INTRODUCTION

Since the establishment of Local Agency Formation Commissions (LAFCOs) in 1963, various acts of the state Legislature have defined, amended, and expanded the role of LAFCOs in the State of California. This manual contains the policies and procedures related to the operations of the Local Agency Formation Commission for San Bernardino County (hereafter San Bernardino LAFCO or Commission), its accounting, personnel, environmental, and application processing. LAFCO's governing statutes, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Section 56000 et seq.), requires that each LAFCO adopt written policies and procedures. Since 1979, San Bernardino LAFCO has adopted individual policies and procedures over the years as required by State Law or at the request of the Commission.

In August 2010, the Commission directed its Executive Officer to review, update and if necessary consolidate its Policy and Procedure Manual. The intent of the manual is to provide a single unified, current, and comprehensive resource document to better inform the Commission, its staff, public agencies and the citizens of San Bernardino County on its operations, responsibilities and function. The LAFCO policies and procedures contained within this document do not reiterate or interpret State law. They are intended to supplement State law and reflect the unique circumstances and conditions which exist within San Bernardino County.

For ease of reference, the manual is divided into seven major sections: (1) Mission Statement and Commission Operations; (2) Accounting and Financial Policies and Procedures; (3) Human Resources Personnel Policies and Procedures and LAFCO Benefit Plan; (4) Application/Project Processing Policies and Procedures; (5) Environmental Review Policies and Procedures; (6) Special District Representation Policies and Procedures; and (7) Forms.

Any questions concerning the Commission's adopted policies and procedures can be directed to the Commission's Executive Officer or Assistant Executive Officer as follows:

KATHLEEN ROLLINGS-McDONALD, Executive Officer
SAMUEL MARTINEZ, Assistant Executive Officer
215 North "D" Street, Suite 204
San Bernardino, CA 92415-0490
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MISSION STATEMENT AND COMMISSION OPERATIONS

TITLE:

This Commission shall be known as the Local Agency Formation Commission for San Bernardino County or San Bernardino LAFCO.

MISSION:

On June 30, 2011, the County of San Bernardino Board of Supervisors and the Board of Directors of the San Bernardino Associated Governments (SANBAG), made up of members from each of the 24 Cities in the County and each member of the Board of Supervisors, adopted a Countywide Vision Statement. That statement is:

> *We envision a complete county that capitalizes on the diversity of its people, its geography, and its economy to create a broad range of choices for its residents in how they live, work, and play.*
>
> *We envision a vibrant economy with a skilled workforce that attracts employers who seize the opportunities presented by the county's unique advantages and provide the jobs that create countywide prosperity.*
>
> *We envision a sustainable system of high quality education, community health, public safety, housing, retail, recreation, arts and culture, and infrastructure, in which development complements our natural resources and environment.*
>
> *We envision a model community which is governed in an open and ethical manner, where great ideas are replicated and brought to scale, and all sectors work collaboratively to each shared goals.*
>
> *From our valleys, across our mountains, and into our deserts, we envision a county that is a destination for visitors and a home for anyone seeking a sense of community and the best life has to offer.*

On _____, 2012, the Commission adopted the following mission statement to reflect the unique circumstances and conditions which exist within San Bernardino County and to promote the Countywide Vision:

> "The broad mission of the Local Agency Formation Commission for San Bernardino County is to implement the legislative direction and policies embodied in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 in a manner that provides for an orderly and efficient growth pattern that reconciles the varied needs of San Bernardino County, promotes the Countywide Vision Statement, is in keeping with the provisions of the

> California Environmental Quality Act, and addresses the parameters of the principle acts for Cities and Special Districts.
>
> One of the fundamental principles of the Local Agency Formation Commission is to ensure the establishment of an appropriate, sustainable, and logical municipal level government structure for the distribution of efficient and effective public services. The Local Agency Formation Commission for San Bernardino County will encourage and promote communication among agencies (public and private), property owners and residents of the County to achieve these goals. The Commission's policies shall be carried out in an efficient and courteous manner."

The implementation of this mission statement requires San Bernardino LAFCO to implement the direction of its enabling statute by coordinating logical and timely changes in local government boundaries (§56001); conducting municipal service reviews and special studies to determine the efficiency, effectiveness and sustainability of government structures (§56430 and §56301), and the preparation of spheres of influence for each city and special district within the county (§56425). In working towards these efforts the Commission encourages the protection of agricultural and open space lands and resources as defined by statute. In promoting the Countywide Vision, it is important to understand that Local Agency Formation Commissions are independent commissions that are not a part of county government. Each commissioner is independent when weighing and reviewing information and when making determinations (Attorney General Opinion 98.802).

AUTHORITY:

The statutes governing the activities of a Local Agency Formation Commission are found under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. The declared state policy for LAFCO is found in Section 56301 of the Government Code:

> "Among the purposes of a commission are discouraging urban sprawl, preserving open-space and prime agricultural lands, efficiently providing government services, and encouraging the orderly formation and development of local agencies based upon local conditions and circumstances. One of the objects of the commission is to make studies and to obtain and furnish information which will contribute to the logical and reasonable development of local agencies in each county and to shape the development of local agencies so as to advantageously provide for the present and future needs of each county and its communities."

The Cortese-Knox-Hertzberg Act gives LAFCO the authority to approve or disapprove, with or without amendment, wholly, partially, or conditionally a wide variety of proposals for jurisdictional change. These include, but are not limited to, proposals for:

- Annexation of territory to cities or special districts.
- Exclusion of land from cities or special districts.
- The consolidation of two or more cities, or two or more special districts formed under the same principal act.
- The formation of new special districts and the incorporation of new cities.
- The dissolution of special districts and disincorporation of cities.
- The establishment of a subsidiary district.
- The merger of cities and special districts.
- Reorganizations which involve boundary changes to two or more cities or special districts as part of one proceeding.
- Review and approval or denial of city or special district contracts for service outside their boundaries.

In addition to these regulatory review powers, the Commission has the authority to initiate and make studies of existing governmental agencies, which may include inventorying such agencies. As of July 1, 1994, based upon the findings of its special studies, the Commission has the authority to initiate proposals for consolidation of special districts, the merger of a special district with a city, the dissolution of a special district, the establishment of a subsidiary special district, or a reorganization which includes any of these outlined changes.

The Cortese-Knox-Hertzberg Act also provides the following powers and duties, among others, to LAFCO:

1. To determine whether territory proposed for annexation or detachment, or municipal reorganization is inhabited or uninhabited. ("Inhabited" means an area contains twelve [12] or more registered voters.)

2. With regard to a proposal for consolidation of two or more cities or special districts, to determine which city or district shall be the consolidated, successor agency.

3. To waive the statutory restrictions against creation of islands (unincorporated areas totally or substantially surrounded by city boundaries) if the Commission finds that the application of the restrictions would be detrimental to the orderly development of the

community and that the area would be enclosed as a result of incorporation or annexation and is so located that it cannot reasonably be annexed to another city or incorporated as a new city.

4. To approve the annexation of unincorporated, noncontiguous territory not exceeding 300 acres in area, located in the same county as that in which the city is located, and which is owned by a city and used for municipal purposes; and to authorize the annexation such territory without notice or hearing. In addition, the Commission has the authority to approve the annexation of non-contiguous territory that is used as a state correctional facility, with no acreage limitation.

5. To establish spheres of influence for all cities and special districts within the county, and to review and update, if necessary, those spheres of influence at least once every five years.

6. To conduct "service reviews" on a regional or subregional basis, evaluating infrastructure needs or deficiencies, growth and population projections, financing constraints and opportunities, and other issues. These reviews can occur in conjunction with sphere of influence studies, and must be conducted at least once every five years.

In the approval of boundary change proposals, LAFCOs have strong powers to attach conditions. Government Code Section 56885.5 through Section 56890 provides a broad range of conditions that the Commission may impose in approving an application. Those conditions range from the authority to impose special assessments to the transfer of employees among districts in a consolidation. The reader is referred to the specific Code Sections for the complete conditions authorized by statute.

The following are a few examples of how authorized conditions may be applied:

- LAFCO can require as a condition of approval, that the territory being annexed shall be responsible for payment of existing fees, charges, or assessments currently in place by the annexing agency.

- LAFCO can require as a condition of its approval that another change of organization for a related or overlapping agency be initiated, conducted, and completed. For example, if a proposal is for annexation of territory to a city, LAFCO can require that the territory also be annexed to or detached from special districts.

- LAFCO can require establishment of special assessment or improvement districts to finance capital facilities or improvements needed in affected territory.

- LAFCO can impose conditions related to the distribution of assets, financial contracts or obligations among affected agencies.

- LAFCO may impose conditions related to a local agency's employee salaries, benefits, and other personnel rights.

- LAFCO can impose a condition designating the method for selection of the Board of Directors and the number of Directors for a consolidated district.

- LAFCO can impose a condition that establishes the effective date for a change of organization.

- LAFCO can impose a condition that designates the agency to succeed to the rights, duties and obligations of an agency that is dissolved.

LAFCO is subject to and under the jurisdiction of the California Environmental Quality Act (CEQA), as are most public agencies. This statute requires certain procedures to be followed in terms of environmental review and the opportunity for public participation in the decision-making process.

On June 22, 1990, San Bernardino LAFCO adopted environmental review guidelines and administrative policies and procedures implementing CEQA (a subsequent amendment was adopted on January 18, 1995). The guidelines and policies outline the specific procedures used by the Commission to tailor the general provisions of the State Guidelines to LAFCO's specific functions as both a "Responsible" and a "Lead" agency as those terms are defined in CEQA. Section 5 of this document includes the Commission's adopted guidelines and policies for conducting the environmental assessment of its actions.

ORGANIZATION

1. Composition:

The Commission shall consist of seven regular and four alternate members (§56325 and §56332). By action taken in 1976, the Commission seated representatives from Independent Special Districts on the Commission (see Section 5 of this Manual for Special District Policies). All Commissioners must be residents of San Bernardino County.

2. Selection/Appointment of Members:

A. County: The County Board of Supervisors shall appoint two regular commissioners and one alternate commissioner from the Board's membership to serve on the Commission.

B. City: The City Selection Committee shall elect two regular commissioners and one alternate commissioner to serve on the Commission, each of whom shall be a mayor or city council member from one of the County's incorporated communities (§56325). Such selection shall be made in accordance with the procedures established by the City Selection Committee as described in its rules and regulations.

C. Special Districts: The Special Districts Selection Committee shall select two regular commissioners and one alternate commissioner from the self-governed special districts within the County (§56332). Such appointment shall be made in accordance with the procedures established by the Special Districts Selection Committee as further described in Section 6 of the Manual.

D. Public Member: The public member and one alternate public member are appointed by the other six commissioners (§56325(d)). The San Bernardino LAFCO policy for recruiting public member is as follows:

Upon announcement that a vacancy for the public member or alternate public member will exist, the Executive Officer shall:

1. Publish and post a vacancy notice inviting all interested citizens of San Bernardino County to apply within 30 days. The notice shall be published and posted as follows:

    a. Posted at the LAFCO staff office, on the LAFCO website, at the regular LAFCO hearing chamber and at the Board of

Supervisors hearing chamber;

b. Any other location directed by the Commission;

c. Publish a Notice of Vacancy in newspapers of general circulation in the County and provide mailed Notice of Vacancy to all City Clerks, the Secretary to the Board of Directors of all Independent Special Districts and the Clerk of the Board of Supervisors; and,

d. Issue a press release for the purpose of further advertising the vacancy

2. The Executive Officer shall accept no application after the expiration of the 30 days, and shall forward all applications to the members of the Commission. Only applications received by the Executive Officer may be considered for appointment. A review period of not less than 10 days shall follow the 30-day application period.

3. The Commission may select a personnel committee from among its membership for the purpose of reviewing applications and bringing its recommendations to the full Commission.

4. Pursuant to Government Code Section 56325 the Public and Alternate Public member candidate must receive an affirmative vote from at least one County member, one City member, and one Special District member for appointment to the position. Having met this threshold, the nominee receiving a majority of the votes cast will be appointed to the vacant position for either the unexpired or full term and/or until appointment and qualification of a successor.

3. TERMS OF OFFICE:

A. The term of office of each Commission member shall be four years, expiring on the first Monday of May in the year in which the terms of the member expires (§56334).

B. Any member of the Commission may be removed at any time and without cause by the body appointing that member. If a member who is a City, County, or Special District officer ceases to hold that position during his or her term, that member's seat on the Commission shall become vacant.

C. Any vacancy in the membership of the Commission shall be filled for the unexpired term by appointment by the body that 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.

COMMISSION RULES OF ORDER

The Rules of Order were originally adopted on June 14, 1978 for the conduct of business by the Local Agency Formation Commission for San Bernardino County. The following outlines the rules and related policies for the operation of the Commission:

1. FINANCIAL DISCLOSURE:
LAFCO members are subject to the requirements of the Levine Act and California Fair Political Practices Commission (FPPC), including annual filing of the Statement of Economic Interests (Form 700) with the San Bernardino LAFCO by the date determined by the FPPC. Any member of the Commission not in compliance with this requirement is subject to the fine and penalties established by the FPPC. Please review the San Bernardino LAFCO Conflict of Interest Code for further details.

2. ELECTION OF CHAIRMAN AND VICE CHAIRMAN *(Term limit adopted June 9, 1982)*
The Chairman shall be elected each year, during the first meeting in the month of May, by a majority of the Commission. The Vice Chairman is also elected at this meeting. The Chair and Vice-Chair positions shall be limited to two consecutive one- year terms

3. CHAIRMAN'S ROLE
The Chairman of the Commission shall preserve order and decorum and shall decide questions of order subject to appeal by the Commission. In the Chairman's absence, the Vice Chairman shall act as Chairman.

4. CHAIRMAN'S VOTING PRIVILEGES
The Chairman of the Commission shall, in voting procedures, have all the rights and obligations of other members.

5. APPOINTMENT OF STANDING AND SPECIAL COMMITTEES
The Commission shall appoint such standing and special committees as it may deem necessary. As of January 1, 2001, the Commission has appointed a standing Finance and Administrative Committee made up of the Chair, Vice-Chair, and the most recent past Chair or other Commission member determined by the Chair.

6. REGULAR MEETING DATE *(Amended November 14, 1984.)*
Regular meetings of the Local Agency Formation Commission shall be held on the third Wednesday of each month. Whenever a legal holiday falls on a regular meeting date, an alternate meeting date will be selected. All regular meetings of the Local Agency Formation Commission shall be called to order at nine o'clock a.m., unless advertised differently.

7. AGENDAS
An agenda shall be prepared by the Commission staff for each meeting of the Commission and shall be distributed in accordance with the Government Code.

8. ORDER OF BUSINESS *(Amended June 17, 2009, September 28, 2011.)*
The regular order of business of the Local Agency Formation Commission shall be:

a. Call to Order by the Chairman
b. Salute to the Flag
c. Presentation of Consent Items; which shall include Approval of Minutes of Previous Meeting and Approval of Resolution for Previous Actions, as necessary
d. Public Hearing Items
e. Discussion Items
f. Information Items or Special Matters including Commissioner Comments and Comments from the Public
g. Adjournment

9. SPEAKER'S PRESENTATION *(Amended August 27, 1986 and April 16, 1997.)*
The Chair may establish a time limit at the beginning of the public hearing. All members of the public should be encouraged to speak and provide new and relevant information into the discussion.

10. REFERRAL TO COMMITTEES
Any matter coming before the Commission may, if deemed necessary, be referred to staff or a committee of the Commission for additional information.

11. ADJOURNMENT OF COMMISSION HEARINGS
The Commission may adjourn to a time and place specified in the order of adjournment. An insufficient number of Commissioners present to constitute a quorum shall be cause for adjournment. A majority of the members of the Commission (four) constitutes a quorum.

If all members are absent from any regular or adjourned regular meeting, the Clerk to the Commission may declare the meeting adjourned to a stated time and place, and shall cause a written notice of the adjournment to be given in the same manner as provided by law for special meetings.

12. CLOSED SESSIONS OF COMMISSION *(Amended August 27, 1986.)*
The Commission may hold Closed Sessions during a regular or special meeting to consider pending or potential litigation; the appointment, employment, or dismissal of an employee; or to hear complaints or charges brought against such employee, unless such employee requests a public hearing. The Commission may exclude from any such meeting, during the examination of a witness, any or all other witnesses in the matter being investigated by the Commission.

13. PARTICIPATION OF ALTERNATE MEMBERS IN DISCUSSION OF PROPOSALS
All members of the Commission, both regular and alternate, are encouraged to participate in the discussions of a proposal before the Commission; however, only regular members may vote on the action. Alternates may vote only when sitting in the place of a regular member who is absent or is disqualified for a particular action.

14. DISQUALIFICATION OF MEMBERS ON VOTING
The representation by a member or alternate of a city or district shall not disqualify, or be cause for disqualification of, the member or alternate from acting on a proposal affecting the city or the district, as provided by Government Code Section 56336.

15. ABSTENTION OF VOTING
The determination by a Commissioner to abstain from voting on any action before the Commission does not indicate, and shall not be counted as, either an "aye" or "no" vote on that count.

16. TIE VOTES OF COMMISSION
Four votes are necessary to approve a proposal or a motion. A proposal which receives a tie vote shall automatically be continued to the next Commission hearing. A subsequent tie vote at the next hearing of the proposal indicates automatic denial without prejudice.

17. CALLING OF EMERGENCY OR SPECIAL HEARINGS
An emergency or special meeting may be called at any time by the Chairman of the Commission, or by a majority of the members of the Commission. Notice of such meeting must be delivered personally or by mail at least twenty-four (24) hours before the time of such meeting. The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such special meeting.

ACCOUNTING AND FINANCIAL POLICIES FOR SAN BERNARDINO LAFCO

Consolidation of Policy Manual – September 28, 2011

INTRODUCTION:

The following is intended to provide an overview of the accounting and financial policies and procedures applicable to San Bernardino LAFCO. San Bernardino LAFCO has entered into agreements with the County of San Bernardino to perform Information Technology (IT) support and financial and accounting services as follows:

a. Production Support Agreement with the San Bernardino County Information Services Department. San Bernardino LAFCO contracted for the provision of IT services from the County for its network system, computer operations and Geographic Information System Services (GIMS). Original contract was entered into in October 1998, with its last revision dated September 2009. Payments for services are included in the County COWCAP (Countywide Cost Allocation Plan) charges to LAFCO.

b. Agreement with Auditor for Services. San Bernardino LAFCO contracted with the San Bernardino County Auditor/Controller for the provision of accounts payable claims and deposits, consolidated banking, general and funding accounting, payroll/labor distributions. These services include data entry, computer systems, central files/document/records retention, verification of data integrity and signature authorization, error corrections, report, and other processes normally associated with the services and include the assignment of a County CALCARD. This contract was entered into in August 2004 and continues until terminated. Payments for services are included in the County COWCAP (Countywide Cost Allocation Plan) charges to LAFCO.

c. Agreement with Auditor/Controller for Collection of Past Due Apportionment Contributions. San Bernardino LAFCO entered into an agreement with the County of San Bernardino and its Auditor/Controller to provide for the collection of the apportioned LAFCO costs identified in Government Code Section 56381. This agreement was entered into January 26, 2010. The costs for implementation are charged back to the entity paying the apportionment.

The following provides supplemental policies adopted by the Commission related to its financial and accounting procedures:

1. **COUNTY RULES AND REGULATIONS** *(Adopted January 1, 1977; Amended February 20, 2002.)*

The San Bernardino LAFCO has determined that for purposes of economy and convenience it chooses to use the rules and regulations of the County as those relate to working rules of staff and to allocation of space and supporting equipment and facilities necessary to accomplish its purpose. Exceptions to these rules and regulations shall be for specific situations in which the Commission has approved a policy which establishes a procedure which differs from County rules and regulations.

