussion**

*This item is placed on the agenda for Commissioners to discuss items and issues of concern to their constituency, LAFCO, and legislative matters.*

**13. Adjourn to the next regular meeting on December 13<sup>th</sup>, 2016.**

*Any member appointed on behalf of local government shall represent the interests of the public as a whole and not solely the interest of the appointing authority Government Code Section 56325.1*

*The Commission may take action upon any item listed on the agenda. Unless otherwise noted, items may be taken up at any time during the meeting.*

Public Comment

Members of the public may address the Commission on items not appearing on the agenda, as well as any item that does appear on the agenda, subject to the following restrictions:

- Items not appearing on the agenda must be of interest to the public and within the Commission's subject matter jurisdiction.
- No action shall be taken on items not appearing on the agenda unless otherwise authorized by Government Code Section 54954.2 (known as the Brown Act, or California Open Meeting Law).

Public Hearings

Members of the public may address the Commission on any item appearing on the agenda as a Public Hearing. The Commission may limit any person's input to a specified time. Written statements may be submitted in lieu of or to supplement oral statements made during a public hearing.

Agenda Materials

*Materials related to an item on this agenda submitted to the Commission after distribution of the agenda area available for review for public inspection in the Modoc County Planning Department office located at on 203 W. 4<sup>th</sup> Street, Alturas CA. [such documents are also available on the Modoc LAFCO website ([www.modoc.lafco.ca.gov](http://www.modoc.lafco.ca.gov)) to the extent practicable and subject to staff's ability to post the documents prior to the meeting]*

Accessibility

An interpreter for the hearing-impaired may be made available upon request to the Executive Officer 72 hours before a meeting.

The location of this meeting is wheelchair-accessible.

Disclosure & Disqualification Requirements

Any person or group 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 Modoc LAFCO must comply with the disclosure requirements of the Political Reform Act of 1974 applicable to local initiative measures to be submitted to the electorate. These requirements contain provisions for making disclosures of contributions and expenditures at specified intervals; they may be reviewed at Government Code §§56700.1 and 81000 *et seq.* Additional information about the requirements pertaining to local initiative measures to be presented to the electorate can be obtained by calling the Fair Political Practices Commission at (916) 322-5660. 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 the applicant, any financially interested person who actively supports or opposes the application, or an agency (such as an attorney, engineer, or planning consultant) representing the applicant or an interested party. The law (Government Code Section 84308) also requires any applicant or other participant in a LAFCO proceeding to disclose the contribution amount and name of the recipient Commissioner on the official record of the proceeding. Contact LAFCO Staff LAFCO staff may be contacted at (530) 233-9625 or by email at [lafco@modoc.lafco.ca.gov](mailto:lafco@modoc.lafco.ca.gov) Copies of reports to the extent feasible are located on the LAFCO webpage at: [www.modoclafco.org](http://www.modoclafco.org)

## Modoc Local Agency Formation Commission

### Meeting Minutes of August 9, 2016

#### 1. Call to Order/Pledge of Allegiance

Chair Rhoads called the meeting to order at 4:05 p.m., in the City Council Chambers, Alturas City Hall. Commissioners Jim Irvin, Jerry Shea, John Dederick, Kathie Rhoads, were present. Public Member Alternate is vacant. Commissioner David Allan arrived at 4:09 p.m.

Staff Present: John Benoit, Executive Officer, and Kim Hunter, Clerk.

Pledge of Allegiance.

#### 2. Approval of Agenda

Commissioner Shea made the motion to approve the agenda; seconded by Commissioner Dederick. In favor: In favor: Irvin, Dederick, Rhoads and Shea.

#### 3 Correspondence

No correspondence.

#### 4. Election of Chair and Vice-Chair for FY 2016-2017

- a. *Election of the LAFCo Chair for FY 2016-2017*
- b. *Election of the LAFCo Vice-Chair for FY 2016-2017*

Commissioner Dederick nominated to keep the current Chair, Commissioner Rhoads, in place at the Chair for FY 2016-2017; seconded by Commissioner Shea. In favor: Dederick, Irvin, Rhoads and Shea.

Chair Rhoads nominated Commissioner Dederick for the position of Vice-Chair for FY 2016-2017; seconded by Commissioner Irvin. In favor: Dederick, Irvin, Rhoads and Shea.

#### 5. Selection of Public Member Alternate

- a. *The City and county members of the Commission will select a public member alternate to serve an unexpired term ending on May 5<sup>th</sup>, 2018.*

Chair Rhoads reported to the Commission that three letters of interest had been received for this position. Those letters of interest were from: Marie Neer, Jeff Bullock, and Dick Read. However, Marie Neer had withdrawn her letter.

