

# **Solano LAFCo**

## **Out-Of-Agency Service Contracts**

### **I. Out of Agency Extensions of Service**

Effective January 1, 2001, a city or district may provide new or extended services by contract or agreement outside its boundaries only if it first requests and receives written approval from LAFCo (Government Code Section 56133) or is exempted from the requirement in accordance with the following policies:

#### **A. Definitions**

##### **1. Out of Agency Extension of Service:**

An Out of Agency Extension of Service occurs when an agency agrees to extend service to property previously unserved outside the agency boundaries. For the purposes of this definition, property located in LAFCo's approved "Existing Extended Service Area" shall be deemed already subject to an agreement for service that was established prior to the adoption of Section 56133, and shall not require individual contract approval.

##### **2. Existing Extended Service Area:**

An area to which an agency has extended service, prior to 1993, as detailed in LAFCo map "Existing Extended Service Areas of Solano County". Parcels which are adjacent to existing distribution and/or collection lines but have yet to connect to that service are included in the Existing Extended Service Area. The Commission recognizes that some of these parcels may be eligible for subdivision. Owners of these parcels are not required to seek additional LAFCo approval for water and/or sewer connections as the maps display. This exemption does not guarantee County approval of subdivision requests or approval for service connections from previous service providers in the area.

##### **3. Connection:**

Connection shall mean any extension of service to a parcel outside of the jurisdictional boundaries of a City or Special District and outside of the Existing Extended Service Area.

##### **4. The Level Of Service Contemplated By The Existing Service Provider:**

"The level of service contemplated by the existing service provider" shall mean 1) the existing service level at the time of the contract or 2) a level of service specified in a service element, master plan or other plan previously adopted by the legislative body of the agency to be established within a definite timeframe.

## **B. Conditions of Approval and Exceptions:**

**1. Territory Within an Agency's Sphere of Influence:** LAFCO may approve a request for extension of out-of-agency services with the Agency's sphere subject to the following requirements:

- a. The extension is in anticipation of a later change of organization. The Commission may condition the approval to require the completion of the annexation of the affected territory within a specified time period. If annexation appears unlikely in a reasonable timeframe, (usually less than five years) the condition may be waived.
- b. LAFCo shall review such applications under the same criteria and policies that it applies to annexation requests.
- c. Generally, such of out of agency contracts will not be approved if annexation is feasible. Such agreements shall be approved only if annexation is infeasible, and such extension does not interfere with the orderly growth and development of the community or promote the premature conversion of open space or agricultural lands.

**2. Territory Outside of an Agency's Sphere of Influence:** The Commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries and outside its sphere of influence only to respond to an existing or impending threat to the health and safety of the public or affected residents. For such exception, the following requirements must be met:

1. Adequate Documentation of a threat to the health and safety of the public or the residents has been provided to the Commission (e.g. a letter confirming the threat from the County Health Officer); and
2. The Commission finds that the property is not within the sphere of any other agency which can feasibly provide the needed service.

**C. Exceptions:** LAFCO authority over out-of agency services does not apply to:

1. Contracts or agreements solely involving two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider. For the purposes of implementation of this exception, Solano LAFCo has adopted the following policies:
  - a) The burden is upon the contracting agencies to prove to the satisfaction of LAFCo that they are entitled to the exception.
  - b) Any contract that would result in the provision of service to a substantially smaller or wider area than currently served or provide additional or less services than currently being provided shall not be eligible for this exception.

2. Contracts for the transfer of nonpotable or nontreated water. These include: treated sewage, water for agricultural use, or untreated water.
3. Contracts or agreements solely involving the provision of surplus water to agricultural lands and facilities, including, but not limited to, incidental residential structures, for projects that serve conservation purposes, or directly support agricultural industries. However, prior to extending surplus water that will support or induce development; the agency must receive written approval from LAFCO. LAFCO authority over out-of-agency services also does not apply to publicly owned electric utilities providing electric services, which do not involve the acquisition, construction, or installation of electric distribution facilities by the local publicly owned electric utility outside of the utility's jurisdictional boundaries.
4. Connections which are within an Existing Extended Service Area

#### **Definitions of Health and Safety Hazards:**

**Sewage-related Health Hazard:** The ineffective treatment and disposal of wastewater resulting in the surfacing of sewage effluent, the degradation of water quality, and/or any condition resulting from the use or operation of a sewage treatment and disposal system which creates the potential for the transmission of disease, illness or environmental pollution, as determined by the Solano County Health Officer or his duly authorized representative.

In applying the above definition, on-site sewage disposal systems which meet any of the criteria listed below, will be considered a threat to health, safety or environment;

- Ponding or accumulation of wastewater or septic tank effluent at or above the surface of the ground.
- Direct or indirect discharge of septic effluent or inadequately treated wastewater to any nearby swale, drainage ditch, stream, creek or other water conveyance.
- The lack of an unsaturated vertical soil separation between the bottom of a disposal field and seasonal high groundwater.
- Slow, sluggish or inadequate drainage in waste plumbing caused by failure of the disposal field or septic tank to accept, treat and dispose of wastewater in quantities discharged by the structure served.
- Other conditions associated with operation or use of an existing, on-site sewage system which could permit the exposure, either directly or indirectly, of individuals or domestic animals to inadequately treated wastewater.

**Potable Water-related Health Hazard:**

A water supply that poses a threat to public health is:

A water source used for domestic purposes may be deemed a threat to human health if it meets one or more of the following criteria as determined by the County Health Officer:

- The water supply is impacted by biological, chemical or radiological constituents that cannot be adequately or reasonably be treated or removed to levels deemed safe for human consumption or contact.
- The water supply is consistently of inadequate quantity to meet the domestic needs for which its use is intended, and additional quantities cannot adequately or reasonably be developed.
- Any other condition as determined by the County Health Officer, in which the continued use of an existing water supply could result in negative impacts to human health.

**Application:** Applicants will be required to submit an annexation/detachment application. The proponent will be charged the applicable annexation/detachment fee prior to Solano LAFCO consideration of the out-of-agency service agreement.

All of the requirements associated with processing an annexation/detachment proposal, such as rezoning, maps, environmental reviews, copies of the agreement or contract etc., will apply when processing an out-of-agency service agreement.