2. **RESOLUTIONS OF APPRECIATION** *(Adopted September 12, 1979.)*

The Commission authorizes expenditure for mounting and framing of resolutions of appreciation for retiring LAFCO Commissioners and LAFCO staff personnel who have rendered outstanding service.

In respect to retiring Commissioners, the public purpose being served by such expenditure is that through publicly adopted resolutions of appreciation, appropriately framed, other members of the public will also be encouraged to render public service by becoming members of various public agencies and commissions.

The public purpose of the framed resolutions of appreciation for the LAFCO staff is to give recognition for outstanding services rendered, with the purpose of maintaining high morale while at the same time providing further incentive for efficiency and productivity.

3. **DISCLOSURE OF LAFCO COMPENSATION AND BUDGET** (Adopted June 15, 2011)

In order to provide the residents, landowners and government agencies within San Bernardino County the ability to easily determine the costs for operating San Bernardino LAFCO and other financial disclosure information, the Commission hereby requires its staff to post the following information and/or documents on the Commission's website, accessible directly from its homepage:

a. Current Fiscal Year Budget.

b. Annual compensation paid to each Commissioner from the Local Agency Formation Commission for the preceding Calendar Year.

c. Annual compensation paid by LAFCO for each employee position which shall include salary and total benefit costs in the current budget and those

reported as year-to-date on the final pay period of the calendar year, pay period 26 or 27 (when applicable), on the Statement of Leave and Earnings.

d. Fair Political Practices Commission Form 700 – Statement of Economic Interests for LAFCO Commissioners and Management Staff.

4. **EXPENSE REIMBURSEMENT** *(Added to the Human Resources Policies and Procedures June 16, 2011, transferred and revised June 20, 2012 to general accounting policies)*

Scope:

Reimbursement for San Bernardino LAFCO business expenses including but not limited to travel, lodging, meals, laundering, gratuities and other related costs is subject to the approval of the Commission or appointing authority. Commissioners attending conferences, seminars, or other meetings not classified as a regular Commission hearing or committee meeting (i.e., Finance and Administrative Committee or Coalition of California LAFCOs) shall only be reimbursed for their expenses in accordance with the provision outlined below if they have received prior approval of the Commission. Reimbursement for expenses for travel and subsistence will be as listed below.

Policy:

A. General Provisions. The purpose of this section is to define the policy and procedures by which employees and Commissioners shall report and be reimbursed for necessary expenses incurred on behalf of San Bernardino LAFCO, except as may be otherwise provided in this Benefit Plan and/or Human Resources Policies and Procedures.

B. Responsibilities. It shall be the responsibility of the Executive Officer and/or Appointing Authority or designee to investigate and approve each request for expense reimbursement. It shall be the responsibility of each Commissioner to receive prior approval from the Commission prior to incurring a business related expense. It shall be the responsibility of the employee to obtain prior approval from the appropriate Appointing Authority or designee to incur a business expense. Prior approval may be in the form of standing orders issued by the Appointing Authority.

C. Travel Authorization

1. Travel outside the State of California must be approved by the Commission or designee except when the trip outside California is within twenty (20) miles of the California border or travel through a location

anywhere in the adjacent state as a means of arriving at a location within California.

2. The appointing authority or designee shall initiate Travel Requests. The Commission and Auditor/Controller-Recorder shall be notified in writing of all such designees.

3. The Appointing Authority or designee is authorized to approve necessary travel within the State of California and use of transportation mode consistent with this section.

D. Authorization for Attendance at Meetings

1. The Commission or Appointing Authorities may authorize attendance at meetings at San Bernardino LAFCO expense when the program material is directly related to an important phase of San Bernardino LAFCO service and holds promise of benefit to the San Bernardino LAFCO as a result of such attendance.

2. Authorization for attendance at meetings without expense reimbursement, but on San Bernardino LAFCO time, may be granted when the employee is engaged on the San Bernardino LAFCO's behalf, but from which the gain will inure principally to the benefit of the employee and only incidentally to San Bernardino LAFCO.

E. Records and Reimbursements

1. Requests for expense reimbursement for Commissioners shall be submitted to the Executive Officer at the monthly Commission hearing or as soon as possible following completion of travel.

2. Requests for expense reimbursements for employees should be submitted once each month, except if the amount claimable for any month does not exceed twenty-five dollars ($25.00), the submission may be deferred until the amount exceeds twenty-five dollars ($25.00) quarterly, or until June 30th during the current fiscal year, whichever occurs first. At the end of the fiscal year, expense reimbursement claims for July 1st and beyond, must be on a separate claim from those expenses claimed for June 30th or earlier.

3. Receipts or vouchers which verify the claimed expenditures will be required for all items of expense, except

    a. Subsistence, except as otherwise provided in this section.

b. Private mileage (paid at the standard IRS rate).

c. Taxi, bus and ferryboat fares; bridge and road tolls; and parking fees.

d. Telephone, fax or internet connection charges.

e. Other authorized expenses of less than one dollar ($1.00).

4. Claims for expense reimbursement totaling less than one dollar ($1.00) in any fiscal year shall not be paid.

5. Reimbursement shall not be made for any personal expenses such as, but not limited to, entertainment, barbering, etc.

6. Except as otherwise provided in this section, expense reimbursements shall be made on an actual cost basis.

F. Transportation Modes

The general rule for selection of a mode of transportation is that mode which represents the lowest expense to San Bernardino LAFCO.

1. Travel via private automobile

Reimbursement for the use of privately owned automobiles to conduct San Bernardino LAFCO business shall be at the current IRS allowable rate. Reimbursement at this rate shall be considered as full and complete payment for actual necessary expenses for the use of the private automobile, insurance, maintenance and all other transportation-related costs. San Bernardino LAFCO does not provide any insurance for private automobiles used on San Bernardino LAFCO business. The owner of an automobile is responsible for the personal liability and property damage insurance when the vehicle is used on San Bernardino LAFCO business.

a. When employees, traveling on official San Bernardino LAFCO business, leave directly from their principal place of residence rather than from their assigned work location, mileage allowed to the first work contact point shall be the difference between the distance from the residence to the assigned work location and the distance from the residence to the first work contact point. If the first work contact point is closer than the assigned work location, no mileage shall be allowed. If the employee departs from the last work contact point directly to the residence, the same principle governs.

Employees may have multiple assigned work locations. Mileage allowed is based on the assigned work location for that day. When

employees have more than one assigned work location in a standard tour of duty, mileage shall be allowed between assigned work locations. In no case will mileage be allowed between the employee's residence and the assigned work location.

b. Travel via Rental Vehicles. Reimbursement will be provided for the cost of a rental vehicle used for business purposes if such use is approved by the Commission, Executive Officer or Appointing Authority. Reimbursement will not be provided for the additional costs incurred if any employee purchased any additional insurance or signs a Collision Damage Waiver (CDW) when renting a vehicle for San Bernardino LAFCO business. Requests for reimbursement for gasoline for rental vehicles must be accompanied by a copy of the rental agreement or rental receipt and gasoline receipt.

2. Travel via air

a. Commercial Aircraft. When commercial aircraft transportation is approved, the "cost of public carrier" shall mean the cost of air coach class rate including tax and security surcharges. Travel via charter aircraft shall be limited to emergencies, or when other types of transportation are impractical or more expensive. Specific prior approval for travel via aircraft must be obtained from the Commission or Executive Officer.

b. Private Aircraft. When private aircraft transportation is approved by the Appointing Authority, reimbursement will be as follows:

i. Reimbursement for use of aircraft owned or rented and flown by Sam Bernardino LAFCO personnel will be for equivalent road miles at the first mile rate of the current private automobile use reimbursement schedule. Landing or tie-down fees will be reimbursed similar to auto parking charges.

ii. Reimbursement for trips to and from the following destinations will be limited to the cost of public carrier except when justified by unusual circumstances as determined by the San Bernardino LAFCO Executive Officer or designee: Oakland, Sacramento, San Francisco and San Jose.

iii. Authorized charter flights with a licensed charter service providing the aircraft and pilot will be reimbursed at actual cost. Charter flights must be individually approved by the Commission prior to departure.

iv. The employee or owner of the aircraft must have a minimum single-limit liability insurance coverage of five hundred thousand dollars ($500,000.00) for bodily injury and/or property damage and have San Bernardino LAFCO included as an additional insured. Written evidence of such insurance must be on file with the San Bernardino LAFCO Office.

G. Subsistence

1. Subsistence allowances for lodging and meals shall not be allowed without prior approval of the appointing authority or designee as necessary for the purpose of conducting San Bernardino LAFCO business. Excess charges greater than the allowances listed below in paragraph (2) and (3) may be authorized under special conditions, such as a convention requirement or in an area of unusually high cost (such as, but not limited to, San Francisco Bay area, Sacramento, Fresno, Los Angeles and San Diego). Claims for lodging and meals which do not exceed the allowances listed below do not require receipts.

2. The allowance for lodging is seventy-five dollars ($75.00) plus tax, per night, single.

3. The allowance for meals is fifty dollars ($50.00) plus tax and gratuity per day, for three (3) meals, or when separate meals are claimed; eleven dollars ($11.00) for breakfast; fifteen dollars ($15.00) for lunch; and twenty-four dollars ($24.00) for dinner, all plus tax and gratuity.

4. Meal allowances for a business meeting/conference including meals are the actual cost.

5. Expense Advances. Advancement of funds for business expenses can be obtained from the Auditor/Controller's office through submission of the appropriate form. Advancements shall not exceed the per diem allowance set forth herein. The minimum amount to be advanced is fifty dollars ($50.00).

H. County Credit/Debit Cards

1. The Auditor/ Controller- Recorder may issue a County credit or debit card to the San Bernardino LAFCO Executive Officer and require business expenses be paid for with said card.

2. If unauthorized charges are placed on the card, the San Bernardino LAFCO Executive Officer shall be required to reimburse the County. If the employee fails to reimburse the County within fifteen (15) calendar days or

prior to separation from San Bernardino LAFCO service, the Auditor-Controller's Office may recover any unauthorized charges from the employee's pay.

5. **COMMISSION STIPEND/PER DIEM PAYMENT** (*Adopted February 20, 2002; Amended May 19, 2004, and May 16, 2007)*

A. Commission members shall receive a stipend payment of $200 per posted and attended Commission hearing. In addition, Commission members appointed to standing committees and/or the Coalition of California LAFCOs will receive payment of a stipend for attendance. No stipend shall be paid for attendance at a conference, seminar or other meetings.

B. Mileage – All travel which is twenty (20) miles or less round trip from a member's home shall not be reimbursed. If the round trip exceeds twenty (20) miles, then all mileage is reimbursable as provided herein. All other mileage payment procedures are outlined in the Expense Reimbursement Policy, Item 4 above.

6. **ANNUAL AUDIT**

A. Role of the Independent Auditor

It is the policy of San Bernardino LAFCO to arrange for an annual audit of its financial statements to be conducted by an independent accounting firm. The independent accounting firm selected by the Commission will be required to communicate directly with the Commission upon the completion of their audit. In addition, members of the Commission's Finance and Administrative Committee are authorized to initiate communication directly with the independent auditing firm.

Audited financial statements, including the auditor's opinion thereon, will be submitted to the Commission by the independent accounting firm after the financial statements have been reviewed and approved by the Finance and Administrative Committee.

B. Selection of the Auditor:

LAFCO shall review the selection of its independent auditor in the following circumstances:

1) Anytime there is dissatisfaction with the services of the current firm; or,

2) The Auditor shall be changed every three (3) years to ensure competitive pricing and a high quality of service. San Bernardino LAFCO participates with the members of the Coalition of California LAFCOS (CCL) for a joint Request for Proposal (RFP) for auditing services.

7. **RESERVE POLICY** *(Adopted April 21, 2011)*

The Commission will require the maintenance of two separate reserves which shall be funded as a part of the annual budget adoption process as follows:

a. The balance of San Bernardino LAFCO Employee Compensated Absences at April 1 of each fiscal year shall be funded and placed in a committed reserve account in the following fiscal year budget; and,

b. Annually the Commission shall set aside a minimum of $200,000 in a committed reserve account for payment of potential litigation.

8. **FEE WAIVER PROVISIONS** *(Adopted June 10, 1981; effective July 1, 1981. Amended March 20, 1996, July 18, 2001, May 17, 2006 and May 16, 2007.)*

a. Automatic Waivers:

The LAFCO filing fee for proposals that correct a boundary alignment problem (i.e., a divided assessor's parcel or inadvertent exclusion) will be automatically waived provided, however, that a deposit will be required for the anticipated direct costs for environmental review and the required registered voter and landowner notification. Compliance with these conditions is to be determined by the LAFCO Executive Officer.

b. Automatic Reductions:

City annexations of island areas that comply with Government Code Section 56375.3 will be assessed one-half of the LAFCO filing fee for each area of consideration within the proposal. All other fees and deposits will be assessed at full cost.

The realignment of city or special district boundaries required by the realignment of a roadway will be reduced to a single change of organization fee per entity involved no matter how many changes or separate areas are included in the proposal. The Executive Officer is authorized to notify the entities involved and no further action is required for this reduction.

c. Request for Waiver or Reduction of Fees (to be reviewed by the Commission):

Any applicant may appeal for a waiver or reduction of the LAFCO filing fee to be charged. An appeal must be submitted in writing and accompany the submission of the application to the LAFCO Executive Officer. The Executive Officer shall present the waiver/reduction request at the next regular hearing for Commission consideration on the consent calendar. The Commission may waive the filing fee if it first determines that payment would be detrimental to the public interest (required by Government Code Section 56383). A waiver of fees is limited to those costs incurred by the Commission in processing the proposal. The Commission may authorize a reduction in the LAFCO filing fee based upon the special circumstances of the proposal, if any. Processing of the application shall be held in abeyance until a decision is rendered by the Commission regarding the appeal of fees.

9. **LAFCO FEE REFUNDS** *(Adopted May 17, 2006)*

If withdrawal of an application is requested, LAFCO filing fees paid to LAFCO for processing will be refunded in the following manner (Legal Counsel, Environmental Review, Registrar of Voters, Landowner Notification and Protest Proceeding fees are subject to their own refund procedures outlined on the Fee Schedule):

a. If withdrawal is requested prior to the processing of the property tax negotiations for the item, 75% of the LAFCO Filing Fee will be refunded.

b. If withdrawal is requested following commencement of the tax negotiations process but prior to the advertisement of the Commission's consideration, 50% of the LAFCO Filing Fee will be refunded.

c. If withdrawal is requested following advertisement of the Commission's consideration, 25% of the LAFCO Filing Fee will be refunded.

d. If withdrawal is requested following Commission continuance or deferral of the application, no refund shall be provided.

10. **LEGAL DEFENSE FEE RESPONSIBILITY** *(Adopted May 19, 1993; effective June 1, 1993; Amended May 17, 2006.)*

It is the policy of this Commission that the costs for legal defense of an issue, which has been approved by the Commission, should be the primary responsibility of the agency or person seeking that approval. Therefore, as a condition of approval for any action taken by the Local Agency Formation

Commission, the Commission may impose a condition within its resolution of approval that requires the applicant to defend, indemnify, hold harmless, and provide for reimbursement or assumption of all legal costs in connection with that approval.

The adopted procedure for the Legal Defense Policy is as follows:

If the Commission determines that costs for litigation or legal defense should be borne by the applicant, the following procedures will be implemented:

a. The Commission will impose a condition of approval which requires the applicant to defend, indemnify, and hold harmless the Commission, its agents, and its employees from any claims, actions or proceedings against them to attack, set aside, void, or annul such approval.

b. The Executive Officer shall promptly notify the applicant of any legal action brought challenging the Commission's action, and the Commission, its agents, and employees shall cooperate fully in the defense of that action.

c. The applicant may provide his or her own counsel in the defense of the action taken, or the applicant may elect to use the services of LAFCO Counsel in that defense. In the latter case, the Executive Officer may require a deposit of funds sufficient to cover the anticipated expense of the litigation.

11. **RESPONSIBILITY FOR PAYMENT OF SPECIAL LEGAL COUNSEL COSTS**

(Adopted May 17, 2006)

It is the policy of this Commission that the costs for Special Counsel shall be the responsibility of the applicant subject to the following determinations:

a. If Special Counsel is required due to a representation conflict with the applicant of the proposal, the applicant will be responsible for all Special Counsel charges.

b. If Special Counsel is required due a representation conflict outside the control of the applicant, the applicant will be responsible for paying the regular LAFCO Legal Counsel hourly rate. The balance of Special Counsel costs will be the responsibility of the Commission.

The adopted procedure for the Responsibility for Payment of Special Legal Counsel Costs Policy is as follows:

Once a determination has been made pursuant to Commission Policy for Waiver of LAFCO Legal Counsel Conflicts of Interest that Special Counsel is required, the following procedure will be followed:

1) The Executive Officer will promptly notify the proponents of the proposal that Special Counsel is required.

2) An item will be placed on the next available Commission Agenda to approve the contract for Special Counsel and to determine the method for apportioning the cost to the applicant.

3) Once a determination is made regarding the apportionment of the cost, the Executive Officer may require a deposit of the estimated costs for Special Counsel.

4) All Special Counsel costs that are the responsibility of the applicant shall be paid prior to issuance of the Certificate of Completion.

12. **RECORDS RETENTION POLICY** *(Adopted October 21, 2009)*

It is the policy of this Commission to retain LAFCO's records of proceedings and financial documents and records in accordance with the Records Retention Schedule outlined below.

TYPE OF RECORD	**RETENTION PERIOD**
Records of Proceedings	Government Code § 56382
Financial:	
Expense Reports	7 years
Budgets	7 years
Billings/Accounting Reports	7 years
Budget Change Proposals	7 years
Budget Change Concepts	7 years
Audits	7 years
Invoices	7 years
Fees/Receipts	7 years
Checks/Ledgers/Registers	7 years
Cal Stars Reports	7 years
Cost Recovery – Federal	7 years
Cost Recovery – State	7 years
Grants	7 years
Resource: California Secretary of State. "Local Government Records Management Guidelines", Feb 2006. Under the authority established by Senate Bill 742 (1999), adding Section 12236 to the Government Code.	

The Commission has adopted the financial portion of the "Local Government Records Management Guidelines", issued by the California Secretary of State pursuant to Government Code Section 12236, as may be amended from time to time by the Secretary of State, as the Commission's official retention schedule. This policy shall be reviewed, and when necessary updated, at least every five years pursuant to the Secretary of State Guidelines.

To implement the retention and destruction of the records pursuant to the Schedule, the Commission designates the Executive Officer as the Records Management Coordinator who shall present a Commission agenda item once a year related to records to be destroyed.

HUMAN RESOURCES POLICIES AND PROCEDURES AND BENEFIT PLAN

INTRODUCTION:

The following provides the documents adopted by the Commission at its June 16, 2011 hearing outlining its policies and procedures for Human Resource administration and the Benefit Plan for all LAFCO and as amended at the June 20, 2012 hearing.

HUMAN RESOURCES POLICIES AND PROCEDURES

(ADOPTED JUNE 16, 2011)

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Consolidated in Policy and Procedure Manual – September 28, 2011

Adopted September 15, 2004

Amended:

July 18, 2007

August 20, 2008

January 21, 2009

Repealed and Adopted as Revised and Amended June 16, 2011

CHAPTER I: WORKING ENVIRONMENT

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101: EMPLOYEE ACKNOWLEDGEMENT FORM

(Amended June 16, 2011)

Consistent with applicable laws, the following sections represent the Human Resources Policies and Guidelines established by the San Bernardino Local Agency Formation Commission (hereinafter "SB LAFCO"). These policies and guidelines shall in no manner be interpreted as a guaranteed or implied contract between the SB LAFCO and any employee or group of employees.