Commissioner Dederick made the motion to nominate Dick Read as the Public Member Alternate; Commissioner Irvin seconded the motion. In favor: Dederick, Irvin, and Rhoads. Shea (was not allowed to vote on this matter).

#### 6. Consider Minutes for June 14, 2016

- a. *Approve minutes from the June 14<sup>th</sup>, 2016 LAFCo Meeting*

Commissioner Dederick made a motion to approve the meeting minutes from the June 14, 2016

meeting as presented; seconded by Commissioner Shea. In favor: Dederick, Irvin, Rhoads and Shea.

**7. Public Comment**

No public comment.

**8. Ratify Claims for June 2016 and Authorize Payment of Claims for July 2016**

*a. Approve payment of expenses for June 2016 and July 2016.*

Commissioner Shea made the motion to approve payment of expenses for June 2016 and July 2016; seconded by Commissioner Dederick. In favor: Dederick, Irvin, Rhoads and Shea.

*Note: Commissioner Allan arrived at 4:09 p.m.*

**9. Workshop regarding the Newell County Water District (NCWD)**

*a. Conduct workshop and Schedule Hearing Date to adopt the Municipal Service Review (MSR) and Sphere of Influence (SOI) Update.*

Executive Officer Benoit provided a staff report.

NCWD Board Member John Sanders was present. He explained that he was attending the meeting because he had reviewed the draft MSR/SOI document and was very concerned because the document incorrectly stated information regarding the District's efforts to obtain grant funding. Mr. Sanders gave an overview on the general state of the District and its infrastructure. He explained that the infrastructure of Newell was what was built in 1942 for the World War II Japanese Internment Camp. The water and sewer systems are very old and have ongoing problems. Waterlines were replaced in 2008 and 2009. Now the NCWD is pursuing funding for a sewer system replacement and is expecting to have the final engineering plans by next month. The grant funding being pursued is a combination of state and federal funds.

There have been ongoing issues with the groundwater availability and quality. The NCWD had two wells go dry last year that impacted water delivery. The municipal wells are shallow compared to surrounding agricultural wells, which draw down areas of the groundwater aquifer.

Mr. Sanders explained that he has only been on the NCWD Board for about 5 months. Currently the NCWD is trying to get a handle on things after changes have occurred with on the board, which is why they had not previously responded.

Executive Officer Benoit stated that the finding of the draft MSR/SOI Update will be able to be changed with cooperation of the NCWD. The information and findings contained in the MSR/SOI document can aid with obtaining funding with cooperation from the NCWD. However, information on the District must be provided so it can be included into the MSR/SOI Document. The Public Hearing for approval of the NCWD MSR/SOI was scheduled for the next meeting in October.

**10. Conduct general discussion regarding the status of Healthcare Services in Modoc County and provide direction to staff (continued from April 12<sup>th</sup> and June 14<sup>th</sup>, 2016)**

Executive Officer Benoit explained that this item had been requested by Commissioner Allan for discussion on the complex healthcare issues in rural areas. In Modoc County, the viability of healthcare services for the community is threatened as the three healthcare districts face increased operation costs and other challenges. There was no further discussion.

**11. Bylaw Amendment – Legislative Process Participation.**

- a. *Review and Discuss Bylaw Amendment regarding addition of Section 5.11 to the LAFCo Bylaws to include a Legislative Participation Process policy.*
- b. *Consider Resolution 2016-0005 adopting a Legislative Participation policy.*

*Commissioner Irvin noted that a correction needed to be made with the removal of #2.*

Commissioner Shea made the motion to approve Resolution 2016-0005 with corrections; Irvin seconded the motion. In favor: Allan, Dederick, Irvin, Rhoads and Shea

**12. Authorize Commissioners and Staff to attend the Calafco Annual Conference in Santa Barbara October 26-28, 2016.**

- a. *Authorize Staff and Commissioners to attend the Calafco Annual Conference in October.*

Executive Officer Benoit provided a brief review the benefits of attending the annual conference in Santa Barbara. He asked if any commissioners were interested in attending. No commissioners were interested in attending this year.

Commissioner Dederick made a motion to authorize Executive Officer Benoit to attend the Calafco Annual Conference; Commissioner Allan seconded the motion. In favor: Allan, Dederick, Irvin, Rhoads and Shea.

**13. Calafco Achievement Award Nominations.**

- a. *Review Calafco memorandum regarding nominations for a Calafco Achievement Award and propose a nomination, if desired.*

Executive Officer Benoit provided a brief overview on the achievement award nomination process. No nominations were made by the Commission.

**14. Calafco 2016-2017 Nominations for the Calafco Board of Directors.**

- a. *Review Calafco memorandum and nominate a City member or a Public Member to the Calafco Board of Directors, if desired.*

Executive Officer Benoit provided a provided a brief overview of the nomination process for the Board of Directors. No nominations were made by the Commissioners.

**15. Correspondence**

None – this was a repeat of item #3 on the agenda.

**16. Executive Officer's Monthly Report**

Executive Officer Benoit reported that he is working with the County's Deputy Clerk to the Board, Tiffany Martinez, to organize an ethics training. The anticipated time is around the first week in November. More detailed information will be provided at the October LAFCo meeting.

**17. Commissioner Reports – Discussion**

Commissioners Dederick and Irvin stated that they would be unable to attend the October meeting as scheduled for October 11<sup>th</sup>. Discussion took place regarding other potential dates. As a result, the October LAFCo meeting was changed to Tuesday, October 4<sup>th</sup>, 2016.

**18. Adjourn to next regular meeting – October 4, 2016.**

There being no further business to come before this Commission; Commissioner Shea made the motion to adjourn the meeting; seconded by Commissioner Dederick. In favor: Byrne, Dederick, Rhoads and Shea.

With no further business the meeting adjourned at 4:42 p.m.

# Modoc Local Agency Formation Commission

## CLAIMS

for

August and September 2016

Authorize the following Claims for FY 2016-2017

Sept 1, 2016	Staff Services August 2016	\$ 4,091.86
Oct 1, 2016	Staff Svcs September 2016	\$ 3,074.26
Sept 3, 2016	Public Notice Newell WD MSR-SOI	\$ 66.00
Aug 9, 2016	Commission Stipend Aug 9, 2016	\$ 600.00

TOTAL: \$ 7,832.12

DATED: October 4, 2016

APPROVED: October 4, 2016

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Kathie Rhoads, Chair or John Dederick, Vice-Chair  
Modoc Local Agency Formation Commission

Attest:

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John Benoit  
Executive Officer

C/O John Benoit, Executive Officer - P.O. Box 2694, Granite Bay, CA. 95746 530.233.9625  
ph. 916.797.7631 fax.

Medoc LAFCO  
Expenditures and Revenue  
FY 2016-2017

Item	Account Number	Insurance	Memberships	copies	postage	Communications	Office Exp.	Counsel	staff Svcs	Clerk Costs	Notices and Public
		4140	4220	4221	4221	4221	4210	4008	4004	4006	4380
Total Budgeted 2015-2016		\$ 1,000.00	\$ 840.00	\$ 1,500.00	\$ 500.00	\$ 1,000.00	\$ 400.00	\$ 3,200.00	\$ 36,000.00	\$ 900.00	\$ 600.00
Callaco Dues July 2016			\$ (840.00)								
Medoc Record Public				\$ (71.97)		\$ (67.98)	\$ (10.00)		\$ (2,082.50)		
Staff Svcs July 2016											\$ (93.00)
State S. Record Aug 2016				\$ (49.83)	\$ (21.27)	\$ (65.76)			\$ (1,835.00)	\$ (120.00)	
Comm S. Record Aug 9, 2016											
Staff Svcs September 2016				\$ (15.00)		\$ (64.76)	\$ (19.50)		\$ (1,000.00)		
Medoc Record Newell CWD MSR Sol											\$ (66.00)

Total Expenditures to date		\$ -	\$ (840.00)	\$ (136.80)	\$ (21.27)	\$ (198.50)	\$ (28.50)	\$ 3,200.00	\$ (4,917.50)	\$ (120.00)	\$ (150.00)
Total Budget Remaining		\$ -	\$ -	\$ 1,363.20	\$ 478.73	\$ 801.50	\$ 370.50	\$ 3,200.00	\$ 31,082.50	\$ 780.00	\$ 441.00

Audited	July 1, 2016 City Fund Carryover	29,905.15
16-17 Actual City/Co Contributions		
FY 2014-2015 City Anticipated Funds Transf		\$40,714.00
2016-2017 County-City Funds anticipated		
Funds received		
REVENUE FOR PROJECTS		
Interest		
Anticipated Funds received		
Less Expenditures		\$ (13,675.07)
<b>Actual Cash Balance</b>		<b>\$ 56,944.08</b>

Trans & Travel	MSR/SOI Updates	Commissioner Stipends	Commissioner	TOTAL
\$ 2,000.00	\$ 21,500.00	\$ 4,800.00	\$ 74,240.00	
			(840.00)	
	(2,677.50)		(4,909.95)	
			(93.00)	
	(2,000.00)		(4,091.86)	
		(600.00)	(600.00)	
	(1,975.00)		(3,024.26)	
			(66.00)	

\$ 2,000.00	\$ (6,652.50)	\$ (600.00)	\$ (13,675.07)
\$ 2,000.00	\$ 14,847.50	\$ 4,200.00	\$ 60,564.93