All employees shall acknowledge receipt of the Human Resources Policies and Guidelines by signing the form titled "Employee Receipt of San Bernardino LAFCO Human Resources Policies and Guidelines" with placement of the signed form in the employee's personnel file.

102: AT- WILL-EMPLOYMENT

(Amended June 16, 2011)

Scope: The intent of this policy is to establish the At-Will-Employment Policy of SB LAFCO.

Policy: The employment relationship between San Bernardino LAFCO and its employees is for an unspecified term and may be terminated by the employee, or SB LAFCO Executive Officer or the Commission of SB LAFCO at any time, with or without cause or advanced notice. The LAFCO Commission is the appointing authority for the LAFCO Executive Officer. The LAFCO Executive Officer is the appointing authority for all other LAFCO employees. Also, SB LAFCO reserves the right to transfer, demote, suspend and administer discipline with or without cause or advance notice.

None of the policies, procedures or contents of this manual is intended to create any contractual obligations which in any way conflict with the SB LAFCO's policy of At-Will-Employment. The at-will relationship can only be modified by a written agreement signed by the employee and the Executive Officer or the Commission of SB LAFCO.

103: EQUAL EMPLOYMENT OPPORTUNITY

(Amended June 16, 2011)

Scope: The intent of this policy is to establish the Equal Employment Opportunity Policy of SB LAFCO.

Policy: SB LAFCO is strongly committed to providing equal opportunity to all employees and applicants for employment. SB LAFCO does not discriminate on the basis of race, color, religion, national origin, ancestry, citizenship, sex, age, medical condition, sexual orientation, genetic characteristics, gender identity, marital status, pregnancy, physical or mental disability, caregiver responsibilities, veteran or other protected status, or on the basis of any perception that an applicant or employee has any of these characteristics or on the basis that an applicant or employee is associated with someone who has or is perceived to have these characteristics. SB LAFCO strictly prohibits the harassment of any individual on any basis listed above (see the Policy Against Harassment for further clarification).

This policy applies to all employment practices, including recruitment, advertising, job application procedures, hiring, firing, advancement, compensation, training, benefits, transfers, social and recreational programs, and any other terms, conditions and privileges of employment.

An employee who believes that he or she has been subjected to any form of unlawful discrimination should make a complaint, preferably written, to the Executive Officer. Complaints should be specific and should include the names of individuals involved and the names of any witnesses. SB LAFCO will immediately undertake an effective, thorough and objective investigation and attempt to resolve the situation. If SB LAFCO determines that unlawful discrimination has occurred, effective remedial action will be taken to deter any future discrimination.

Employees will not be retaliated against for bringing a complaint in good faith under the Equal Employment Opportunity Commitment Policy or the Policy Against Harassment, or for honestly assisting in investigating such a complaint, even if the investigation produces insufficient evidence that there has been a violation, or if the charges cannot be proven. However, disciplinary action may be taken if false or frivolous accusations are made in bad faith.

104: DISABILITY ACCOMMODATION

Scope: The intent of this policy is to establish the Disability Accommodation Policy of SB LAFCO.

Policy: SB LAFCO is committed to complying fully with state and federal disability discrimination laws. As previously stated, no program or activity administered by the employer shall exclude from participation, deny benefits to or subject to discrimination any individual based on an employee's actual or perceived disability or based on an employee's association with someone who has an actual or perceived disability.

SB LAFCO is further committed to providing reasonable accommodation to the known physical or mental limitations of an otherwise qualified applicant or employee. If you believe you are a qualified individual with a disability and that you need a reasonable accommodation in order to perform the essential functions of your job, please notify the Executive Officer. The accommodation process is interactive and allows the applicant or employee to identify possible accommodations. However, SB LAFCO has the right to choose among effective accommodations.

105: POLICY AGAINST HARASSMENT

Scope: The intent of this policy is to establish the Policy Against Harassment for SB LAFCO.

Policy:

A. SB LAFCO prohibits and will not tolerate unlawful harassment. This policy applies to all persons involved with SB LAFCO including employees, applicants, customers or persons providing services pursuant to a contract. This policy prohibits sexual harassment and harassment based on an individual's inclusion in a protected class, such as race, color, religion, national origin, ancestry, sex, age, medical condition, sexual orientation, gender characteristics, gender identity, marital status, caregiver responsibilities, citizenship, pregnancy, physical and mental disabilities, veteran or any other consideration made unlawful by federal, state or local laws, including persons perceived to have any of these characteristics. SB LAFCO will also take all responsible steps to prevent or eliminate unlawful harassment by non-employees, including customers, clients, and suppliers, who have workplace contact with SB LAFCO's employees. *(Amended June 16, 2011)*

B. Definition - Unlawful harassment is generally conduct that: does not relate to the business of SB LAFCO; has the purpose or effect of interfering with an individual's ability to work, or that creates a hostile, intimidating or abusing work environment; and is directed at an individual because of the individual's inclusion in a protected class.

Conduct prohibited by this policy includes, but is not limited to the following:

1) Verbal conduct such as epithets, derogatory jokes or comments, slurs or unwanted sexual advances, invitations or comments;

2) Visual conduct such as derogatory and/or sexually-oriented posters, photography, cartoons, drawing or gestures;

3) Physical conduct such as assault, unwanted touching, blocking, normal movement or interfering with work because of sex, race or any other protected basis;

4) Threats, demands to submit to sexual requests as a condition of continued employment, or to avoid some other loss and offers of employment benefits in return for sexual favors.

C. Reporting and Complaint Procedure - An employee who believes that he or she has been subjected and to any form of prohibited harassment should make a complaint, preferably written, to his or her supervisor, the Executive Officer or the Chair of the Commission. If the employee is uncomfortable approaching either his or her supervisor, the Executive Officer or the Chair of the Commission, any other member of management is available to hear their concerns. Managers must report all harassment complaints. Complaints should be specific and should include the names of individuals involved and the names of any witnesses.

SB LAFCO will immediately undertake an effective, thorough and objective investigation and attempt to resolve the situation. SB LAFCO will maintain confidentiality to the extent possible during the investigation, however, disclosures of certain information to members of management or as required by law may be necessary. If SB LAFCO determines that unlawful discrimination has occurred, effective remedial action will be taken commensurate with the severity of the offense up to and including termination. Appropriate action will also be taken to deter any future harassment.

D. Non-Retaliation - Employees will not be retaliated against for bringing a complaint in good faith under the Equal Employment Opportunity Policy or the Policy Against Harassment, or for honestly assisting in investigating such a complaint, even if the investigation produces insufficient evidence that there has been a violation, or if the charges cannot be proven. However, disciplinary action may be taken if false or frivolous accusations are made in bad faith.

106: WORKPLACE ANTI-VIOLENCE POLICY

(Amended June 16, 2011)

Scope: The intent of this policy is to establish the Workplace Anti-Violence Policy for SB LAFCO.

Policy: SB LAFCO is committed to providing a workplace that is free from acts of violence or threats of violence. In keeping with this commitment, SB LAFCO has established a strict policy that prohibits any employee from threatening or committing any act of violence in the workplace, while on duty, while on SB LAFCO-related business, or while operating any vehicle or equipment owned or leased by SB LAFCO. This policy applies to all employees.

In order to achieve our goal of providing a workplace that is secure and free from violence, SB LAFCO must enlist each employee's support. Compliance with this policy and SB LAFCO's commitment to a zero-tolerance policy with respect to workplace violence is every employee's responsibility. A violation of the policy's terms, by engaging in or contributing to violent behavior or by threatening others with violence may lead to disciplinary action, up to and including immediate termination.

If an employee becomes aware of an imminent act of violence or threat of violence, the employee is to immediately call 911 and then notify the Executive Officer or any member of management. Employees should also immediately inform the Executive Officer about any workplace security hazards. If the Executive Officer is not readily available, employees should immediately inform any member of Management so that appropriate action can be taken.

There will be no retaliation against employees for bringing a complaint in good faith under the Workplace Anti-Violence Policy or for honestly assisting in investigating such a complaint, even if the investigation produces insufficient evidence that there has been a violation, or if the charges cannot be proven. However, disciplinary action may be taken if false or frivolous accusations are made in bad faith.

107: DRUG AND ALCOHOL POLICY

Scope: The intent of this policy is to provide a drug and alcohol free work environment for all SB LAFCO employees.

Policy: Because all employees deserve to work in a safe, efficient and productive environment, all employees must work free from the effects of drugs, alcohol or other controlled substances.

Drugs refer to any drug, including prescribed medication, which is not legally obtained. Using prescribed drugs for other than prescribed purposes is also not acceptable.

SB LAFCO strictly prohibits using, being under the influence of, possessing, distributing, selling or buying drugs or alcohol on SB LAFCO property or time, including break or meal periods. The possession or use of drug paraphernalia is also prohibited on SB LAFCO property or time, including break or meal periods.

Each employee is accountable for the performance of his or her job duties and personal conduct at all times. Employees should be aware that if a problem with their job performance exists, SB LAFCO will address those issues with the employee, regardless of any substance problem that the employee may have.

SB LAFCO considers failure to comply with these guidelines to be a serious matter. It may result in disciplinary action, up to and including immediate termination.

108: RELOCATION

(Added June 16, 2011)

Scope: The appointing authority may approve reimbursement of moving expenses incurred by new employees upon proof/receipts provided. Such reimbursement is restricted to airfare, auto mileage, meals, overnight stay, and airport transit.

Policy: The SB LAFCO Executive Officer may approve moving expenses up to but not exceeding five thousand dollars ($5,000) for any employee new to SB LAFCO employment for moving expenses authorized, incurred and documented as a result of accepting the position and remaining for twelve (12) months subsequent to hire.

The SB LAFCO Executive Officer may approve moving expenses up to but not exceeding five thousand dollars ($5,000) for any employee new to SB LAFCO employment. The Chairman of the Commission may approve such moving expenses for the SB LAFCO Executive Officer. Reimbursement of moving expenses in excess of five thousand dollars ($5,000) must be approved by the Commission.

For employees not covered by A and B above, the following provision applies.

To assist with the recruitment and appointment of qualified individuals to hard-to-recruit positions/classifications, upon request of the appointing authority, the Executive Officer or designee may authorize reimbursement of a new employee's relocation-related expenses incurred as a result of accepting employment with SB LAFCO, as follows:

Miles Relocated	Maximum Reimbursement
500-1000 Miles	$1,000.00
1001-2000 Miles	$2,000.00
More than 2000 Miles	$2,500.00

Such reimbursement may be provided to employees upon initial employment with SB LAFCO, provided that the employee (1) is appointed to a regular position; (2) submits original receipts documenting expenses incurred; and (3) agrees to remain employed in the regular position for at least twelve months.

If the employee voluntarily resigns employment prior to completion of 12 months service, the employee shall be required to reimburse SB LAFCO for any payment made under this subsection. If the employee

fails to reimburse SB LAFCO, the amount shall be recovered via payroll recovery from the employee's final pay.

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201: EMPLOYMENT CATEGORIES AND CLASSIFICATIONS

Scope: The intent of this policy is to define employment categories and classifications so that employees understand their employment status and benefit eligibility.

Policy:

A. EMPLOYMENT CATEGORIES

1. These categories do not guarantee employment for any specified period of time. Accordingly, the right to terminate the employment relationship at will at any time is retained by both the employee and SB LAFCO.

   a) Exempt - Exempt employees are classified as being exempt from the provisions of the state and federal wage and hour laws and are compensated for performing defined functions and assignments, not for hours worked. Irregular hours can be expected in these positions.

   b) Non-Exempt - Non-exempt employees are classified as being non-exempt from the provisions of the state and federal wage and hour laws and are compensated for hours worked and are paid overtime wages in accordance with state and federal regulations.

   c) An employee's EXEMPT or NON-EXEMPT classification may be changed only upon written notification by SB LAFCO management.

2. In addition to the above categories, each employee will belong to one other employment category:

   a) Regular Full Time - Employees who are not in a temporary status and who are regularly scheduled to work 40 hours per week are Regular Full-Time Employees and are generally eligible for SB LAFCO's benefit package, subject to the terms, conditions, and limitations of each benefit program.

   b) Part-Time - Employees who are not assigned to a temporary status and who are regularly scheduled to work less than 40 hours per week are Regular Part-Time Employees. While they do receive all legally mandated benefits on an hourly prorated basis (such as Social Security and workers' compensation

insurance), they may not be eligible for all of SB LAFCO's additional benefit programs. (Eligibility for additional optional benefits such as medical, life, etc., is based on the current agreements with the insurance carriers. These are reviewed annually for hours eligibility.) For additional information please refer to benefit specifics.

c) Temporary - Employees hired as interim replacements, to temporarily supplement the work force, or to assist in the completion of a specific project are considered temporary. The duration of the temporary position will be based on the requirements of the project or assignment and may be full or part-time. Employment beyond any initially stated period does not in any way imply a change in employment status. Temporary employees retain that status unless and until notified of a change in writing, signed by the Executive Officer. Temporary employees are ineligible for SB LAFCO's benefit programs except legally mandated benefits.

d) Dual Appointments - The appointment of two (2) full time employees to the same budgeted regular position may be authorized by the Appointing Authority to facilitate training, to make assignments to a position which is vacant due to extended authorized leave of absence or in an emergency. *(Added June 16, 2011)*

e) Job Share - When appropriate for business conditions, SB LAFCO will make reasonable accommodations for employees who desire to share their position with other qualified employees or eligible person subject to the approval of the Executive Officer. These requests must be in writing. Jobs may be shared on an hourly or daily basis. Benefits provided by SB LAFCO shall be prorated to the extent practicable. *(Added June 16, 2011)*

B. EMPLOYMENT CLASSIFICATIONS *(Added June 16, 2011)*

Classification is a management tool to ensure the accurate reflection of tasks and duties involved in each position.

Whenever positions are subject to any change as a result of classification review and are allocated within the Exempt Group, any action shall be on the recommendation of the Appointing Authority. Any request to review a classification action shall be submitted to the

Appointing Authority who shall have the final and binding authority in the review process determination.

Upgrade -- An upgrade is the reclassification of a position from one classification to another classification having a higher base salary range.

Downgrade -- A downgrade is the reclassification of a position from one classification to another classification having a lower base salary range. When a position is downgraded, the Appointing Authority may authorize continuation of the same salary rate payment to the incumbent employee that the employee received prior to the downgrading of the position by placing the employee on an "X" step, provided that the employee shall receive no future salary rate increases until the salary rate of the position held exceeds the "X" step.

202: COMPENSATION

Scope: The intent of this policy is to provide guidelines on the compensation practices of SB LAFCO.

Policy: **A.** It is the intention of SB LAFCO to provide compensation to its employees based on identified responsibilities, skill levels, performance of responsibilities, educational accomplishments and current comparable wages for the region.

Annual compensation reviews will be conducted to assess the employees' performance of the responsibilities as outlined in their job description. The percentage and/or dollar amount to be allocated for merit increases will be determined in the annual budget process with the Commission by recommendation of the Executive Officer. Special compensation adjustments may be made if necessary.

Bi-annual review of the compensation structures will be conducted and if appropriate, adjustments made to accommodate any necessary changes to the established salary range.

Issues regarding compensation should be addressed to the immediate supervisor, Executive Officer or appointed Human Resources Representative.

B. Effective June 20, 2012, the following shall be the salary ranges for LAFCO positions *(Added June 16, 2011; Amended May 16, 2012)*:

Position	Hourly Range	Annual Range
Executive Officer	As determined by the Commission	
Assistant Executive Officer	$38.58 to $49.33	$80,246 to $102,606
Project Manager	$30.17 to $38.58	$62,754 to $80,246
Clerk to the Commission/Office Manager	$22.51 to $28.73	$46,821 to $59,758
Deputy Clerk to the Commission	$18.52 to $23.64	$38,522 to $49,171
LAFCO Secretary	$17.22 to $21.99	$35,818 to $45,739

C. Special Assignment Compensation *(Added June 16, 2011)*

Increases in pay may be granted to recognize the temporary assignment of additional responsibilities that are significant in nature and beyond the normal scope of the position. No award shall be made in any situation related to a vacation, short-term illness or other relief which is six (6) weeks or less. The duration of such assignments are not intended to exceed one (1) calendar year except in unusual circumstances approved by both the Executive

Officer and the Commission or designee. Employees will normally not be in a probationary status. The employee shall be required to meet standards for satisfactory performance.

Compensation shall be awarded in pay period increments, and shall be in the form of a specified percentage of the employee's base pay. The Appointing Authority will determine the amount in increments of one percent (1%) from a minimum of two and one-half percent (2-1/2%) up to a maximum of seven and one-half percent (7-1/2%). The additional compensation will be computed at the specified percentage of the current base pay of the employee for each pay period. Such increases in pay shall not affect an employee's step advancement in the base range pursuant to the Salary Rates and Step Advancements section.

Requests for Special Assignment Compensation may be initiated by the Appointing Authority or an employee via the Appointing Authority. The Appointing Authority and the employee bear mutual responsibility for initiating the compensation request in a timely manner and adhering to the compensation provisions defined in this provision. It is important to obtain Appointing Authority review of the request in advance of the date the employee begins the assignment, since there is no guarantee the request will be approved. Special Assignment Compensation is to be effective only with the Commission's written approval, assignment of the greater level of duties, and signed acceptance by the employee.

This provision shall not be utilized to circumvent or provide additional compensation over and above that which may be provided in "Classification" and "Assignment to Vacant Higher Position." These aforementioned provisions are mutually exclusive concepts and as such there shall be no dual or multiple requests based on the same facts.

D. Bilingual Compensation *(Added June 16, 2011)*

Upon the approval of the Commission or designee, employees required to perform bilingual translation involving the use of English and a second language (including American Sign Language) as a condition of employment, shall be eligible for bilingual compensation in the amount of forty-five dollars ($45.00) per pay period. Such compensation shall apply regardless of the total time required per day for such translation. Such employees must be certified as competent in translation skills by the Appointing Authority to be eligible for compensation.

203: PAY POLICIES

Scope: The intent of this policy is to explain and clarify wage administration, work hours and time-keeping.

Policy:

A. Payment of Wages

All employees are paid bi-weekly (every two weeks). There are 26 pay periods each year with paydays being every other Thursday. In the event that the normal payday falls on a SB LAFCO holiday, the pay date will be the first day immediately prior to the normal pay date.

Employees are required to make arrangements for the direct deposit of all paychecks into the financial institution of their choice via electronic fund transfer.

B. Corrections to Payroll

Errors arising from the payroll processing will be worked out with the payroll contact and the employee. The employee's supervisor will be involved only if that supervisor was involved in the error. Payment due to a correction will be processed in accordance with state law.

C. Overtime Pay *(Amended June 16, 2011)*

When operating requirements or other needs cannot be met during regular working hours, employees may be required to work overtime. All overtime work must receive the Executive Officer's prior authorization. Overtime assignments will be distributed as equitably as practical to all employees qualified to perform the required work.

Overtime compensation is paid to all non-exempt employees in accordance with current federal and state wage and hour accommodations. Overtime pay is based on actual hours worked. Time off on sick leave, vacation leave, or any leave of absence will not be considered hours worked for purposes of overtime calculations.

D. Work Hours *(Amended June 16, 2011)*

Work schedules for employees may vary within the organization. Supervisors will advise employees of their individual work schedules. Staffing needs and operational demands may necessitate variations in starting and ending times, as well as

variations in the total hours that may be scheduled each day and week.

Effective July 18, 2011, the LAFCO office shall operate on a nine-day/80-hour work period with the office closed every other Friday. A schedule of days that the office is closed shall be posted on the SB LAFCO website.

E. Time-Keeping

Accurately recording time worked is the responsibility of every non-exempt employee. Federal and state laws require SB LAFCO to keep an accurate record of time worked in order to calculate employee pay and benefits. Time worked is all the time actually spent on the job performing assigned duties.