Modoc LAFCo  
October 4, 2016

Memorandum

**TO:** LAFCo Commission  
**FROM:** John Benoit, Executive Officer  
**RE:** Newell County Water District Errata and Recommendation

**In August you received a copy of the MSR-SOI for the Newell County Water District. PLEASE BRING THIS COPY WITH YOU TO THE OCTOBER 4<sup>th</sup> MEETING for the appendices.**

**Attachments:**

1. Revised Service Review and Sphere of Influence Report
2. Notice of Exemption
3. Resolution 2016-0006 a resolution making service review determinations
4. Resolution 2016-0007, a resolution making Sphere of Influence Determinations

**Errata:**

There were numerous changes to the document. I have re-printed the document due to several changes. I have not re-printed the attachments since there was no changes.

**Recommendation:**

Staff recommends the Commission adopt he following:

- a. *Consider Resolution 2016-0006 adopting a Service Review for the Newell County Water District.*
- b. *Consider Resolution 2016-0007 updating a Sphere of Influence for the Newell County Water District.*

**NOTICE OF EXEMPTION**

**TO:** County Clerk  
County of Modoc  
Alturas, CA

**FROM;** Modoc LAFCO  
P.O. Box 2694  
Granite Bay, CA 95746

**PROJECT TITLE:** Newell County Water DISTRICT Sphere of Influence

**PROJECT LOCATION:** Newell Area of Modoc County

**DESCRIPTION OF PROJECT:**

The proposed project involves adopting a coterminous Sphere of Influence for the Newell County Water District

**NAME OF PUBLIC AGENCY APPROVING PROJECT:**

Modoc Local Agency Formation Commission

**NAME OF PERSON OR AGENCY CARRYING OUT THE PROJECT:**

Modoc Local Agency Formation Commission

**EXEMPT STATUS:**

Class 19 Categorical Exemption, The proposal would not result in the development or use of structures or land that would not be considered exempt (CEQA Guidelines Section 15319) and this proposal is also covered by the General Rule Exemption (15061 b (3)).

**REASONS WHY PROJECT IS EXEMPT:**

The proposal would not result in any change in services since wastewater and domestic water services will not induce growth in an agricultural area and whereby this activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment and therefore this Sphere update is exempt from CEQA.

**CONTACT PERSON:**  
John Benoit  
LAFCO Executive Officer

**TELEPHONE NUMBER:**  
(530) 233-9625

**By:** \_\_\_\_\_

**Date:** October 4, 2016

**Resolution 2016-0006 of the**

**Modoc Local Agency Formation Commission**

*Approving a Municipal Service Review of Water and Wastewater Services Provided by  
the Newell County Water District  
and Adopting Written Determinations Thereon*

WHEREAS, California Government Code Section 56425 requires that a Local Agency Formation Commission ("LAFCO") adopt and periodically review Sphere of Influence Plans for all agencies in its jurisdiction; and,

WHEREAS, California Government Code Section 56430 requires that a LAFCO conduct a review of the municipal services provided by and within an agency prior to updating or adopting its Sphere of Influence Plan; and,

WHEREAS, the Sphere of Influence Plan is the primary planning tool for LAFCO and defines the probable physical boundaries and service area of a local agency as determined by LAFCO; and,

WHEREAS, on October 23, 2007, the Commission adopted its Policies, Standards and Procedures including policies related to Municipal Service Reviews (MSRs) and Spheres of Influence and updated these policies on April 14, 2009 and December 10, 2013; and

WHEREAS, at the time and in the manner provided by law, the Executive Officer gave notice of the date, time, and place of a public hearing by the Commission for domestic water and wastewater services provided the Newell County Water District, including approval of the report and adoption of the written determinations contained therein; and,

WHEREAS, the Commission hereby determines that the hearing draft of the Municipal Service Review for domestic water and wastewater services provided by the Newell County Water District and written determinations contained therein will provide information for updating the Sphere of Influence for the Newell County Water District within Modoc County, and is otherwise consistent with the purposes and responsibility of the Commission for planning the logical and orderly development and coordination of local governmental agencies so as to advantageously provide for the present and future needs of the county and its communities; and,

WHEREAS, in making this determination, the Commission has considered the documentation on file in this matter; and,

WHEREAS, the Commission has heard all interested parties desiring to be heard and has considered the proposal and report by the Executive Officer and all other relevant evidence and information presented at said hearing;

NOW, THEREFORE, the Modoc Local Agency Formation Commission hereby resolves, orders and determines the following:

- 1) The Municipal Service Review for Domestic Water and Wastewater Services provided by the Newell County Water District, attached hereto as Exhibit A, is approved and the written determinations presented in the Municipal Service Review report are hereby adopted.