Non-exempt employees should accurately record the time they begin and end their work, as well as the beginning and ending time of each meal period. They should also record the beginning and ending time of any split shift or departure from work for personal reasons. Employees should record work hours only for themselves. An employee who submits erroneous or tardy timesheets will be subject to discipline, up to and including termination.

Altering, falsifying, or tampering with time records may result in termination.

If corrections or modifications are made to the time record, both the employee and the supervisor must verify the accuracy of the changes by initialing the time record.

204: PERFORMANCE MANAGEMENT

Scope: The intent of the performance review process is to maximize organizational productivity and individual potential within a position and within SB LAFCO.

Policy:

A. Performance Review *(Amended June 16, 2011)*

A review and discussion of each employee's performance is conducted annually to enable the employee and the supervisor to discuss the employee's performance relative to his/her goals and objectives in addition to those of SB LAFCO. Supervisors and employees are also strongly encouraged to discuss job performance and goals on an informal, day-to-day basis. A formal performance evaluation is conducted to provide both supervisors and employees the opportunity to discuss job tasks, identify and correct weaknesses, encourage and recognize strengths, and discuss positive, purposeful approaches for meeting goals.

The performance of all employees is generally evaluated according to a one-year cycle, on or around the employee's anniversary date. However, the frequency of performance evaluations may vary depending upon length of service, job position, past performance, changes in job duties or recurring performance problems but never more than one year apart.

The terms for performance include:

1= Needs improvement
2= Proficient
3= Strong
4= Exceptional

While merit-based pay adjustments are awarded by SB LAFCO in an effort to recognize truly superior employee performance, positive performance evaluations do not always guarantee increases in salary or promotions. Salary increases and promotions are solely within the discretion of the agency and depend on many factors in addition to performance. Please refer to the Compensation Policy #202 for further information. After receiving their review, employees will be asked to sign the evaluation report acknowledging that it has been presented and discussed between the employee and supervisor. The employee's signature does not represent an agreement with the performance review but rather an

acknowledgement of receipt of the report and discussion. SB LAFCO's provision of performance evaluations does not alter the at-will employment relationship.

B. Eligibility for Step Advancement *(Added June 16, 2011)*

New employees shall be hired at step 1 of the established base salary range, except as otherwise provided in this section. Variable entrance steps may be established if justified by recruitment needs through Step 5 with the approval of the Executive Officer and through Step 11 with the approval of the Commission or designee.

Within the base salary range, all step advancements will be made at the beginning of the pay period in which the employee completes the required number of service hours. Approval for advancement shall be based upon completion of required service hours in the classification, satisfactory work performance, and Appointing Authority recommendation.

Completed service hours shall be defined as regularly scheduled hours in a paid status, up to 80 hours per pay period. Overtime hours and time without pay shall not count toward step advancements. Step advancements within a base salary range shall be based upon two step increments, approximately five percent. Effective June 18, 2011, step advancements within a base salary range shall be based upon a one step increment, approximately two and one-half percent. The employee shall be eligible for the first step advancement after completion of 1040 hours and subsequent step advancements after completion of additional increments of 2080 hours.

C. Probationary Period *(Added June 16, 2011)*

1. Exempt**:** The probationary period for exempt employees shall be 26 pay periods.

2. Non-Exempt: The probationary period for non-exempt employees shall be 13 per periods.

Upon successful completion of the probationary period, regular employees will receive an annual review with their supervisor to discuss their performance relative to the established goals and objectives. The evaluation includes the measurement of both conduct and production standards. Disciplinary actions, in keeping with legal requirements in the form of suspensions, demotions,

salary reductions and dismissal from SB LAFCO employment will be administered in accordance with the Human Resources Policies and Guidelines. An Exempt employee with regular status may appeal an order of suspension, demotion, salary step reduction or dismissal from SB LAFCO employment to the Commission and request a hearing via a written request within five (5) work days of receipt of the order.

D. Demotions *(Added June 16, 2011)*

A demotion is the appointment of an employee from an incumbent position to a position in a different classification for which the maximum rate of pay is lower. An employee demoted for disciplinary reasons shall be placed on the step within the base salary range of the class to which demoted as provided in the Order of Demotion. The Commission shall designate the classification and salary in the event demotion is authorized.

An employee demoted for non-disciplinary reasons shall be retained at the same salary rate, provided the salary rate does not exceed step 11 in accordance with the provisions of the Downgrade section, with the approval of the Appointing Authority and the Commission.

E. Promotions *Added June 16, 2011)*

A promotion is the appointment of an employee from one classification to a classification having a higher base salary range. A promoted employee shall receive at least the entrance rate of the new range or a two (2) step salary increase, whichever is greater, provided that no employee is thereby advanced in step nor advanced above step 11 of the higher base salary range. At the discretion of the Appointing Authority an employee may be placed at any step within the higher base salary range. Promotions shall be effective only at the beginning of a pay period. All promotions are subject to the review and approval of the Commission.

205: PERSONNEL RECORDS

Scope: The intent of this policy is to provide the guidelines for treatment of employee personnel records and information.

Policy: Employees have the right to inspect certain documents in their personnel file, as provided by law, in the presence of a SB LAFCO representative at a mutually convenient time. Only documents previously signed by the employee are allowed to be copied. Employees may add written versions of any disputed item to their file.

SB LAFCO will attempt to restrict disclosure of your personnel file to authorized individuals within the organization. Any request for information from the file must be made to the Executive Officer or specific designee. Only the Executive Officer or specific designee is authorized to release information regarding current or former employees. Disclosure of personnel information to outside sources will be limited. However, SB LAFCO will cooperate with requests from authorized law enforcement or local, state or federal agencies conducting official investigations.

206: PROBLEM RESOLUTION PROCEDURE

Scope: The intent of this policy is to outline SB LAFCO's problem resolution procedure.

Policy: SB LAFCO is committed to encouraging an open and frank atmosphere in which any problem, complaint, suggestion, or question receives a timely response from supervisors and management.

SB LAFCO strives to ensure fair and honest treatment of all employees. Supervisors, managers, and employees are expected to treat each other with mutual respect. All employees are encouraged to offer positive and constructive criticism.

If there is a disagreement concerning established rules of conduct, policies, or practices, employees may express their concern through the problem resolution procedure. No one will be penalized, formally or informally, for voicing a complaint with SB LAFCO in a reasonable, business-like manner, or for using the problem resolution procedure.

If a situation occurs where an employee believes that a condition of employment or a decision affecting them is unjust or inequitable, they are encouraged to make use of the following steps:

1. Employee presents problem to immediate supervisor after incident occurs. If supervisor is unavailable or employee believes it would be inappropriate to contact that person, employee may present problem to the Executive Officer or any other member of management.

2. Supervisor responds to problem during discussion or after consulting with appropriate management, when necessary. Supervisor documents discussion.

3. Employee presents problem to the Executive Officer in writing if problem is unresolved.

4. The Executive Officer reviews and considers problem. The Executive Officer informs employee of decision and forwards copy of written response to the employee's file. The Executive

Officer has full authority to make any adjustment deemed appropriate to resolve the problem.

5. If the problem is of a nature that extends beyond or involves the Executive Officer, the employee may consult with Human Resources or the Chair of the Commission to follow the resolution procedures.

Not every problem can be resolved to everyone's total satisfaction, but only through understanding and discussion of mutual problems can employees and management develop confidence in each other. This confidence is important to the operation of an efficient and harmonious work environment.

207: TERMINATION

Scope: The intent of this policy is to explain the types of termination and SB LAFCO's procedures for processing terminations.

Policy: Termination of employment is an inevitable part of personnel activity within any organization. Because employment with SB LAFCO is based on mutual consent, both the employee and SB LAFCO have the right to terminate employment at-will, with or without cause at any time.

A. Voluntary Resignation

An employee who voluntarily resigns his/her employment is asked to prepare a written letter of resignation informing SB LAFCO of the intended resignation date. An employee is also considered to have voluntarily terminated employment by failing to report to work for three consecutive scheduled workdays without notice, or without prior approval by their supervisor.

B. Discharge

The violation of the policies and guidelines of SB LAFCO may result in disciplinary action up to and including termination. Although SB LAFCO may use progressive discipline including, but not limited to verbal and written warnings, suspension, probationary periods and termination of employment, the system is not formalized. SB LAFCO reserves the right to utilize any form of disciplinary action, up to and including immediate termination, at any stage it deems appropriate, depending on the circumstances. Although progressive discipline may be used the at-will relationship is still in tact between the employee and SB LAFCO.

C. Exit Interview

SB LAFCO will generally schedule exit interviews at the time of employment termination. The exit interview will provide an opportunity to discuss such issues as employee benefits, conversion privileges, and repayment of outstanding debts to SB LAFCO and return of property owned by SB LAFCO in accordance with applicable state laws. Suggestions, complaints and questions are encouraged.

Employees will receive their final pay in accordance with applicable state law. Some benefits may be continued at the employee's expense if the employee so chooses. The employee will be notified in writing of the benefits that may be continued, and of the terms, conditions and limitations of such continuance.

208: REEMPLOYMENT

(Added June 16, 2011)

Scope:

Reemployment of regular employees may be entitled to previous benefits and status levels.

Policy:

A. A regular employee who has terminated from SB LAFCO employment, and who is subsequently rehired in the same classification in a regular position within one year (i.e., beginning the first day of work by the 365th calendar day), may receive restoration of salary step, vacation accrual rate, sick leave balance (unless the employee has received payment for unused sick leave in accordance with the Leave Provisions section and the Retirement Plan contribution rate (provided the employee complies with any requirements established by the Retirement Board), subject to the approval and conditions established by SB LAFCO. Such employees begin accruing vacation and sick leave and may utilize the same immediately. The employee shall be required to serve a new probationary period, unless waived by the Executive Officer or designee. The employee shall be provided a new date of hire for purposes of SB LAFCO seniority.

B. A regular employee who has terminated from SB LAFCO employment and who is subsequently rehired to a regular position in the same job family within one year, (i.e., beginning the first day of work by the 365th calendar day), may receive restoration of vacation accrual rate, sick leave, and retirement contribution rate in the same manner as described above. Such employees begin immediately accruing vacation and sick leave and may utilize the same immediately. The employee shall be required to serve a new probationary period, unless waived by the Executive Officer or designee. The employee shall be provided a new date of hire for purposes of SB LAFCO seniority.

C. A regular employee who has terminated SB LAFCO employment, and who is subsequently rehired to a regular position in another job family within a ninety (90) calendar day period, must begin the first day of work within ninety (90) calendar days, may receive restoration of salary step (in the instance of rehire in the same classification at the same pay range as the position originally held), vacation accrual rate, sick leave and retirement contribution rate in the same manner as described above. The employee shall be required to serve a new probationary period, unless waived by the Executive Officer or designee.

D. A regular employee who has been laid off from SB LAFCO employment and is subsequently rehired to a regular position within one (1) year shall receive restoration of vacation accrual rate and sick leave in the same manner as

described above. Restoration of retirement contribution rate shall be in accordance with applicable state law and in compliance with any requirements established by the San Bernardino Retirement Board. For purposes of this section, a regular employee shall mean an employee in a regular position who held regular status in any classification during the previous period of SB LAFCO employment.

1.

CHAPTER III: TIME OFF

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* Vacation 302
* Holidays 303
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301: SICK LEAVE

Scope: The intent of this policy is to provide paid time off for the purpose of illness or other medical requirements.

Policy:

A. General - SB LAFCO provides paid sick leave benefits to all regular full-time and regular part-time employees for periods of temporary absence due to illnesses or injuries. Part-time employees accrue paid sick leave on a pro-rated basis.

B. Definitions *(Added June 16, 2011)*

1. Sick Leave - Sick Leave with pay is an insurance or protection provided by SB LAFCO to be granted in circumstances of adversity to promote the health of the individual employee. It is not an earned right to time off from work. Sick leave is defined to mean the authorized absence from duty of an employee because of physical or mental illness, injury, pregnancy, confirmed exposure to a serious contagious disease, for a medical, optical, or dental appointment, or other purpose authorized herein.

2. Immediate Family - Immediate family is defined as parent, child, or spouse or domestic partner as defined by California Family Code Section 297.

3. Extended Family - Extended family is defined as grandchild, grandparent, sibling, parent/sibling-in-law, aunt, uncle, niece, nephew, foster child, ward of the court, or any step relations as defined herein.

C. Prior Service Time *(Added May 20, 2009)*

Regular employees hired by SB LAFCO who have been employed by a public or private jurisdiction and wish to have credit for their prior sick leave recognized by SB LAFCO shall do all of the following:

1. Provide documentation of the number of sick leave hours from the prior public or private jurisdiction paid in cash to the employee upon their termination; and,

2. Submit payment of the total amount paid at termination for sick leave to SB LAFCO.

SB LAFCO will then recognize those hours as sick leave subject to the provisions of the Human Resources Policies and Guidelines.

D. Accumulation of Sick Leave *(Amended June 16, 2011)*

Regular employees shall accrue sick leave for each payroll period completed, prorated on the basis of 3.69 hours per pay period, except as provided in Leave Accruals While on Disability Leave section. Earned sick leave shall be available for use the first day following the payroll period in which it is earned. Employees in regular positions paid less than 80 hours per pay period shall receive sick leave accumulation on a pro-rated basis. There is no limit on sick leave accumulation.

Temporary employees do not earn sick leave.

E. Investigation *(Added June 16, 2011)*

It shall be the responsibility of each appointing authority (as defined in Section 102) to investigate each request for sick leave and to allow sick leave with pay where the application is determined to be proper and fitting.

F. Notice of Sickness *(Amended June 16, 2011)*

Employees are required to notify their appointing authority within one-half hour after the start of the workday on their first day of absence. It is the responsibility of the employee to keep the supervisor informed as to continued absence beyond the first day. In the event that the employee receives a doctor's off-work order and provides notice to the supervisor, the employee is not required to contact the supervisor daily. The employee shall provide a doctor's certificate or other adequate proof in all cases of absence due to illness when requested by SB LAFCO. Violation of this policy will result in denial of sick leave with pay and shall be construed as grounds for disciplinary action up to and including termination.

G. Uses of Sick Leave *(Amended June 16, 2011)*

Sick leave may be applied to the following circumstances:

1. An absence necessitated by an employee's personal illness, injury or disability due to pregnancy, childbirth or adoption.

2. A maximum of three days earned sick leave may be used per occurrence for bereavement due to the death of persons in the immediate or extended family, as defined herein, or any relative who resides with the employee.

3. A maximum of 40 hours earned sick leave may be used per occurrence for arrival of an adoptive child at the employee's home. An employee (father) may utilize on an annual basis no more than 40 hours of accumulated sick leave per calendar year for the birth of his child.

4. Medical, dental, or optical appointments when absence during working hours for this purpose is authorized by SB LAFCO.

5. Absence due to exposure to a contagious disease when quarantine is imposed by health authorities or when it is determined by a physician designated by SB LAFCO that the presence of the employee on duty would endanger the health of others.

6. Absence from duty because the employee's presence is needed to attend to the serious illness of a member of his or her immediate family. Employees may use up to one-half of their yearly sick leave for the purpose of attending to a family member who is ill. All conditions and restrictions placed on an employee's use of sick leave apply also to sick leave used for care of a child, parent or spouse. Upon approval of the appointing authority, the employee may use part of this annual allowance for attendance upon members of the employee's extended family residing in the employee's household who require the attention of the employee.

7. Illnesses while on paid vacation will be charged to sick leave rather than vacation only under the following conditions:

    a. The illness or injury of the employee was of a nature that would preclude the effective use of vacation and would prevent the employee from performing his or her normal duties.

    b. The employee must notify his or her supervisor within 4 calendar days of the beginning of the illness or prior to

the end of his or her vacation leave, whichever is sooner, to request that his or her illness on vacation be charged to sick leave.

c. The agency shall be under no obligation to extend the vacation beyond the original scheduled vacation ending date.

8. Absence from duty because of personal emergencies not to exceed 20 working hours during the fiscal year.

9. An absence due to the air pollution alert, which prevents the employee traveling to his or her work location.

Sick leave shall not be applied to an absence that occurs on a SB LAFCO holiday.

In any use of sick leave, an employee's account shall be charged to the nearest quarter hour for a non-exempt employee, while exempt employees will be charged only for full-day absences.

An employee may be required to furnish a certificate issued by a licensed physician or registered nurse or other satisfactory evidence of illness, injury, medical condition or medical or dental office calls when the agency has notified the employee in advance of such a requirement or when the employee has been under the care of a physician.

H. Payout of Sick Leave *(Amended July 18, 2007; Amended June 16, 2011)*

SB LAFCO employees who hold regular positions at SB LAFCO and who have contributed to the San Bernardino County Employees' Retirement Association (SBCERA) retirement system for more than five (5) years and have not withdrawn the contributions from the system(s), and who separate from SB LAFCO service for reasons other than death or disability retirement shall receive compensation in accordance with the provisions of the Retirement Medical Trust Fund (see Section 108E of the SB LAFCO Benefits Plan).

Employees with less than 5 (five) years of continuous service from the date of hire in a regular position are not eligible for payment of unused sick leave balances upon death.

For employees with 5 (five) years of continuous service from date of hire in a regular position, upon death, the estate of a deceased employee will be paid for unused sick leave balances according to the following formula:

Sick Leave Balance as of Separation Date	**Cash Payment % of Hours of Sick Leave Balance**
480 Hours or less	30%
481 to 600 Hours	35%
601 to 720 Hours	40%
721 to 840 Hours	45%
841 to 1000 Hours	50%

Employees who receive a disability retirement due to permanent incapacity to work shall be entitled to 100% cash payment of any unused sick leave balances, up to a maximum of 1000 hours, computed at the then current base hourly rate, if they elect early retirement in lieu of exhausting such accrued sick leave balances. In no event, shall any employee, except those receiving a disability retirement, receive compensation under this section in excess of 500 hours of pay computed at the then current base hourly rate of said employee.

While employed by SB LAFCO, employees who have contributed to a public sector retirement for over 5 (five) years and have not withdrawn the contribution from the system may exchange accrued sick leave hours in excess of 200 hours for vacation time on the following basis.

Sick Leave Balance at Time of Conversion	**Sick Leave to Vacation Leave Conversion Ratio**
201 to 599 Hours	3 sick hours to 1 hour of vacation
600 to 799 Hours	2.5 sick hours to 1 hour of vacation
800 or more Hours	2 sick hours to 1 hour of vacation

Any such exchange must be made in 10 hour increments of accrued sick leave under the procedures established by the Executive Officer or designee. Employees may elect this exchange once per calendar year.

302: VACATION

Scope: This policy applies to all regular full-time and part-time employees of SB LAFCO. The intent of this policy is to provide paid time off for employees as a means to rest and rejuvenate.

Policy:

A. General *(Amended June 16, 2011*)

SB LAFCO provides paid vacation benefits to all regular full-time and regular part-time employees for the recreation and well being of the employees. Part-time employees accrue paid vacation on a pro-rated basis. Employees will accrue vacation according to continuous years of service. If an employee has exhausted sick leave, vacation leave may be used for sick leave purposes upon a special request of the employee and with the approval of the appointing authority.

B. Prior Service Time *(Added May 20, 2009)*

Regular employees hired by SB LAFCO who have been employed by a public or private jurisdiction and wish to have credit for their prior vacation leave recognized by SB LAFCO shall do the following:

1. Provide documentation of the number of vacation leave hours from the prior public or private jurisdiction paid in cash to the employee upon their termination.

2. Submit payment of the total amount paid at termination for vacation leave to SB LAFCO.

SB LAFCO will then recognize those hours as vacation leave.