- 2) LAFCO staff is further ordered to proceed as appropriate with update to the Sphere of Influence Domestic Water and Wastewater services provided by the Newell County Water District.
- 3) LAFCO staff is further ordered to forward copies of this resolution containing the adopted Municipal Service Review to the Newell County Water District.

The foregoing resolution was duly passed by the Modoc Local Agency Formation Commission at a regular meeting held on October 4, 2016 by the following roll call vote:

Ayes:

Noes:

Absentions:

Absent:

Signed and approved by me after its passage this fourth day of October, 2016.

\_\_\_\_\_  
Kathie Rhoads, Chair or John Dederick, Vice Chair  
Modoc LAFCO

Attest:

\_\_\_\_\_  
John Benoit, Executive Officer  
Modoc LAFCO

**Resolution No. 2016-0007**

**MODOC LOCAL AGENCY FORMATION COMMISSION**

*A Resolution Making Determinations and Approving A Sphere of Influence Update for the Newell County Water District*

**WHEREAS**, Government Code Section 56425 requires each Local Agency Formation Commission to adopt and periodically review and update a sphere of influence for each local governmental agency within its jurisdiction; and

**WHEREAS**, the Modoc Local Agency Formation Commission, in compliance with the aforementioned requirement, is providing a “plan for the probable physical boundaries and service area” for the Newell County Water District; and

**WHEREAS**, the Commission has set the hearing date of October 4, 2016 for the update of the sphere of influence for the Newell County Water District and has noticed this hearing at the times and as otherwise prescribed by Government Code Section 56150, *et seq.*; and

**WHEREAS**, the Commission has heard and adopted a Municipal Services Review of domestic water and wastewater services provided by the Newell County Water District in accordance with Gov. Code section 56430; and

**WHEREAS**, the Commission has reviewed and considered the proposed Sphere of Influence update report including the proposed Sphere of Influence Update Maps which are attached hereto and incorporated herein; and

**WHEREAS**, Modoc LAFCO prepared and a notice of exemption for such action since there is no change in the proposed boundaries; and

**WHEREAS**, the Commission has considered those factors determined by it to be relevant to the proposed sphere of influence update, including, but not limited to, those factors specified in Government Code Section 56425, *et seq.*, and has heard from interested parties and considered requests for amendment and/or revision of the proposed updated sphere boundary, if any;

**NOW, THEREFORE, BE IT RESOLVED** that the Modoc Local Agency Formation Commission does hereby find and determine as follows:

1. That the proposed sphere of influence update with respect to the Newell County Water District complies with the provisions of Government Code Section 56000, *et seq.*
2. That no significant protests have been received regarding the establishment of this Sphere of Influence update.
3. That, pursuant to Government Code Section 56425, the Commission makes and adopts those determinations set forth in the Sphere of Influence Study are attached hereto and incorporated herein as set forth in Attachment A.
4. That pursuant to the California Environmental Quality Act, the Commission adopts a Notice of Exemption (Attachment B) under Class 20 since the proposed project involves a sphere of influence update where the services provided by the Newell County Water District will not

change as a result of this update.

5. That the Sphere of Influence Update Report, Executive Officer's Report, and Map for the Newell County Water District updated Sphere of Influence is hereby adopted and approved as set forth in Attachment "A".

**PASSED AND ADOPTED** at a regular meeting of the Modoc Local Agency Formation Commission, State of California, on the fourth day of October 2016, by the following vote:

**AYES:**

**NOES:**

**ABSENT/ABSTAIN:**

\_\_\_\_\_  
Kathie Rhoads, Chair or John Dederick, Vice-  
Chair, Modoc Local Agency Formation  
Commission

\_\_\_\_\_  
Attest:

John Benoit, Executive Officer Modoc LAFCO

# Modoc Local Agency Formation Commission

## Memorandum

October 4, 2016

TO: LAFCo Commissioners

FROM: John Benoit, Executive Officer

SUBJECT: Conflict of Interest Code.

Attachments: Modoc LAFCO's Conflict of Interest Code  
2016 Local Agency Biennial Notice

Government code section 87300 et. seq. (the Political Reform Act) requires each local government agency to keep a conflict of interest code and update it to reflect changes that occur in the organization of an entity. The Local Agency Formation Commission (as well as other local agencies) is required to review and amend its Conflict of Interest code on even-numbered years. A biennial notice is normally sent out by the County Clerk or other official designated by the Board of Supervisors during the summer of even numbered years to each agency required to review its Conflict of Interest Code. After review or approval of the Conflict of Interest Code LAFCO is required to submit any proposed changes to the Board of Supervisors acting as the code reviewing body.