C. Accumulation (*Amended June 16, 2011*)

Employees in regular positions scheduled to work eighty (80) hours per pay period shall accrue, on pro-rata basis, vacation leave for completed pay periods. The vacation allowance shall be available for use on the first day following the pay period in which it is earned, provided an employee has worked six pay-periods from the employee's benefit date. Employees in regular positions paid less than 80 hours per pay period shall receive vacation accumulation on a pro-rated basis.

Length of Service from Service Date	**Annual Vacation Allowance**
After 1,600 and through 8320 service hours	80 Hours
Over 8,320 and through 18,720 service hours	120 Hours
Over 18,720 service hours	160 Hours

There shall be no limitation on vacation leave accruals until calendar year 2011. Effective pay period 1 of 2011, the maximum vacation leave accrual balance that may be carried over to a future calendar year shall be 480 hours. However, the maximum vacation leave accrual balance that may be carried over into a future calendar year for an employee with a balance of more than 480 hours at the end of calendar year 2010 shall be such employee's vacation leave balance at the end of pay period 26 of calendar year 2010. Thereafter, the employee's maximum vacation accrual balance for those employees with a balance greater than 480 hours at the end of calendar year 2010 shall be adjusted annually at the end of each calendar year, and shall never be increased. Any vacation leave accrual balance in excess of the employee's maximum leave accrual balance at the end of the calendar year shall be cashed out and paid in accordance with this section.

Vacation should be taken annually with the approval of the appointing authority at such time as it will not impair the work schedule or efficiency of SB LAFCO but with consideration given to the well being of the employee. The minimum charge against accumulated vacation leave shall be 15 minutes. Vacation leave shall be compensated at the employee's base rate of pay, except as otherwise provided. When a fixed holiday falls within a vacation period, the holiday time shall not be charged against an employee's earned vacation benefits.

An employee whose employment terminates will be paid for accrued, unused vacation hours. Retiring employees may elect to use vacation leave to enhance retirement benefits or be compensated in a lump sum payment for accrued vacation leave.

In cases where an employee terminates employment with SB LAFCO, and has been permitted to take vacation time prior to actual accrual, the final paycheck will reflect a deduction relative to the amount of un-accrued time off taken.

D. Conversion of Vacation Leave to Cash *(Added and Amended June 16, 2011)*

1. Elective Conversion

   Eligible employees may be approved by the appointing authority to sell back vacation time at the then hourly base rate of the employee. Eligible employees may exercise this option under procedures established by the Executive Officer or designee. In lieu of cash, the employee may designate that part or all of the value of vacation time to be sold back is allocated to a deferred income plan if SB LAFCO approves such a plan and credit for vacation time is allowed under the plan.

   In order to sell back vacation time prior to termination or retirement, an employee may exercise the following options:

   a. Option 1, Future Accruals - An employee must make an irrevocable election during the month of December specifying the number of hours to be sold back from the next calendar year's vacation time accrual. Such election must be made, in increments of not less than 10 hours and may not exceed 160 hours. All designated hours remaining at the end of the calendar year will automatically be converted into cash in the last pay period of the calendar year.

   b. Option 2, Existing Accruals - Existing accruals may be cashed out in whole hour increments with a minimum cash-out of 10 hours and will be subject to a 10% penalty.

      Upon approval of the appointing authority, eligible employees are permitted to sell back vacation time at the then hourly base rate of the employee, in increments of not less than 10 hours and may not exceed 160 hours.

2. Automatic Conversion

   Commencing with calendar year 2011, at the end of the last pay period of the calendar year, an employee shall automatically have any vacation leave accruals in excess of the employee's maximum vacation leave accrual balance converted to cash. Such automatic vacation leave cash out shall be paid in pay period 1 of the next calendar year. At termination of

employment, all existing vacation leave accruals shall be converted to cash and paid to the employee.

303: HOLIDAY

Scope: The intent of this policy is to provide paid time off for eligible employees for holidays throughout the year.

Policy: **A. General** *(Amended June 16, 2011*)

Holiday time off with pay will be granted to all regular full-time and regular part-time employees, immediately upon their start date, for the days designated by SB LAFCO. Employees in regular positions are also entitled to a total of eight hours of floating holiday time annually provided that the employee is not on unpaid leave for the entire pay period and is actively on the payroll for the pay period where the floating holiday time is to accrue. Eight hours floating holiday time shall be accrued during the first pay period prior to the third Monday in January.

Recognized holidays that fall on a Saturday will be observed on the preceding Friday except that when the preceding Friday is also a fixed holiday, the preceding Thursday will be observed as the fixed holiday. Those that that fall on a Sunday will be observed on the following Monday except that when the following Monday is also a fixed holiday, the following Tuesday will be observed as the fixed holiday. SB LAFCO reserves the right to change or substitute holidays. Employees will be given notice of any such changes.

Regular full-time and regular part-time employees are eligible for holiday pay immediately upon their start date. Holiday pay will be calculated based on an employee's straight-time pay rate (as of the date of the holiday) times the number of hours the employee would otherwise have worked on that day.

If a recognized holiday falls during an employee's paid absence (such as vacation or sick leave), holiday pay will be provided instead of the vacation or sick time off benefit that would otherwise have applied.

In the rare circumstances that a non-exempt employee must work on a recognized holiday, he/she will receive holiday pay plus wages at his/her straight time rate for the hours worked on the holiday. If an exempt employee must work on a recognized holiday, they may reschedule their observance of the holiday to a different (normally worked) date that is mutually acceptable to both the appointing authority and employee.

All employees in regular positions are entitled to the following holidays:

January 1
Third Monday in January
Third Monday in February
Last Monday in May
July 4
First Monday in September
Second Monday in October
November 11
Thanksgiving Day
Day after Thanksgiving
December 24
December 25
December 31

Floating holidays accrued shall be available for use on the first day following the pay period in which they are accrued, with the approval of the appointing authority. Appointing authorities have the right to schedule employees' time off for accrued holidays to meet the needs of the service but with consideration given to the well-being of the employee. Employees in regular positions budgeted less than 80 hours per pay period or job-shared positions shall receive floating holiday accruals on a pro-rata basis.

There shall be no limitation on holiday leave accruals until calendar year 2011. Effective pay period 1 of 2011, the maximum holiday leave accrual balance that may be carried over to a future calendar year shall be 112 hours. However, the maximum holiday leave accrual balance that may be carried over into a future calendar year for an employee with a balance of more than 112 hours at the end of calendar year 2010 shall be such employee's holiday leave balance at the end of pay period 26 of calendar year 2010. Thereafter, the employee's maximum holiday accrual balance for those employees with a balance greater than 112 hours at the end of calendar year 2010 shall be adjusted annually at the end of each calendar year, and shall never be increased. Any holiday leave accrual balance in excess of the employee's maximum holiday leave accrual balance at the end of the calendar year shall be cashed out and paid in accordance with this section.

When a fixed holiday falls within a vacation period, the holiday time shall not be charged against all employee's earned vacation benefits.

Whenever an employee is required to work on a fixed holiday or the fixed holiday falls on an employee's regularly scheduled day off, the employee shall accrue, on an hour-for-hour basis, up to a total of eight hours floating holiday time.

When a fixed holiday falls on a Saturday, the previous Friday will be observed as the fixed holiday except that when the preceding Friday is also a fixed holiday, the preceding Thursday will be

observed as the fixed holiday. When a fixed holiday falls on a Sunday, the following Monday will be observed as the fixed holiday except that when the following Monday is also a fixed holiday, the following Tuesday will be observed as the fixed holiday.

B. Conversion of Holiday Leave to Cash *(Added June 16, 2011)*

1. Elective Conversion

An employee may sell back holiday time at the base hourly rate of the employee as hereinafter provided, upon approval of the appointing authority. Eligible employees may exercise this option under procedures established by the Director of Human Resources. In lieu of cash, the employee may designate that part or all of the value of holiday time to be sold back is allocated to a deferred income plan if such a plan is approved by the County and credit for holiday time is allowed under the plan.

In order to sell back holiday time prior to termination or retirement, an employee may exercise the following options:

a. Option 1. Future Accruals. An employee must make an irrevocable election during the month of December, specifying the number of hours to be sold back from the next calendar year's holiday time accrual. Such election must be made in increments of not less than eight hours and may not exceed the annual amount to be accrued for the next calendar year. All designated hours remaining at the end of pay period 25 will automatically be converted into cash in the last pay period of the calendar year.

b. Option 2. Existing Accruals. Existing accruals may be cashed out in whole hour increments with a minimum cash out of eight hours and will be subject to a ten percent penalty.

2. Automatic Conversion

Commencing with calendar year 2011, at the end of the calendar year, an employee shall automatically have any holiday leave accruals in excess of the employee's maximum holiday leave accrual balance converted to cash. Such

automatic holiday leave cash out shall be paid in Pay Period 1 of the next calendar year.

Upon retirement or termination, employees shall be compensated for any unused accrued holiday time at the then current base rate.

304: OTHER TIME OFF

Scope:

This policy applies to all regular full-time and regular part-time employees of SB LAFCO. The intent of this policy is to outline other types of paid and unpaid time-off available to eligible employees.

Policy:

A. Bereavement Leave *(Amended June 16, 2011)*

Employees in regular positions may use up to two days paid leave, not charged to the employee's personal leave balances, per occurrence for bereavement due to the death of the employee's parent, child, spouse or domestic partner, as defined by California Family Code Section 297. One additional day shall be granted if the employee travels over 1,000 miles from his/her residence to the bereavement service(s). This additional day shall not be charged to the employee's personal leave balances. The appointing authority may request verification of distance traveled. Bereavement leave will normally be granted unless there are unusual business needs or staffing requirements. Bereavement pay is calculated based on the base pay rate at the time of absence and will not include any special forms of compensation such as incentives, commissions, bonuses, overtime, or shift differentials. Regular part-time employees will receive paid bereavement leave on a prorated basis.

Due to the death of persons in the immediate or extended family as defined in Section 301, employees may also, with their appointing authority's approval, use sick leave as set forth in Section 301 or any available vacation for additional time off as necessary.

Special consideration will also be given to any other person whose association with the employee is similar to any of the above relationships.

B. Voting - Generally, employees are able to find time to vote either before or after their regular work schedule. If, however, full-time employees are unable to vote in an election during their non-working hours, SB LAFCO will grant up to 2 hours of paid time off to vote.

Employees requiring time off to vote should make their requests at least two working days prior to the election day. Advance notice is required so that the necessary time off can be scheduled at the beginning or end of the work shift, whichever provides the least disruption to the normal work schedule. Employees must submit a voter's receipt on the first working day following the election to

qualify for paid time off.

C. Jury Duty and Other Court-Related Leaves *(Amended June 16, 2011)*

SB LAFCO encourages employees to fulfill their civic responsibilities by serving jury duty or appearing in court as a witness when required. SB LAFCO provides paid time off for jury duty service provided that the employee waives fees for service, other than mileage. Paid leave for jury duty is available for all regular full-time and part-time employees for the duration of the jury duty. Part-time employees will be paid on a pro-rated basis.

Employees must show the jury duty summons to their supervisor as soon as possible so that the supervisor may make arrangements to accommodate their absence. Employees are expected to report for work whenever the court schedule permits. SB LAFCO will continue to provide health insurance benefits for the full term of the jury duty absence. Vacation, sick leave, and holiday benefits will continue to accrue during jury duty leave.

Employees in regular positions shall be entitled to a leave of absence from work when subpoenaed to testify as a witness, such subpoena being properly issued by a court, agency or commission legally empowered to subpoena witnesses. This benefit shall not apply in any case in which the subpoenaed employee is a party to the action, or the subpoena has arisen out of the employee's scope of employment. Witness leave shall not be charged against any accumulated leave balances and shall be compensated at the employee's base hourly rate. This benefit will be paid only if the employee has demanded witness fees at the time of service of the subpoena, and such fees are turned over to SB LAFCO.

D. Administrative Leave (*Amended June 16, 2011*)

Effective pay period 1 of 2011, the following provision shall replace the Administrative Leave provisions:

> Effective pay period 1 of each year, an employee in a regular position will be provided with 80 hours of Administrative Leave time for the employee's use. Employees hired after the beginning of pay period 1 shall receive a prorated number of hours. Except as provided below, if any Administrative Leave time is unused at the end of pay period 26 (or 27, when applicable), it shall be forfeited and shall not be converted to cash.
>
> Commencing in calendar year 2011, each employee shall have one opportunity during the employee's employment and prior to retirement or separation, to convert Administrative Leave to cash. In order to exercise the employee's one opportunity to cash out Administrative Leave prior to separation of employment or retirement, an employee may exercise the

following options:

Option 1. Future Accruals. An employee must make an irrevocable election during the month of December, specifying that hours are to be sold back from the next calendar year's Administrative Leave accrual. Such election must be made in the increment of 80 hours. All designated hours remaining at the end of the pay period 25 will automatically be converted into cash in the last period of the calendar year.

Option 2. Existing Accruals. An existing accrual balance (up to 80 hours) may be cashed out at one time, and will be subject to a ten percent penalty.

Submission of an irrevocable election to cash out future accruals or a request to cash out existing accruals with penalty shall constitute an employee's one opportunity to cash out administrative leave, regardless of the actual number of hours that are converted to cash.

Employees may designate that cash outs of Administrative Leave as permitted herein be allocated to the County's 401(k) Plan or Section 457 Deferred Compensation Plan.

E. Perfect Attendance Leave (*Added June 16, 2011*)

Employees in regular, full-time positions in SB LAFCO Groups B and C who do not utilize any sick leave in a calendar year (i.e., pay period 1 through pay period 26 or 27), and who do not record any sick leave without pay or absent without pay during that year, shall accrue sixteen (16) hours of perfect attendance leave, for use in the next calendar year. Failure to utilize perfect attendance leave within the calendar year shall result in forfeiture of the same. Perfect attendance leave may not be cashed out.

F. Examination Leave (*Amended June 16, 2011*)

Employees in regular positions at the time of application shall be entitled to a reasonable amount of time off with pay for the purpose of attending all examination processes required for selection to a public sector position within San Bernardino County. Employees are responsible for notifying and obtaining approval from their supervisor prior to taking such leave. Examination time off shall not be charged against any accumulated leave balances and shall be compensated at the employee's base hourly rate. Employees on probationary status, including those who have previously held regular status in another classification, are not entitled to examination time off with pay.

G. Blood Donations (*Amended June 16, 2011*)

Employees in regular positions who donate blood without receiving compensation for such donation may have up to 2 hours off with pay with prior approval from the supervisor for each blood donation. This benefit shall not be charged to any accumulated leave; provided, however, if the employee is unable to work, any time in excess of two hours may be charged to accumulated sick leave or be taken as leave without pay. Employees must provide evidence of the blood donation to the Executive Officer or Appointing Authority to receive this benefit.

Employees in regular positions who are aphaeresis donors may have up to 4 hours off with pay with prior approval of the immediate supervisor for each such donation, provided no compensation is received for such donation. This benefit shall not be charged to any accumulated leave; provided, however, if the employee is unable to work any time in excess of four hours, such time may be charged to accumulated sick leave or be taken as leave without pay. Evidence of each aphaeresis donation must be presented to the Executive Officer or Appointing Authority to receive this benefit.

H. Leave Accruals while on Disability Leave (*Added June 16, 2011*)

Employees receiving the benefits of Workers' Compensation or short-term disability leave receive partial replacement of their income through these benefits. Employees on these types of disability leave may choose to fully integrate, partially integrate, or not integrate personal leave time with these disability payments.

The maximum amount the employee receives from integrating leave time with disability payments shall not exceed 100% of the employee's base salary. Paid personal leave time coded on the employee's time and labor report will be limited to the amount of leave necessary to integrate benefits to the level designated by the employee. When the exact amount is not known, a good faith estimate may be made and the amount will be adjusted later as necessary. If any overpayments are made, the employee will be required to repay that amount. An employee who knowingly receives payment in excess of his or her regular base salary is required to report it to his or her departmental payroll clerk.

Employees who are fully integrating accrued leave time with disability benefits and have at least 41 hours of any type of leave time accrued as of the prior pay period shall be eligible to receive full accruals of vacation and sick leave. Employees who are not fully integrating or employees who have less than 41 hours of any type of leave time accrued shall earn pro-rated vacation and sick leave accruals based upon paid leave time coded on the time and labor report only.

Employees who are fully integrating paid leave time with disability benefit(s) will be eligible for fixed holiday pay, provided they are on the payroll for the entire pay period, have no unapproved leave for the pay period and have enough leave accrued to equal at least one-half of the employee's normal scheduled hours. Employees who are partially integrating or not integrating paid leave time with disability benefits will be paid for holidays in accordance with the holiday leave provisions.

I. Political Leave

Any employee who is declared a candidate for public office shall have the right to a leave of absence without pay for a reasonable period to campaign for the election. Such leave is subject to the conditions governing special leaves of absence.

J. Domestic Violence & Sexual Assault Victim Leave

Employees who are victims of domestic violence or sexual assault may take unpaid time-off to appear in court to attempt to obtain relief or to ensure the health, safety or welfare of the employee or a child. This may include efforts to obtain a temporary restraining order, a restraining order, or other injunctive relief from a court. If desired, employees may use any accrued vacation time for this leave. Reasonable notice must be given to your supervisor before appearing in court. Employees who are victims of domestic violence may also take unpaid time-off to seek medical attention, obtain services from a domestic violence program, obtain psychological counseling, or participate in safety planning. If desired, employees may use any accrued time off for this leave.

K. Volunteer Emergency Leave and Training

If employees volunteer their time as a firefighter, reserve peace officer, or emergency rescue personnel, they may be entitled to take unpaid leave to perform emergency duty. Employees may take unpaid leave of up to 14 days per calendar year for the purpose of engaging in fire or law enforcement training. Time spent on this leave counts for purposes of determining "length of service." However employees will not accrue vacation or receive holiday pay during this leave.

L. Alcohol and Drug Rehab Leave

SB LAFCO will reasonably accommodate employees who wish to voluntarily enter and participate in an alcohol or drug rehabilitation program provided that the accommodation does not impose an undue hardship on SB LAFCO. SB LAFCO does not provide paid time off for participation in an alcohol or drug

rehabilitation program. Employees may use any accrued vacation time or their time spent for rehabilitation leave will be unpaid.

This policy in no way restricts SB LAFCO's right to impose discipline, including actions up to and including termination of employment, for violation of SB LAFCO's drug and alcohol policy.

M. Compulsory Leave (*Added June 16, 2011*)

If, in the opinion of the appointing authority, employees are unable to perform the duties of their position for physical or psychological reasons, they may be removed from duty without pay or may use accrued paid leave for which they are eligible. In addition, such employees may be required to submit to an examination by either a physician or other competent authority designated by the appointing authority or designee or by their own physician or practitioner, as appropriate. If the examination report of the competent authority (e.g., physician, appropriate practitioner) shows the employee to be in an unfit condition to perform the duties required of the position, the appointing authority shall have the right to compel such employee to take sufficient leave of absence with or without pay, to transfer to another position without reduction in compensation, and/or follow a prescribed treatment regimen until medically qualified to return to unrestricted duty. An employee who has been removed from duty for physical or psychological reasons by the appointing authority, and was required to submit to an examination, may not return to duty until such time as medical clearance has been obtained.

N. Suspended Pupil/Child Leave

California law requires employers to provide time off for parents required to visit a child's school where the child has served a period of suspension from school. To be eligible for time off to attend a child's school, the employee must be the parent of a child in kindergarten or in grades 1 through 12 and must present to his/her supervisor the school's letter, which requests the employee's appearance at the school, at least two days before the requested time off. Employees may use accrued vacation or administrative leave to attend a child's school under these circumstances. If not, suspended pupil/ child leave will be unpaid.

O. Time Off For Parents

Employees, who are parents of one or more children in kindergarten, or in grades 1 through 12, may take time off of up to 40 hours per school year to attend authorized school activities which involve one or more of the employee's school age children. To be eligible for parental time off, the employee must obtain from the school, written verification that he or she attended or participated in the school activity. Parental time off may not exceed 8 hours in any calendar month.