Government code section 87311 requires review of a conflict of interest code to be carried out under procedures which guarantee to officers, employees, members and consultants of the agency and to residents of the County adequate notice and a fair opportunity to present their views. A notice of Public Hearing was initially published prior to LAFCO adopting its conflict of interest code on December 12, 2006. Prior to 2006 LAFCO's last Conflict of Interest code was adopted in 1995. The Modoc Co. Board of Supervisor's, acting as the Code Reviewing Body, approved LAFCO's conflict of interest code on January 16, 2007 and adopted Resolution 2007-02.

### Recommendation:

Authorize the Chair to sign and transmit the 2016 Local Agency Biennial Notice to the County Clerk (or person designated by the Board of Supervisors) declaring LAFCO has reviewed its Conflict of Interest code and no amendment is required at this time.

John Benoit, Executive Officer      lafco@modoc.lafco.ca.gov  
P.O. Box 2694 Granite Bay, CA 95746  
(530) 233-9625 ph. (916) 797-7631 fax.

## 2016 Local Agency Biennial Notice

Name of Agency: Modoc LAFCo

Mailing Address: P.O. B. 2694 Granite Bay, CA 95746

Contact Person: John Benoit Phone No. 530.233.9625

Email: lafco@modoc.lafco.ca.gov Alternate Email: \_\_\_\_\_

**Accurate disclosure is essential to monitor whether officials have conflicts of interest and to help ensure public trust in government. The biennial review examines current programs to ensure that the agency's code includes disclosure by those agency officials who make or participate in making governmental decisions.**

This agency has reviewed its conflict of interest code and has determined that *(check one BOX)*:

**An amendment is required. The following amendments are necessary:**

*(Check all that apply.)*

- Include new positions
- Revise disclosure categories
- Revise the titles of existing positions
- Delete titles of positions that have been abolished and/or positions that no longer make or participate in making governmental decisions
- Other *(describe)* \_\_\_\_\_

**The code is currently under review by the code reviewing body.**

**No amendment is required.** (If your code is over five years old, amendments may be necessary.)

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**Verification (to be completed if no amendment is required)**

*This agency's code accurately designates all positions that make or participate in the making of governmental decisions. The disclosure assigned to those positions accurately requires that all investments, business positions, interests in real property, and sources of income that may foreseeably be affected materially by the decisions made by those holding designated positions are reported. The code includes all other provisions required by Government Code Section 87302.*

\_\_\_\_\_  
*Signature of Chief Executive Officer*

10.4.16

\_\_\_\_\_  
*Date*

All agencies must complete and return this notice regardless of how recently your code was approved or amended. Please return this notice no later than **October 3, 2016**, or by the date specified by your agency, if earlier, to:

*(PLACE RETURN ADDRESS OF CODE REVIEWING BODY HERE)*

**PLEASE DO NOT RETURN THIS FORM TO THE FPPC.**

**RESOLUTION OF THE BOARD OF SUPERVISORS  
OF THE COUNTY OF MODOC  
RESOLUTION NUMBER 07-02**

A RESOLUTION OF THE MODOC COUNTY BOARD OF SUPERVISORS TO ADOPT A LOCAL AGENCY FORMATION COMMISSION CONFLICT OF INTEREST CODE AND APPENDIX AS REQUIRED IN ACCORDANCE WITH GOVERNMENT CODE SECTION 81000.

**WHEREAS**, the Fair Political Practices Act, Government Code section 81000, *et seq.*, requires all local agencies to adopt a conflict of interest code and an appendix to the conflict of interest code;

**WHEREAS**, the Fair Political Practices Commission has promulgated a standard conflict of interest code at Title 2, California Administrative Code §18730 that may be adopted by reference as a local agency's conflict of interest code and is referred to as the "standard conflict of interest code"; and

**WHEREAS**, the Board of Supervisors serves as the conflict of interest code reviewing body for the County of MODOC; and

**WHEREAS**, Government Code §87303 requires the Board of Supervisors to approve, revise and approve, or return for revision and resubmission each conflict of interest code adopted by a local agency; and

**WHEREAS**, the Local Agency Formation Commission of Modoc County adopted a standard conflict of interest code and appendix designating Commission Members to disclose at Categories 1,2,3,4,5, and 6; the Executive Officer to disclose at Categories 1,2,3,4,5, and 6; and Consultants at Categories 1,2,3,4,5, and 6 thereto, a copy of which is attached as Exhibit A;

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Supervisors adopts the standard Conflict of Interest Code and Appendix thereto adopted by the Local Agency Formation Commission of Modoc County Resolution 2006-0004.