Employees may use any accrued vacation or administrative leave while they attend their child's school activities. If not, employees' parental time off will be unpaid. For scheduling purposes, employees must notify their supervisors at least 1 week before the date of the school activity, so that their work duties may be covered.

305: MILITARY LEAVE

(Amended June 16, 2011)

As provided in the California Military and Veterans Code Section 395 *et seq*., and any amendment thereto, and the federal Uniformed Services Employment and Reemployment Rights Act of 1994, a SB LAFCO employee, regular or extra-help, may be entitled to the following rights concerning military leave:

A. **Definition** – Military leave is defined as the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training (weekend drills), full-time National Guard duty, and a period for which an employee is absent for the purpose of an examination to determine the fitness of the person to perform any such duty.

B. Notice and Orders – All employees shall provide advance notice of military service unless military necessity prevents the giving of notice or the giving of notice is impossible or unreasonable. Where available, a copy of military orders must accompany the request for leave.

C. Temporary Duty – Any employee who is a member of the reserve corps of the Armed Forces, National Guard, or Naval Militia shall be entitled to temporary military leave of absence for the purpose of active military training provided that the period of ordered duty does not exceed 180 calendar days, including time involved in going to and returning from such duty. While on paid status, an employee on temporary military leave shall receive the same vacation, holiday, and sick leave, and step advances that would have been enjoyed had the employee not been absent, providing such employee has been employed by SB LAFCO for at least one year immediately prior to the date such leave begins. In determining the one year employment requirement, all time spent in recognized military service, active or temporary, shall be counted. An exception to the above is that an uncompleted probationary period must be completed upon return to the job. Any employee meeting the above one year employment requirement shall be entitled to receive his or her regular salary or compensation, pursuant to Sub-Section E.

D. Active Duty – Employees who resign from positions to serve in the Armed Forces for more than 180 days, shall have a right to return to former classification upon serving written notice to the appointing authority, no later than 90 days after completion of such service. Returning employees are subject to a physical/psychological examination.

Should such employee's former classification have been abolished, then the employee shall be entitled to a classification of comparable functions, duties, and

compensation if such classification exists, or to a comparable vacant position for which the employee is qualified.

The right to return to former classification shall include the right to be restored to such civil service status as the employee would have if the employee had not so resigned; and no other person shall acquire civil service status in the same position so as to deprive such employee of this right to restoration.

Eligible employees are also entitled to the reemployment and benefit rights as further described in the Uniformed Services and Employment and Reemployment Rights Act, 38 U. S. C. §§ 4301-4333. Specifically, a returning employee will receive restoration of original hire and benefit date, salary step, vacation accrual rate, sick leave balance (unless the employee has received payment for unused sick leave in accordance with provisions contained herein), the retirement plan contribution rate, and retirement system contributions (provided the employee complies with any requirements established by the Retirement Board). However, such employee will not have accrued vacation, sick leave, or other benefit while absent from SB LAFCO employment, except as provided in the temporary duty provision.

E. Compensation – This provision does not include an employee's attendance at weekend reserve meetings or drills. Employees must use their own time to attend such meetings. Should the meetings unavoidably conflict with an employee's regular working hours, the employee is required to use vacation or holiday leave, leave without pay, or make up the time. Employees who are called in for a medical examination to determine physical fitness for military duty must also use vacation leave, leave without pay, or make up the time. Employees cannot be required to use their accrued leave. Any employee meeting the requirements in sections 3 and 4. shall be entitled to receive their regular salary or compensation for the first 30 calendar days of any such leave. Pay for such purposes shall not exceed 30 days in any one fiscal year and shall be paid only for the employee's regularly scheduled workdays that fall within the 30 calendar days.

Employees who are called to active duty as a result of the activation of military reservists and are eligible to receive the 30 calendar day military leave compensation shall receive the difference between their regular SB LAFCO salary and their military salary starting on the 31st calendar day of military leave. The difference in salary shall continue for up to 150 calendar days of active military service in addition to the 30 days provided for in this section. During this 150-day period, SB LAFCO will continue to provide the employee the benefit plan as was provided prior to such active duty. Employees should note that the Accidental Death and Dismemberment (AD&D) plan contains a war exclusion.

Employees who are eligible for military leave compensation will be placed on a leave of absence with right to return to their positions.

After June 30, 2002, no compensation shall be paid beyond the 30-day leave period, unless such compensation is expressly approved by SB LAFCO.

F. Spouse, child or parent exigency leave - Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the servicemember medically unfit to perform his or her duties for which the servicemember is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

306: WORKER'S COMPENSATION LEAVE

Scope: SB LAFCO employees are eligible for medical leave of absence related to a work-related injury, in accordance with applicable laws.

Policy:

If an employee sustains a work-related injury, he or she will be eligible for a medical leave of absence for the period of disability in accordance with all applicable laws covering occupational injuries.

Where an employee's work-related injury qualifies as a serious health condition, any Workers' Compensation Leave taken will be considered part of his or her entitlement, if any, to leave under the Family and Medical Rights Act (FMLA) and the California Family Rights Act (CFRA). Employees on Workers' Compensation Leave are required to keep their supervisor updated as to their work status. Employees must provide a doctor's release before returning to work.

307: FAMILY AND MEDICAL LEAVE

Scope: The intent of this policy is to outline and explain some of the rules and requirements applying to Family/Medical Leave Act (FMLA) and the California Family Rights Act (CFRA).

Policy:

A. Eligibility *(Amended June 16, 2011)*

An unpaid leave of absence for family or medical care will be granted for up to 12 weeks in a 12-month period. This includes family members of all active-duty military personnel. To be eligible for family care or medical leave, the employee must have at least one year of service with SB LAFCO and at least 1,250 hours of service during the 12-month period prior to the leave. The employee must notify SB LAFCO immediately of any decision not to return to work at the end of the leave.

Part-time employees who meet the requirements will calculate family/medical leave on a prorated basis according to the number of hours they are normally scheduled to work.

You may be eligible for an unpaid family/ medical leave in the event of:

* The birth of a child
* The placement of a child for adoption or foster care
* Caring for veterans undergoing medical treatment, recuperation, or therapy for a serious injury or illness that occurred in the past five years.
* The need to care for a parent, spouse, or child with a serious health condition
* If you are unable to perform your essential job duties due to a serious health condition.

SB LAFCO may require proper medical certification if leave is requested in connection with the employee's own serious health condition, or the serious health condition of a family member; and in certain cases SB LAFCO can require second and third opinions.

If the need for leave is foreseeable, the employee requesting leave must give reasonable advance notice (at least 30 days) of the need for the leave. In cases where the need for leave is not foreseeable, the employee must request the leave as soon as he or she learns of the need for leave. Employees using the family care or medical

leave must use accrued vacation or sick time benefits during the period of leave.

If your need for leave is due to your own serious health condition or due to the need to care for a child, spouse or parent who has a serious health condition, you must provide a health care provider's statement verifying the need for such leave and its beginning and expected ending dates. For leave for your own serious health condition, SB LAFCO may require you to obtain a second or third medical opinion. If a second or third medical opinion is requested, the cost of the examination will be paid by SB LAFCO.

If your leave exceeds 30 days, or you ask for an extension of your leave, you may be required to provide additional medical certification of your inability to return to work.

If the leave is for the care of a child after birth, adoption or foster care placement, you must complete the leave within 1 year of birth, adoption or foster care placement.

Family/ Medical leave may be taken intermittently or on a reduced schedule if it is medically necessary to care for a spouse, parent or child with a serious health condition for your own serious health condition. Leave for the birth or adoption of a child or placement of a child in foster care may be taken in amounts approved by SB LAFCO. You may be temporarily transferred to an alternative position with equivalent pay and benefits which better accommodates a reduced or intermittent schedule. Intermittent leave, reduced schedules and leaves which are foreseeable must be scheduled in a manner which will minimize disruption to operations.

B. Length of Leave

Leave will be counted as part of entitlement to family and medical leave under the Family and Medical Leave Act (FMLA) and the California Family Rights Act (CFRA). The maximum leave available is 12 weeks of FMLA or CFRA leave during any 12-month period (exception for pregnancy disability- see policy). For the purpose of calculating the 12-week maximum, any other qualifying disability leave, occupational disability leave or family leave taken during the 12-month period will be included. Prior pregnancy disability leave will not be included in computing the 12-week maximum under the CFRA. The 12-month period will be tracked as a rolling 12-month period measured backward from the first day of leave.

A leave to care for the child after birth, adoption or foster care placement may be limited to less than 12 weeks if your spouse is employed by SB LAFCO and is also taking family leave. If you are eligible and your leave is approved, you may not be employed with any employer, other than SB LAFCO during your leave of absence. Outside employment during your leave will result in immediate termination.

C. Impact on Benefits

During any period that the employee takes leave, SB LAFCO will maintain and pay for the employee's medical coverage under a group health plan, on the same terms that apply when the employee is actively employed. The employee taking leave must make arrangements to pay the employee share of dependent premiums while on leave. The use of leave will not result in the loss of any employment benefit that accrued prior to the beginning of the employee's leave. However, accrual of additional benefits, such as vacation and sick time benefits will cease during leave.

Upon return from leave, employees must submit a physician's release. Employees will generally be reinstated to the same or equivalent position unless otherwise permitted by law.

SB LAFCO will comply with the state and federal Family Care and Medical Leave statues.

308: PREGNANCY DISABILITY LEAVE

Scope: The intent of this policy is to provide unpaid leave for pregnancy disability.

Policy:

A. General - Pregnancy disability leaves of absence without pay are available to eligible employees who are temporarily unable to work due to a disability related to pregnancy, childbirth, or related medical conditions. Employees are normally granted unpaid leave for the period of the disability up to a maximum of 4 months within any 12-month period. Employees may substitute any accrued paid leave time for unpaid leave as part of the pregnancy disability leave period.

In addition to the 4 months pregnancy disability leave, an employee may also be eligible for up to 12 additional weeks of unpaid California Family Rights Act (CFRA) Leave within a 12-month period. If an employee qualifies for CFRA Leave in addition to Pregnancy Disability Leave, the total time she may take off is 4 months for Pregnancy Disability Leave and 12 weeks for the CFRA Leave.

B. To Request a Leave - A health care provider's statement must be submitted verifying the need for pregnancy disability leave and its beginning and expected ending dates. Any changes in this information should be promptly reported to SB LAFCO.

Employees requesting pregnancy disability leave should contact the local branch of their State Disability office to obtain the appropriate disability forms.

C. Impact on Benefits - Where an employee's pregnancy disability leave runs concurrently with leave taken pursuant to the Family Medical Leave Act (FMLA), SB LAFCO will continue to provide health insurance benefits for up to 12 weeks of approved pregnancy disability leave.

If an employee chooses to combine pregnancy disability leave with family/medical leave, the maximum amount of time SB LAFCO will pay health insurance premiums is still 12 weeks in a 12-month period. Beyond the 12 weeks, the employee may choose continuation of health insurance coverage through COBRA.

Benefit accruals, vacation and sick leave, or holiday benefits, will be suspended during the leave and will resume upon return to active employment.

For pregnancy leaves of 30 calendar days or less, salary and performance reviews will continue as usual. A salary action which would have ordinarily taken place during the time of the leave will become effective upon return to work. For pregnancy disability leaves of over 30 days, salary and performance reviews will be extended equal to the length of the leave.

D. Return From Leave - So that an employee's return to work can be properly scheduled, an employee on pregnancy disability leave is requested to provide SB LAFCO with at least two weeks advance notice of the date she intends to return to work. When a pregnancy disability leave ends, the employee will be reinstated to the same position unless either the job ceased to exist because of legitimate business reasons or each means of preserving the job would substantially undermine the ability to operate SB LAFCO safely and efficiently. If the same position is not available, the employee may be offered a comparable position in terms of such issues as pay, location, job content, and promotional opportunities. An offer of a comparable position is contingent on such a position being available, and on SB LAFCO's determination that placing the employee in that position will not undermine SB LAFCO's ability to operate its business safely and efficiently. An employee returning from pregnancy disability leave has no greater right to reinstatement to the same or comparable position or to other benefits or conditions of employment than an employee who has been continuously employed in another position that is being eliminated.

If an employee fails to report to work promptly at the end of the pregnancy disability leave, SB LAFCO will assume that the employee has resigned.

E. Additional Accommodations - SB LAFCO will provide reasonable accommodation to an employee for conditions related to pregnancy, childbirth, or related medical conditions, if she so requests, with the advice of her health care provider.

CHAPTER IV: SECURITY, SAFETY AND EQUIPMENT

* Computer and E-Mail Usage 401
* Safety 402
* Desk Inspection Policy 403

401: COMPUTER and E-MAIL USAGE

(Amended June 16, 2011)

Scope: The intent of this policy is to assist in the understanding of the usage of E-mail, the Internet, computer files and software.

Policy:

A. General - Computers, computer files, the e-mail system, and software furnished to employees are SB LAFCO property intended for business use. Employees are not entitled to privacy in regard to computer files or e-mail messages. Employees should not use a password, access a file, or retrieve any stored communication without authorization. SB LAFCO may audit and/or access computer files and e-mail messages as needed. SB LAFCO owned computers, with the exception of laptops designated for remote use, shall not be removed from the premises.

B. E-mail - SB LAFCO utilizes the existing e-mail systems of the County of San Bernardino. The County of San Bernardino e-mail systems are valuable resources for communication of information that is necessary to conduct SB LAFCO business. Employees and other authorized users are encouraged to make use of this tool to carry out their responsibilities and duties in a professional and courteous manner, which is in the best interest of SB LAFCO.

Limited, occasional or incidental use of the e-mail systems for personal purposes may be acceptable, if done in a professional and appropriate manner, not used on SB LAFCO work time, not violating prohibited activities contained in this policy and not interfering with the conduct of SB LAFCO business or the performance of the employee's duties. All messages will be treated as business messages, therefore, employees should not use the email system for messages they wish to keep private.

In order to ensure the proper use of SB LAFCO resources, SB LAFCO reserves the right without advance notice to users of the e-mail systems to monitor, access, copy or delete any messages stored on any of its e-mail systems. NO USER OF ANY COUNTY E-MAIL SYSTEM SHOULD HAVE AN EXPECTATION OF PRIVACY IN ITS USE.

Employees are expected to respect the privacy of messages sent to others using the County's e-mail systems. Therefore, no employee, except those authorized to do so, shall access, view, retrieve, listen to, record, tamper with, copy, change, print or delete

another employee's information or communications without that employee's permission.

Some of the messages sent, received, or stored on the SB LAFCO e-mail system will constitute confidential, privileged communications between SB LAFCO and its inside or outside attorneys. Upon receipt of a message either from or to counsel, do not forward its contents to others without counsel's authorization.

SB LAFCO e-mail shall not be used to announce, advertise, or otherwise promulgate any event, cause, organization, or activity that is not an official SB LAFCO function or program. Any use of the e-mail system to promulgate a legitimate event must be approved by the SB LAFCO Executive Officer.

C. Prohibited Email Activities - It shall be a violation of this policy to use e-mail to violate any existing law, regulation, SB LAFCO policy, department or personnel rule. Other prohibited uses of the County's e-mail systems include, but are not limited to:

1. Activity that could subject SB LAFCO to civil or criminal liability.

2. Representing oneself as a spokesperson and/or making commitments on behalf of SB LAFCO without authorization.

3. Usage intended for personal or commercial financial gain (e.g., advertising), or participating in any gambling, gaming or wagering activities.

4. Any use of e-mail for the purpose of distributing materials, promoting causes or beliefs, or soliciting membership in, support for or donations to any organization, group or entity including, but not limited to, those of a commercial, political, charitable or ideological nature unless officially sanctioned by SB LAFCO.

5. Utilization of e-mail to distribute offensive, abusive, threatening, pornographic, and sexually explicit or hate messages or images.

6. Use of e-mail to commit illegal, fraudulent or malicious activities.

7. Originating or intentionally propagating computer viruses and/or chain letters or petitions.

8. Disclosing confidential and/ or personal information without appropriate authorization or sharing SB LAFCO e-mail accounts or passwords to access those accounts with others.

9. Personal usage that results in any charges or other costs to SB LAFCO.

10. Subscribing to external mailing lists, notification services, or other e-mail services that are not reasonable related to the performance of assigned job duties.

11. Using animation, specialized graphics or colored backgrounds in e-mails.

D. Software - SB LAFCO purchases and licenses the use of various computer software for business purposes and does not own the copyright to this software or its related documentation. Unless authorized by the software developer, SB LAFCO does not have the right to reproduce such software for use on more than one computer. No software owned by an employee shall be installed on a SB LAFCO owned computer without permission from the licensing authority.

Employees may only use software on local area networks or on multiple machines according to the software license agreement. SB LAFCO prohibits the illegal duplication of software and its related documentation.

E. Responsibilities - The SB LAFCO Executive Officer is responsible for ensuring that all policy requirements are fulfilled. County ISD will not respond to requests for e-mail access without written approval from the SB LAFCO Executive Officer or LAFCO Legal Counsel. Employees should notify their appointing authority or the Executive Officer upon learning of violations of this policy.

F. Discipline - Violations of this policy may be considered as a basis for disciplinary action, up to and including termination.

402: SAFETY

Scope: The intent of this policy is to outline safety expectations.

Policy: Every employee is responsible for safety. To achieve our goal of providing a completely safe workplace, everyone must be safety conscious. Employees should report any unsafe or hazardous condition directly to their supervisor immediately.

In case of an accident involving a personal injury, regardless of how serious, employees should notify a supervisor or the Executive Officer immediately. Failure to report accidents can result in a violation of legal requirements, and can lead to difficulties in processing insurance and benefit claims.

If an employee is injured on the job, he or she will be entitled to benefits under the state workers' compensation law in most cases. SB LAFCO carries workers' compensation insurance and will assist employees to obtain all benefits to which they are legally entitled.

403: DESK INSPECTION POLICY

Scope: The intent of this policy is to assist in the understanding of the usage of desks, lockers, cabinets and shelves.

Policy: Although desks, lockers, cabinets and shelves are made available for the convenience of employees while at work, employees should remember that all desks, lockers, cabinets and shelves remain the sole property of SB LAFCO. Moreover SB LAFCO reserves the right to open and inspect desks, lockers, cabinets, and shelves, as well as any contents, effects, or articles in desks, cabinets, and shelves. Such an inspection can occur at any time, with or without advance notice or consent. An inspection may be conducted before, during, or after working hours by a supervisor, manager, or security personnel designated by SB LAFCO.

Prohibited materials, including weapons, explosives, alcohol and non-prescribed drugs or medications, may not be placed in a desk, locker, cabinet or shelf. Employees may keep “lawful over-the-counter or legally prescribed drugs” in their desks, lockers or cabinets. Employees, who, if requested, fail to cooperate in any inspection, will be subject to disciplinary action, up to and including termination. SB LAFCO is not responsible for any articles that are placed or left in a desk, locker, cabinet, or shelf that are lost, damaged, stolen or destroyed.

BENEFIT PLAN

(ADOPTED JUNE 16,2011)

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Adopted September 15, 2004

Amended:

August 17, 2005

May 16, 2007

July 18, 2007

August 20, 2008

June 16, 2011

SECTION 1: INTRODUCTION

A. EMPLOYEE ACKNOWLEDGEMENT *(Added June 16, 2011)*

Consistent with applicable laws, the following sections represent the Benefits Plan established by the San Bernardino Local Agency Formation Commission (hereinafter "SB LAFCO"). These policies and guidelines shall in no manner be interpreted as a guaranteed or implied contract between the SB LAFCO and any employee or group of employees.

All employees shall acknowledge receipt of the Benefits Plan by signing the form titled "Employee Receipt of San Bernardino LAFCO Benefits Plan" with placement of the signed form in the employee's personnel file.

B. ADMINISTRATION OF BENEFITS

San Bernardino LAFCO has contracted with the County of San Bernardino to administer the benefits for SB LAFCO employees equivalent to those provided to County "Exempt" employees. When questions arise, employees will first contact the SB LAFCO payroll person. If additional information is required, employees will contact the Human Resources Employee Benefits and Services Division Chief or designee.

C. BENEFIT PLAN GROUPS

For the purpose of this Benefits Plan, employees shall be divided into the following groups: *(Added June 16, 2011)*

1. Group A. Executive Officer
2. Group B. All SB LAFCO Employees not in Groups A or C
3. Group C. Deputy Clerk to the Commission (hired after July 7, 2007) and LAFCO Secretary

SECTION 2: BENEFIT PLAN ELECTIONS

A. Benefit Plan Contributions

Employees in a regular position scheduled for a minimum of 40 hours per pay period are eligible to receive the benefits of this section in the amounts described in the section below. Employees must be paid for at least one-half plus one hour of their scheduled hours in order to receive the benefits of the section.

B. Section 125 Premium Conversion Plan

Eligible employees shall be provided with a Section 125 Premium Conversion Plan. The purpose of the Plan is to provide employees a choice between paying premiums with either pre-tax salary reductions or after-tax payroll deductions for health insurance, dental insurance, voluntary life (to the IRS specified limit) and accidental death and dismemberment insurance premiums currently maintained for Exempt employees. The amount of the pre-tax salary reduction or after-tax payroll deduction must be equal to the required insurance premium.

Benefit Plan elections shall not reduce earnable compensation for purposes of calculating benefits or contributions for the San Bernardino County Employees' Retirement Association. To be eligible for this benefit, an employee must be in a regular position and be regularly scheduled to work at least 40 hours in a pay period or be on an approved leave pursuant to the Family Medical Leave Act.

Election of pre-tax and after-tax payroll deductions shall be made within 30 days of the initial eligibility period in a manner and on such forms designated by the San Bernardino County Human Resources Employee Benefits Department and Services Division Chief, or designee. Failure to timely submit appropriate paperwork will result in after-tax deductions for all eligible premiums for the remainder of the Plan Year.

Once a salary reduction has begun, in no event will changes in elections be permitted during the Plan Year except to the extent permitted under Internal Revenue Service rulings and regulations and with the County's Plan Document. Examples of mid-year qualifying events include: marriage, divorce, birth, adoption, death, overage dependent loss of student status, the employee or employee's spouse's reduction in work hours, loss of spouse's employment, gain or loss of spouse's insurance, relocation outside an HMO network service area, entitlement to Medicare for the employee or employee's dependent, significant increase in County insurance cost during the plan year, loss of Medi-Cal or Medicaid coverage and spouse's or dependent's open enrollment. The employee must submit request for a change due to a mid-year qualifying event within thirty (30) days of the qualifying event.

The San Bernardino County Human Resources Benefits Department and Services Division Chief or designee will authorize changes, as long as the change is made on account of or consistent with an employee's change in status.

C. MEDICAL AND DENTAL SUBSIDIES *(Amended August 17, 2005; August 20, 2008; June 16, 2011)*

The County of San Bernardino will establish a Medical Premium Subsidy (MPS) in an amount that, when combined with the Benefit Plan contributions, would offset the cost of health plan premiums charged to eligible employees. The MPS shall be applied first to health insurance premiums and then to dental plan premiums. The applicable MPS amount shall be paid directly to the provider of the County-sponsored health plan in which the eligible employee has enrolled. The MPS shall not be considered compensation earnable for purposes of calculating benefits or contributions for the San Bernardino County Employees Retirement Association. In no case, shall the MPS exceed the total cost of the health and dental insurance premium for the coverage selected.

Effective July 17, 2010, an MPS will be established in the following amounts:

	Scheduled for 40 to 60 hours	Scheduled for 61 to 80 hours
Employee Only	0	0
Employee +1	$61.12	$122.23
Employee +2	$126.32	$252.64

Effective June 18, 2011, an MPS will be established in the following amounts:

	Scheduled for 40 to 60 hours	Scheduled for 61 to 80 hours
Employee Only	$115.00	$230.00
Employee +1	$176.12	$352.23
Employee +2	$241.32	$482.64

Effective July 7, 2007, a dental Premium Subsidy (DPS) will be established for all employees whose premium costs for health and dental exceeds the Medical Premium Subsidy in an amount up to nine dollars forty-six cents ($9.46), but not to exceed the combined total of the employee's out-of-pocket expenses.

SECTION 3: HEALTH AND DENTAL INSURANCE

A. BENEFIT PLAN *(Amended June 16, 2011)*

SB LAFCO Employees in a regular position scheduled for a minimum of forty (40) hours per pay period are eligible to receive the benefits of this section in the amounts described in the section below. Employees must be paid for at least one-half plus one hour of their scheduled hours in order to receive the benefits of the section. For instance, an employee scheduled to work eighty (80) hours per pay period must be paid at least forty-one (41) hours to be eligible for the benefits of this section.

Except as provided in the Health and Dental Insurance section, the bi-weekly amount of the SB LAFCO provided Benefit Plan will be as follows:

Effective Date	**Scheduled for 40 to 60 hours**	**Scheduled for 61 to 80 hours**
June 25, 2005	$115.00	$230.00

Under no circumstances will the monetary value of the Benefit Plan be prorated.

Employees who are on an approved Medical Leave of Absence and whose paid hours in a pay period are less than the required number of hours will continue to receive the benefits of this section for up to six pay periods per episode of illness or injury. Employees who are on an approved Workers' Compensation claim shall receive the benefits of this section for up to 20 pay periods while off work due to that work injury. Employees who are integrating paid leave time with Short-Term Disability (STD) insurance provided by SB LAFCO shall receive the benefits of this section under the following circumstances: upon election of full integration of disability payments and paid leave time, employees who are paid less than one-half plus one o f their scheduled hours but have available leave balances of one-half plus one of their scheduled hours or more shall receive the benefits of this section.

Employees who are on an approved leave of absence without pay under the Family Medical Leave Act of 1993 will continue to receive the Benefit Plan dollars and Medical Premium Subsidy, if any, for up to six pay periods. Employees who are on a leave of absence without pay shall not be eligible to receive the monetary benefits of this section unless on a medical leave or a Family Medical Leave Act eligible leave.

Effective June 18, 2011, the Benefit Plan amounts specified above shall be reduced to zero, and an equivalent amount shall be added to the Medical Premium Subsidy provided pursuant to Section 2C.

B. HEALTH AND DENTAL INSURANCE *(Amended August 17, 2005*; *June 16, 2011*)

Except as otherwise provided, all eligible employees scheduled to work 40 hours or more per pay period in a regular position must enroll in a health and dental plan offered by SB LAFCO through the County. Employees who fail to elect health and dental plan coverage will be automatically enrolled in the health and dental plan with the lowest biweekly minimum premium rates available in the geographical location of the employee's primary residence.

To be eligible for SB LAFCO health and dental plan coverage, a SB LAFCO employee must be in a regular position scheduled for a minimum of 40 hours and have received pay for at least one half plus one hour of scheduled hours or be on approved leave pursuant to the Family Medical Leave Act. Employees on an approved Worker's Compensation claim shall receive Benefit Plan contributions for up to 20 pay periods while off work due to that injury. However, after the sixth pay period off work, the employee is no longer eligible for health and dental plan coverage. The employee will then have the option of enrolling in COBRA continuation coverage.

Enrollment elections must remain in effect for the remainder of the Plan Year unless an employee experiences an IRS qualifying event.

Eligible employees may elect to enroll dependents upon initial eligibility for health and dental insurance. Thereafter, newly eligible dependents may be enrolled within thirty (30) days of obtaining dependent status, such as birth, adoption or marriage.

Notification of a mid-year qualifying event must be submitted to the SB County Human Resources Employee Benefits and Services Division Chief or designee in accordance with procedures adopted by the County. Employees are responsible for notifying the County within thirty one (31) days of dependent's change in eligibility for the County plans.

Dependent(s) must be removed mid-Plan year when a dependent(s) becomes ineligible for coverage under the insurance plan eligibility rules, for example, divorce, over-aged dependent, or gain of coverage on spouse's or domestic partner's employer-provided insurance, or termination of domestic partnership.

Premiums for coverage will be automatically deducted from the employee's pay warrant. Failure to pay premiums will result in loss of coverage for the employee and/or the dependents.

Employees eligible for health and or dental plan coverage who are also enrolled in comparable group health or dental plan sponsored by another employer may

elect to discontinue enrollment in the County-sponsored health plan (opt-out or waive). Employees scheduled to work 61 to 80 hours per pay period who elect to Opt-Out or Waive the County-sponsored health plan coverage will be provided bi-weekly Benefit Plan amounts as follows:

i. Employees who elected to opt-out of County-sponsored health plan coverage prior to July 9, 2005 and continue to opt-out will receive the following bi-weekly Benefit Plan:

Scheduled for 40 to 60 hours	**Scheduled for 61 to 80 hours**
$80.77	$161.54

ii. Employees who elected to waive health plan coverage to a spouse or domestic partner currently employed by the County prior to July 9, 2005 will receive the following bi-weekly Benefit Plan:

Scheduled for 40 to 60 hours	**Scheduled for 61 to 80 hours**
$115.00	$230.00

iii. New employees or current employees who opt-out or waive County-sponsored health plan coverage will receive the following bi-weekly Benefit Plan:

Scheduled for 40 to 60 hours	**Scheduled for 61 to 80 hours**
$20.00	$40.00

The rules and procedures for electing to Opt-Out or Waive the County-sponsored health and dental plan coverage are established and administered by the SB County Human Resources Employee Benefits Department and Services Division.

Employees may elect to Opt-Out of the SB LAFCO health and/or dental plan(s) within 31 calendar days of becoming eligible for another employer-sponsored group plan. Proof of initial gain of other group coverage is required at the time that opt-out is elected.

Employees may elect to Opt-Out of the SB LAFCO health and/or dental plan(s) during an annual open enrollment period. All employees who are newly opting-out during an open enrollment period must provide verification of other group coverage.

Except as required at the initial opt-out election, employees are not required to provide verification of continued coverage unless requested by the plan administrator.

Employees who voluntarily or involuntarily lose other group health plan coverage must enroll in a County-sponsored health plan within 31 calendar days. Enrollment in the County-sponsored plan will be provided in accordance with the requirements of the applicable plan. If the employee elects not to enroll eligible dependents, the dependents may only be added at a subsequent annual open enrollment period.

There must be no break in the employee's health plan coverage between the termination date of the other employer group coverage and enrollment in a County health plan. Terms and conditions of the applicable plan will determine the required retroactive enrollment period and premiums required to implement coverage. Failure to notify the County of loss of group coverage within 31 calendar days will require the employee to pay insurance premiums retroactively on an after-tax basis.

An eligible employee whose spouse or domestic partner is also an eligible County employee may elect coverage as a dependent on his or her spouse's or domestic partner's, or, if the employee is age 18 or younger, on parent's County health and/or dental insurance plan in lieu of individual employee coverage. This is called a "waiver" to County spouse's, domestic partner's, or parent's County insurance coverage. Such election must be made within 31 calendar days of the employee's, County parent's or the County spouse's eligibility for County health and dental insurance. During the Plan Year, an employee is responsible for notifying the County within 31 days of ineligibility for the waiver; for example, the dependent child turns 19 or the spouse leaves County employment. Changes will become effective on the first day of the pay period following the receipt and approval of all appropriate documentation. Loss of the spouse's or parent's County plan coverage will require the employee to immediately enroll in the County's health and dental plans. Waivers may be changed during any subsequent annual health and dental open enrollment period.

SECTION 4: LIFE INSURANCE

A. TERM LIFE INSURANCE. (*Amended June 16, 2011)*.

SB LAFCO will pay the premium for a term life insurance policy, the amount of which is based on the eligible employee's scheduled hours. Employees scheduled from 40 to 60 hours per pay period shall receive $25,000 in coverage. An employee scheduled from 61 to 80 hours shall receive $50,000 in coverage. Life insurance will become effective on the first day of the pay period following the employee's first pay period in which the employee is paid for one half plus one of their scheduled hours. For example, an employee scheduled for 80 hours must be paid for a minimum of 41 hours.

In accordance with procedures established by the SB County Human Resources Employee Benefits Department and Services Division Chief, eligible employees may purchase, through payroll deductions, term life insurance in $10,000 increment amounts to a maximum benefit of $700,000.

B. VARIABLE UNIVERSAL LIFE INSURANCE. *(Amended May 16, 2007; June 16, 2011)*.

Eligible SB LAFCO employees may purchase, through payroll deductions, variable universal life insurance in amounts equivalent to no more than three (3) times the employee's annual base earnings. Employees who purchase variable universal life insurance shall be provided a SB LAFCO contribution towards the bi-weekly premium based on the following table:

Benefit Group A
(Executive Officer) = 50% of the premium of the one-time annual base salary or 100 of the premium equal to 50 percent of the one time annual base salary.

Benefit Groups B and C
(All other SB LAFCO employees) = 25% of the premium of the one-time annual base salary.

C. ACCIDENTAL DEATH AND DISMEMBERMENT INSURANCE. Eligible employees may purchase amounts of Accidental Death and Dismemberment Insurance coverage for themselves and dependents through payroll deduction.

D. PSYCHOLOGICAL SERVICES. Subject to carrier requirements, SB LAFCO will pay the premium for a prepaid psychological services program for employees and their eligible dependents.

E. LONG-TERM DISABILITY INSURANCE. SB LAFCO will provide employees with long-term disability insurance through the county subject to carrier requirements and approval. The benefit levels or such insurance shall be those approved by the County's Director of Human Resources.

F. SHORT-TERM DISABILITY INSURANCE. *(Amended June 16, 2011)*.

SB LAFCO will provide an employer paid Short-Term Disability Insurance Plan through the County for employees. This benefit shall apply to employees in regular position who are regularly scheduled to work 41 or more hours per pay period. The Short-Term Disability Insurance Plan benefit coverage shall be governed by the Plan Document that has been approved and adopted by the Board of Supervisors for employees. Effective August 1, 2009, SB LAFCO will provide employees with short-term disability insurance subject to carrier requirements and approval. Effective January 30, 2010, the maximum weekly benefit is $1,408. Each year thereafter, the weekly maximum benefit shall be adjusted at such times as the State of California for the State Disability Insurance fund adjusts. Benefit payments terminate when the employee is no longer disabled or upon termination of employment from SB LAFCO, or after receiving 180 days of benefits at which time the employee would be eligible for long-term disability benefits if still medically disabled after 180 days.

G. VISION CARE INSURANCE *(Added June 16, 2011)*

SB LAFCO will pay the premiums for vision care insurance for employees and their dependents, subject to carrier requirements the same as provided to County exempt employees.

H. GENERAL PROVISIONS

All persons eligible for the foregoing programs of insurance will be covered for the insurance on the date the insurance becomes effective, or in the case of any employee absent because of illness on the date the insurance becomes effective, the insurance will commence on the date of return to work.

SECTION 5: FLEXIBLE SPENDING ACCOUNT

(Amended August 17, 2005; May 16, 2007; June 16, 2011)

The County has established a Health Expense Flexible Spending Account (FSA) for employees in regular positions who are regularly scheduled to work 41 hours or more a pay period. The Health Expense FSA is established in accordance with the provisions of Section 125 of the Internal Revenue Code (IRC). The Human Resources Employee Benefits Department and Services Division Chief, or designee, will serve as the Plan's Administrator. The Health Expense FSA Plan Year will coincide with the County's Benefit Plan Year. SB LAFCO contracts with SB County to provide this benefit to its employees.

Employees who choose to participate in the Health Expense FSA must complete and submit enrollment forms in accordance with procedures developed by the Plan's Administrator. Effective July 23, 2005, eligible employees may contribute, on a pre-tax basis, a minimum of ten dollars ($10.00) and a maximum of one hundred dollars ($100.00) per bi-weekly pay period to a flexible spending account. SB LAFCO will contribute twenty dollars ($20.00) per bi-weekly pay period, matching employee contributions dollar for dollar, up to twenty dollars ($20.00) each bi-weekly pay period. Effective for the plan year commencing July 7, 2007, SB LAFCO will contribute up to forty dollars ($40.00) per bi-weekly pay period, matching employee contributions dollar for dollar, up to forty dollars ($40.00) each bi-weekly pay period.

Upon enrolling in the Plan, employees may not change their designated bi-weekly contribution amount or discontinue making contributions for the remainder of the plan year (until on or about June 30) unless they incur an eligible family status change as defined in Section 125 of the IRC. Section 125 also requires that any amounts remaining in an employee's account at the end of the plan year must be forfeited. The County will use any forfeited amounts to help defray the Plan's administrative expenses.

Contributions made to the Health Expense FSA may be used for receiving non-taxable reimbursements of eligible medical and dental expenses not covered by insurance. Eligible reimbursable expenses are those medical and dental expenses that qualify as medical expenses under the Internal Revenue Code.

SECTION 6: DEPENDENT CARE ASSISTANCE

(Amended August 20, 2008; June 16, 2011)

The purpose of this Section 125 Dependent Care Assistance Plan (DCAP) is to permit eligible employees to make an election to pay for certain dependent care expenses with salary reductions from compensation contributed to the Plan before federal income or social security taxes are paid to the Internal Revenue Service ("Salary Reduction") in accordance with Sections 125 and 129 of the Internal Revenue Code of 1986 (IRC) and regulations issued pursuant thereto. DCAP shall be construed to comply with said Code Sections and to meet the requirements of any other applicable provisions of law. DCAP exclusions from gross income do not affect compensation for retirement purposes.

SB LAFCO participates in the DCAP that is administered by the County's Human Resources Department, Division Chief, Employee Benefits and Services consistent with said IRC Sections, and consistent with the Plan Document for DCAP as approved by the County Board of Supervisors from time to time.

To be eligible for this benefit, an employee must be in a regular position and be scheduled and paid for a minimum of forty (40) hours per pay period and be paid for a minimum of one half plus one of the scheduled hours, or be on an approved leave designated as Family Medical Leave, or be on an approved Military Leave.

Enrollment in the Plan is limited to the annual open enrollment period or within thirty (30) calendar days of entry into an eligible position. Failure to submit participation agreement within the time frame shall result in an election to not participate in the Plan.

Enrollment is required every Plan Year. An employee must elect to contribute to DCAP through salary reduction on forms approved by the County Human Resources Division Chief, Employee Benefits & Services. An employee election to participate shall be irrevocable for the remainder of the plan year. Once a salary reduction has begun, in no event will changes in elections be permitted during the Plan Year except to the extent permitted under Internal Revenue Service rulings and regulations and with the County's Plan Document. Examples of mid-year "Change in Status" events include: marriage, divorce, birth, adoption, death, overage dependent, loss of student status, the employee's or employee's spouse's reduction in work hours, loss of spouse's employment, significant increase or decrease in the cost of child care, and spouse's or dependent's enrollment in a similar plan. The employee must submit a request for a change due to a mid-year Change in Status event within 30 days of the qualifying event. The County Benefits Chief, Benefits and Services Division, or his/her designee, will authorize changes provided the change is made on account of and is consistent with an employee's Change in Status Event.

Pursuant to IRC §125, any amounts remaining in the employee's account at the end of a Plan year must be forfeited. The County will use any forfeited amounts to help defray the Plan's administrative expenses.