PASSED AND ADOPTED by the Board of Supervisors of the County of Modoc, State of California, on the sixteenth day of January, 2007, by the following vote:

AYES: Supervisors Macsay, Dunn, Cantrall, Bradshaw

NOES: None

ABSENT: None

ABSTAINED: None

BOARD OF SUPERVISORS OF THE COUNTY OF MODOC



*Mike Dunn*

By: \_\_\_\_\_  
Mike Dunn, Chairman, Board of Supervisors

ATTEST:

*Melina Madison*

County Clerk and Ex-Officio Clerk of the  
Board of Supervisors

LOCAL AGENCY FORMATION COMMISSION  
COUNTY OF MODOC, STATE OF CALIFORNIA

December 12, 2006

RESOLUTION  
NO.2006-0004

A RESOLUTION ADOPTING A CONFLICT OF INTEREST  
CODE

WHEREAS, the Political Reform Act, Government Code section 81000, *et seq.* requires state and local government agencies to adopt conflict of interest codes; and

WHEREAS, the Fair Political Practices Commission has adopted a regulation, Title 2, California Administrative Code, Section 18730, which contains the terms of a standard conflict of interest code; and

WHEREAS, the LOCAL AGENCY FORMATION COMMISSION (LAFCO) can adopt the standard conflict of interest code as LAFCO's Conflict of Interest Code by reference, subject to approval by the Board of Supervisors of the County of Modoc;

NOW, THEREFORE, BE IT RESOLVED the COMMISSION of the LOCAL AGENCY FORMATION COMMISSION of Modoc County hereby adopts the Fair Political Practices Commission's standard Conflict of Interest Code as described in the attached regulations contained in Title 2, California Administrative Code, Section 18730, and the attached appendix in which employees are designated and disclosure categories are set forth, subject to approval by the Board of Supervisors of the County of Modoc.

BE IT FURTHER RESOLVED, that the Conflict of Interest Code and attached appendix shall be submitted to the Board of Supervisors of the County of Modoc for approval and that upon approval, the Conflict of Interest Code and attached appendix shall be deemed adopted and shall be promulgated by the LOCAL AGENCY FORMATION COMMISSION of Modoc County.

BE IT FURTHER RESOLVED that the standard code adopted hereby and subject to approval by the Board of Supervisors of the County of Modoc constitutes the Conflict of Interest Code of the LOCAL AGENCY FORMATION COMMISSION of Modoc County, and pursuant to Section 4(a) of the standard code, designated employees shall file original statements of economic interests with the Modoc County Clerk.

BE IT FURTHER RESOLVED that prior conflict of interest codes previously adopted by the LOCAL AGENCY FORMATION COMMISSION of Modoc County are hereby repealed and replaced by the standard code.

ON A MOTION by Commissioner Dunn, seconded by Commissioner MacSAY, the foregoing Resolution was duly passed and adopted by the Commissioners of the LOCAL AGENCY FORMATION COMMISSION of the County of Modoc, State of California, this 12th day of December, 2006, by the following vote:

AYES: 4 GATELY, Dunn, MacSAY and Neer

NOES: 0

ABSENT: 1 Andreassen

ABSTAINED: 0

Marie Neer  
Marie Neer, Chair, LOCAL AGENCY FORMATION COMMISSION  
of Modoc County

APPROVED AS TO FORM:

\_\_\_\_\_  
John Kenny, Counsel  
LOCAL AGENCY FORMATION COMMISSION  
Of Modoc County

**LAFCO of Modoc County  
Conflict of Interest Code**

Designated Employees	Disclosure Categories
<u>Members of the LAFCO Commission</u>	1, 2, 3, 4, 5, 6
<u>Executive Officer</u>	1, 2, 3, 4, 5, 6
Consultants*	1, 2, 3, 4, 5, 6

\*Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the Code subjected to the following limitation:

The Executive Officer may determine in writing that a particular consultant, although a "designated position", is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in this section. Such written determination shall include a description of the consultant's duties and based upon that description, a statement of the extent of disclosure requirements. The Executive Officer's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

**Category 1**

Persons in this category shall disclose all interests in real property within the jurisdiction. Real property shall be deemed to be within the jurisdiction if the property or any part of it is located within or not more than two miles outside the boundaries of the jurisdiction or within two miles of any land owned or used by the local government agency.

Persons shall not be required to disclose property used primarily as their residence or for personal recreational purposes.

**Category 2**

Persons in this category shall disclose all investments.

"Investment" means any financial interest in or security issued by a business entity, including but not limited to common stock, preferred stock, rights, warrants, options, debt instruments and any partnership or other ownership interest owned directly, indirectly or beneficially by the public official, or other filer, or his or her immediate family, if the business entity or any parent, subsidiary or otherwise related business entity has an interest in real property in the jurisdiction, or does business or plans to do business in the jurisdiction, or has done business within the jurisdiction at any time during the two years prior to the time any statement or other action is required under this title. No asset shall

be deemed an investment unless its fair market value equals or exceeds two thousand dollars (\$2,000). The term "investment" does not include a time or demand deposit in a financial institution, shares in a credit union, any insurance policy, interest in a diversified mutual fund registered with the Securities and Exchange Commission under the Investment Company Act of 1940 or a common trust fund which is created pursuant to Section 1564 of the Financial Code, or any bond or other debt instrument issued by any government or government agency. Investments of an individual includes a pro rata share of investments of any business entity, mutual fund, or trust in which the individual or immediate family owns, directly, indirectly or beneficially, a 10-percent interest or greater. The term "parent, subsidiary or otherwise related business entity" shall be specifically defined by regulations of the commission. (Government Code Section 82034).

### **Category 3**

Persons in this category shall disclose all income received from any source located or doing business within the jurisdiction or expecting to do business within the jurisdiction. Income received from a public agency need not be disclosed.

### **Category 4**

Persons in this category shall disclose all income from and investments in businesses that provide or sell services or supplies of the type associated with job assignment and utilized by the department.

### **Category 5**

Persons in this category shall disclose all business positions held in business entities which are located or doing or expecting to do business within the jurisdiction and which business entities may foreseeably be affected materially by any decision made or participated in by the person by virtue of his or her position. "Business entity" as used herein includes both for-profit and non-profit entities.

### **Category 6**

Persons in this category shall disclose all items (including real property) valued over \$360.00 received as a gift, purchased from, or sold to any person applying for or receiving any services from the Department;

The above Categories 1 through 6 shall comply with the Form 700 disclosure filing requirements.

## 2016 ETHICS TRAINING

### MODOC LAFCO

#### **Ethics Training (AB 1234) designed for Special District and Local Government Boards and Staff within Modoc County**

**WHEN:** Thursday, **November 3rd , 2016:** 3:00 PM until 5:00 PM

**WHERE:** **Veterans Hall at 500 S. Main Street, Alturas CA**

**COST:** This training is sponsored by Best Best and Krieger, LLP and Modoc LAFCO with the Modoc County Clerk to the Board of Supervisors, Stephanie Wellemeyer at no cost to local agencies.

It is the goal of the Modoc Local Agency Formation Commission (LAFCO) to sponsor training for special districts and agencies within Modoc County.

The session will cover the Brown Act, the Public Records Act, conflicts of interest, and general ethics principles, and will satisfy your AB 1234 training requirements for this year. Josh Nelson of Best Best and Kreiger will be providing the training.

If you are interested in attending, please RSVP to Tiffany Martinez, Clerk to the Modoc Board of Supervisors by email at [tiffanymartinez@co.modoc.ca.us](mailto:tiffanymartinez@co.modoc.ca.us) at (530) 233-6201. We will look forward to seeing you.

Please see the attached Memo from Josh Nelson of Best Best and Krieger, LLP for more information.

**BEST BEST & KRIEGER**

ATTORNEYS AT LAW

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**TO:**          MODOC COUNTY PUBLIC AGENCIES AND OFFICIALS  
**FROM:**      BEST BEST & KRIEGER LLP  
**RE:**          AB 1234 MANDATORY ETHICS TRAINING REQUIREMENTS

Local elected officials and some public agency employees in California are required to receive at least two hours of training, every two years, in general ethics principles and ethics laws relevant to their public service. (This is sometimes known as AB 1234 training.) For most affected officials and employees, 2016 is a year in which this training is required.

Although this training can be completed online, we have found that receiving the training from a live presenter is helpful, because it allows officials and employees to ask questions and hear the questions and experiences shared by other people. Because we recognize the financial strains currently affecting many public agencies, we would like to invite the officials and employees from every public agency in Modoc County to attend a completely free ethics training session, to be conducted on Thursday, November 3rd, 2016. The training session will be conducted at the Veterans Hall 500 S. Main St, Alturas, CA from 3:00 PM until 5:00 PM. The session will cover the Brown Act, the Public Records Act, conflicts of interest, and general ethics principles, and will satisfy your training requirements for this year. Along with the training, we will also provide certificates of participation, all free of charge.

Our firm acts as city attorneys for more than 30 cities in California, general counsel or special counsel for more than 40 special districts, and we have conducted dozens of ethics training sessions, so we should be able to answer most questions you have during the training session.

This training is being offered jointly by Modoc LAFCo, and by our firm. If you are interested in attending, please contact Stephanie Wellemeyer at (530) 233-6201 or email her at [stephaniewellemeyer@co.modoc.ca.us](mailto:stephaniewellemeyer@co.modoc.ca.us) to RSVP. You may also contact me at (916) 325-4000 with any questions, and we will look forward to seeing you.

Josh Nelson  
for BEST BEST & KRIEGER LLP  
Public Policy & Ethics Group