SECTION 7: SALARY SAVINGS PLANS

A. 401K PLAN *(Amended August 17, 2005; May 16, 2007; August 20, 2008; June 16, 2011)*

Biweekly contributions of SB LAFCO employees to the County's 401(k) Defined Contribution Plan will be matched by a SB LAFCO contribution on the basis of two times the employee's contribution. The biweekly contributions of employees in Groups A and B of up to four percent of biweekly base salary will be matched by a SB LAFCO contribution of two times the employee's contribution, not to exceed eight percent of an employee's biweekly base salary. The biweekly contributions of employees in Group C to the County's 401(k) Defined Contribution Plan of up to three percent of biweekly base salary will be matched by a SB LAFCO contribution of two times the employee's contribution. The SB LAFCO contribution shall not exceed six percent of an employee's biweekly base salary.

B. 457 DEFERRED COMPENSATION PLAN (*Amended June 16, 2011)*

i. Bi-weekly contributions of SB LAFCO Group A employees to the County's Section 457 Deferred Compensation Plan up to one percent (1%) of an employee's bi-weekly base salary will be matched by a SB LAFCO contribution on the basis of one (1) times the employee's contribution. The SB LAFCO contribution shall not exceed one percent of the employee's biweekly salary. The contribution shall be deposited in the County's 401(a) Plan.

ii. Bi-weekly contributions of SB LAFCO Group B and C employees to the County's Section 457 Deferred Compensation Plan up to one percent (1%) of an employee's bi-weekly base salary will be matched by a SB LAFCO contribution of one-half (1/2) times the employee's contribution. The SB LAFCO contribution shall not exceed one-half percent (1/2%) of the employee's bi-weekly salary. The contribution shall be deposited in the County's 401(a) Plan.

SECTION 8: RETIREMENT

A. SB LAFCO CONTRIBUTIONS *(Amended August 17, 2005; May 16, 2007; June 16, 2011)*

Except as otherwise provided, for all employees SB LAFCO will pick up a portion of the employee's required contribution to the San Bernardino County Employees' Retirement Association (SBCERA) in the amount of seven percent (7%) of the employee's earnable compensation as defined in the SBCERA bylaws. Effective June 18, 2011, the SB LAFCO seven percent (7%) pick up of a portion of the employee's required contribution to SBCERA shall be discontinued, and the supplemental amounts provided in the paragraph below shall be the only employee contribution pick up.

Employees shall receive the following supplemental amounts biweekly to be applied under this section: Group A employee, $236.41 per bi-weekly pay period; Group B employees, $152.17 per bi-weekly pay period; Group C employees, $94.67 per bi-weekly pay period.

The employee must choose to have the contributions designated as all employer or all employee contributions for retirement purposes. If the employee designates the pick up as employer contributions, then for each dollar applied, the employee's retirement obligation shall be satisfied in the amount of the actuarial value of that dollar to the Retirement Association as determined by the Board of Retirement; and the employee may not withdraw this contribution from the Retirement Association.

If the employee designates the pick up as employee contributions, then for each dollar applied, the employee's retirement obligation shall be satisfied in the amount of one dollar, and upon separation without retirement, an employee may withdraw this contribution from the Retirement Association. Upon retirement or separation, all contributions applied under this Section will be considered for tax purposes as employer-paid contributions.

If the employee does not file a designation, the contribution shall be made as employee contributions. Employees receiving Retirement System contributions under the Benefit Plan in effect prior to the effective date of this provision shall continue to have contributions under this provision applied (as employer or employee contributions for retirement purposes) in the same manner as previously applied for the employee until the employee makes a revised designation.

Any dollars that are remaining after all retirement system obligations are fully satisfied shall be paid to the employee in cash.

B. REMAINING EMPLOYEE CONTRIBUTIONS

Any employee retirement system contribution obligations that are not paid by the application of the SB LAFCO Contributions provision above shall be "picked up" for tax purposes only pursuant to this section. The Auditor/Controller-Recorder shall implement the pickup of such retirement system contribution under Internal Revenue Code Section 414(H) (2) effective with the earnings paid and contributions made on and after the effective date of August 12, 1989.

SB LAFCO shall make member contributions under this section on behalf of the employee, which shall be in lieu of the employee's contributions, and such contributions shall be treated as employer contributions for purposes of reporting and wage withholding under the Internal Revenue Code and the Revenue and Taxation Code. The amounts picked up under this section shall be recouped through offsets against the salary of each employee for whom SB LAFCO picks up member contributions. These offsets are akin to a reduction in salary and shall be made solely for purposes of income tax reporting and withholding. The member contributions picked up by SB LAFCO under this section shall be treated as compensation paid to SB LAFCO employees for all other purposes. SB LAFCO paid employer contributions to the County's Retirement System under this section shall be paid from the same source of funds as used in paying the salaries of the affected employees. No employee shall have the option to receive the Retirement System contribution amounts directly instead of having them paid to the County Retirement System.

Upon retirement or separation, all contributions picked up under this section will be considered for tax purposes as employer-paid contributions. Contributions under this section shall be applied (as all employer or all employee contributions with the same value and restrictions) for Retirement System purposes in the same manner as the contributions under the SB LAFCO Contributions provision above.

C. SPECIAL PROVISIONS *(Amended June 16, 2011)*

Employees who have 30 years of service credit and no longer make retirement contributions under the provisions of the County Employees' Retirement Law of 1937 shall be paid in cash seven percent (7%) of earnable compensation as defined by the bylaws of the Retirement Board as well as the monthly dollar amount allocation to their group under the SB LAFCO Contributions provision above. This paragraph shall be effective through June 17, 2011.

Except as provided below, effective June 18, 2011, employees who have 30 years of service credit shall not be paid in cash seven percent (7%) of earnable compensation. Employees with at least 25 years of service as set forth in

Government Code Section 31625.3 as of June 18, 2011, and who either already have or thereafter attain 30 years of service credit as set forth in Government Code Section 31625.3 shall have one opportunity during the employee's employment to receive cash payments of seven percent (7%) of earnable compensation for up to twenty-six (26) consecutive pay periods.

Employees who are over age 60 at time of hire, and who are in a regular position, and who choose not to be a member of the Retirement Association, shall be enrolled in the County's 401(k) Salary Savings Plan. SB LAFCO shall pay six percent (6%) of the employee's bi-weekly salary to the Plan, and the employee shall contribute a minimum of three percent (3%) of bi-weekly salary to the Plan, not to exceed the annual limits of the Plan as defined in the Internal Revenue Code. As these employees are not participating in the Retirement Association, they shall not be eligible for the SB LAFCO pickup of seven percent (7%) of earnable compensation. Exception: Those employees hired prior to July 1, 1996, and who have been receiving the seven percent (7%) pickup shall continue to receive the pickup as long as they remain an eligible employee. Eligible employees who waive participation in the County's Retirement System shall be eligible to receive the bi-weekly amounts applied under SB LAFCO Contributions above for their group of employees.

<u>County Exempt Group Benefit Reductions</u>

As stated in Section 1B, San Bernardino LAFCO employees mirror the benefits to those provided to County "Exempt" employees. As of April 19, 2011, the following changes have been approved for County Exempt employees:

1) Reduction of step increase increments from approximately five percent (5%) to approximately two and one-half percent (2.5%) for all current and newly hired employees; 2) Elimination of the seven percent (7%) pick-up of the employee's share of retirement system contributions (not including supplemental contribution amounts contributed on behalf of employees); and 3) Conversion of Benefit Plan payments to Medical Premium Subsidy payments and establishing fixed dollar caps at current levels for all Medical Premium Subsidy payments.

The above three changes are to be effective June 18, 2011, unless the County does not implement the above changes for its Exempt employees.

D. SURVIVOR BENEFITS

Survivor Benefits are payable to employed general retirement members with at least 18 months continuous retirement membership pursuant to Government Code Section 31855.12. of the County Employees Retirement Law of 1937. An equal, non-refundable employer and employee bi-weekly contribution will be paid to SBCERA as provided in the annual actuarial study.

E. RETIREMENT MEDICAL TRUST FUND *(Amended July 18, 2007; Amended August 20, 2008)*

A Retirement Medical Trust Fund has been established for SB LAFCO employees with ten (10) or more years of participation in the San Bernardino County

Employees' Retirement Association (SBCERA):. Effective June 23, 2007, SB LAFCO employees with five (5) or more years of participation in SBCERA are eligible to participate in the Trust. The purchase of additional retirement credit or other retirement service credit shall count as years of participation for determining eligibility in the Retirement Medical Trust. Participation in other public sector retirement systems may also be counted towards the service requirement provided that the employee has not withdrawn their contributions from the system(s) and the employee is also a participant in SBCERA. Employees who wish to receive credit for participation in other public retirement systems must provide the Plan Administrator written evidence of participation and that contributions made to the system(s) have not been withdrawn.

The Trust is administered by a Board of Trustees, who manages resources of the Trust and determines applicable administrative fees for managing the Trust Fund. The Trustees ensure that payments of qualified medical expenses incurred by retirees or their eligible dependents will be appropriately reimbursed. The Trust will establish individual accounts for each participant's individual account. All of the contributions to the Trust Fund will be treated for tax purposes as employer, non-elective contributions resulting in tax-free contributions for SB LAFCO. All of the distributions from the Trust Fund made to retirees or their eligible dependents for the reimbursement of qualified medical expenses as defined by the Internal Revenue Codes (including medical insurance payments) will also be non-taxable to the retiree's eligible dependent(s).

Effective June 23, 2007, SB LAFCO will contribute one percent (1%) of an eligible employee's bi-weekly salary to the Trust. Effective August 2, 2008, SB LAFCO will contribute one and three-quarters percent (1.75%) of the biweekly salary of an eligible employee with ten (10) or more years of participation in SBCERA to the Trust, and the SB LAFCO will contribute two and three-quarters percent (2.75%) of the biweekly salary of an eligible employee with sixteen (16) or more years of participation in SBCERA to the Trust. Participation in other public sector retirement systems may also be counted towards the service requirement in the same manner as above.

At separation from SB LAFCO service for reasons other than death or disability retirement, all eligible employees will be required to contribute the cash value of

their unused sick leave balances to the Trust, at the rate of seventy-five percent (75%) of the cash value of the employee's unused sick leave hours, up to a maximum of fourteen hundred (1,400) hours.

Employees retiring from SB LAFCO with a disability retirement are not eligible to contribute the cash value of their unused sick leave balances to the Trust. Those employees will be compensated for their unused sick leave in accordance with the Sick Leave Conversion section of the SB LAFCO Human Resources Policies and Guidelines.

The Trust Fund is a Voluntary Employees Benefit Association (VEBA) and will comply with all of the provisions of Section 501(c) (9) of the Internal Revenue Code.

SECTION 9: HEALTHY LIFESTYLE PROGRAM

(Amended August 17, 2005; August 20, 2008)

SB LAFCO contracts with SB County to provide to its employees the "Healthy Lifestyles" program. Under this program SB LAFCO employees are eligible for annual prepaid memberships with health clubs that participate in the program, or reimbursement for other health club membership up to $324 per year on an annual basis. SB LAFCO employees wishing to participate in this program must submit a Healthy Lifestyles application as approved for use by SB County. SB LAFCO employees are also eligible for an annual physical examination through Arrowhead Regional Medical Center.

SECTION 10:
PORTABLE COMMUNICATION DEVICE ALLOWANCE

(Added April 20, 2005; Amended July 18, 2007)

Effective June 23, 2007, the SB LAFCO Executive Officer shall receive a bi-weekly portable communication device allowance in the amount of ninety-two dollars and thirty-one cents ($92.31), if the following conditions are met: (1) The Executive Officer shall purchase a portable communication device capable of sending and receiving cellular telephone calls, and if approved by the appointing authority, capable of sending and receiving e-mails to and from the County of San Bernardino (County) e-mail system. (2) Any portable communication device to be utilized for sending and receiving e-mail shall be selected from a list as approved by the County Information Services Department, which will be limited to devices utilizing Windows Mobile 5 or greater. (3) The Executive Officer may purchase a device currently in use at a cost to be determined by the County Information Services Department. (4) SB LAFCO shall pay for any license and set up expense for the device if any, and the employee shall pay for the equipment and monthly voice and data plans.

SECTION 11: AUTOMOBILE ALLOWANCE

(Added July 18, 2007; Amended August 20, 2008)

Effective August 2, 2008, the SB LAFCO Executive Officer shall receive a bi-weekly automobile allowance in the amount of five hundred sixty-one dollars and fifty-four cents ($561.54) with no mileage reimbursement. The Executive Officer shall be required to have a vehicle available at all times for use on SB LAFCO business. This allowance shall be considered complete reimbursement for the acquisition, insurance, maintenance, repair, upkeep, fuel, and all other costs for the required vehicle.

SECTION 12:
TUITION REIMBURSEMENT AND MEMBERSHIP DUES

(Added June 16, 2011)

SB LAFCO encourages and supports efforts by its employees to improve their skills and educate themselves for advancement. SB LAFCO believes that assisting the employee in the pursuit of an educational agenda or to otherwise expand their work-related knowledge base will benefit both the employee and SB LAFCO.

All regular Full-Time employees of SB LAFCO, who have been employed for at least 90 days prior to enrollment, are eligible to receive educational assistance.

Upon pre-approval by the employee's supervisor and Executive Officer, the following reimbursement policies have been outlined to cover tuition, course/seminar or degree related expenses, and membership dues in professional organizations:

- Maximum SB LAFCO reimbursement is $1,000 per fiscal year for membership dues and/or all course expenses plus the cost of books.

- Courses and memberships in professional organizations must be related to the work of the employee's position or occupation and courses must be taken at accredited institutions.

- Pre-approval of classes (or course of study) is required by the appointing authority. Employees must apply for tuition reimbursement, prior to enrolling in the class, by completing the "Educational Assistance Request Form" and submitting it to the appointing authority for approval.

- To be eligible for tuition reimbursement, employees must be employed by SB LAFCO throughout the duration of the course. If the reimbursement is approved and paid to the employee, and the employee leaves SB LAFCO prior to completing two years of LAFCO service after completing the job-related education or coursework, the employee will reimburse SB LAFCO according to the following schedule:

Job-related education/ course completion date	Reimbursement
Within 9 months	100%
After 9 months, but before 18 months	50%
After 18 months, but before 24 months	25%
After 24 months	0%

- The percentage of reimbursement is based on the grade earned for each college seminar, certification, associate, bachelors, masters or doctoral degree course:

  - Grade A 100%
  - Grade B 100%
  - Grade C* 50%
  - Pass/Credit 50%

- Masters and doctoral degree courses completed with a letter grade of “C” or below are not eligible for any reimbursement.

- Reimbursable expenses include tuition, required textbooks, lab fees, library fees, and required registration and parking fees.

- Upon completion of the course, official grades and receipts must be submitted to the Executive Officer for reimbursement. Taxes are withheld on educational reimbursements when required by law.

GUIDELINES FOR EVALUATING PROPOSALS

STATEMENT OF PURPOSE:

Beginning at Section 56000 of the California Government Code, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 requires LAFCO to review and make determinations on all changes of organization and reorganization. Section 56375(g) further requires that LAFCO adopt written procedures for the evaluation of proposals and requires that any policies for this purpose be in writing. Pursuant to this requirement, the following policies, procedures, and standards have been adopted by the San Bernardino LAFCO in order to assist in their evaluation of proposals filed.

These policies are based on existing circumstances unique to the County of San Bernardino and are primarily designed to ensure that local services are provided efficiently and economically and that the provision of the service is sustainable. The following policies have been adopted to direct its staff, communities, agencies, and citizens in the pursuit of jurisdictional change.

POLICIES:

1. PRIORITIES FOR ANNEXATION AND FORMATION *(Adopted April 12, 1972; Amended August 27, 1986.)*

The Commission will consider the following priorities or guidelines for annexation and formation with the provision that overriding circumstances must be stated in exceptions:

a. Annexation to an existing city or district instead of formation of a new agency.

b. Annexation to a city rather than a district if both can provide comparable services.

c. Annexation to a multi-purpose district in preference to annexation to a single purpose district.

d. Formation of a new political entity as the last and least desirable alternative.

2. PRE-ZONING FOR CITY ANNEXATIONS *(Adopted June 14, 1978; legislatively amended January 1, 2001).*

Effective January 1, 2001, pre-zoning is mandated by Government Code Section 56375, which specifies that all pre-zoning designations shall remain in effect for at least two years unless the City Council makes specified findings relating to changed conditions and circumstances. No city annexation application will be deemed complete unless the pre-zoning process has been completed. Exceptions to this requirement include the provision of evidence of vested entitlements for development within the study area or demonstration of buildout of the territory.

The adopted procedure for pre-zoning is as follows: Such pre-zoning shall also require that the city become the lead agency for environmental review for the proposed change and shall prepare and submit to LAFCO the environmental assessment forms in sufficient time for LAFCO's environmental consultant to comment before a determination of environmental effects is made.

3. CONCURRENT CITY-DISTRICT ANNEXATION *(Adopted April 12, 1972; Amended December 12, 1979, May 16, 1980 and April 16, 1997.)*

For any annexation within a community served by a variety of community-based local agencies, the Commission shall require concurrent annexation to all of the local agencies serving the community (concurrent city/district annexations).

4. SUFFICIENCY OF SIGNATURES ON PETITIONS AND NUMBER OF REGISTERED VOTERS *(Adopted November 9, 1977; Amended June 14, 1978 and April 16, 1997.)*

The Commission recognizes that the review and approval process for many proposals may be changed, and the number of registered voters affected:

1. For proposals which require petitions to be circulated, after LAFCO approval, the number of registered voters residing in an area on the date of LAFCO approval is the number of registered voters on which the sufficiency of any petition is based.

2. For proposals in which petitions are circulated prior to LAFCO approval and for the determination of inhabited or uninhabited actions, the date of the Notice of Filing issued by LAFCO shall be the determining date for the number of registered voters residing within the affected area.

5. PLAN FOR SERVICE *(Amended May 17, 1989 and December 20, 2000.)*

The plan for service shall be prepared and submitted by each local agency affected by a proposed change of organization, regardless whether that proposal is initiated by resolution or petition. In the case of a proposed annexation, the plan for service must demonstrate that the range and level of services currently available within the study area will, at least, be maintained by the annexing

agency. For those proposals involving a reorganization consisting of annexations to multiple agencies, a plan for service shall also be required for each affected agency.

PROCEDURE AND STANDARDS FOR REVIEW:

1. The Plan for Service submitted shall include a narrative description of all the following information:

    a. A description of the level and range of each service to be provided to the affected territory.

    b. An indication of when those services can feasibly be extended to the affected territory.

    c. An identification of any improvement or upgrading of structures, roads, water or sewer facilities, other infrastructure, or other conditions the affected agency would impose upon the affected territory.

    d. The Plan shall include a Fiscal Impact Analysis which shows the estimated cost of extending the service and a description of how the service or required improvements will be financed. The Fiscal Impact Analysis shall provide, at a minimum, a five (5)-year projection of revenues and expenditures. A narrative discussion of the sufficiency of revenues for anticipated service extensions and operations is required.

    e. An indication of whether the affected territory is, or will be, proposed for inclusion within an existing or proposed improvement zone/district, redevelopment area, assessment district, or community facilities district.

    f. If retail water service is to be provided through this change of organization, provide a description of the timely availability of water for projected needs within the area based upon the factors identified in Government Code Section 65352.5.

2. The Plan for Service shall be prepared and submitted by the local agency providing the service for all proposed changes of jurisdiction, regardless whether that proposal is initiated by resolution or by petition.

3. The Plan for Service shall be signed and dated by an official representative of the affected city or district(s), certifying the completeness and accuracy of the Plan.

4. The Plan for Service submitted for each proposal shall be attached to the staff report and distributed for review by the Commission, affected agencies, and the public no less than five days prior to the scheduled hearing.

5. In the case of a proposed annexation or reorganization including annexation, the Plan for Service must demonstrate that the range and level of services currently available within the study area will, at least, be maintained by the annexing agency.

6. In the case of a proposed reorganization consisting of annexations to multiple agencies, the Plan for Service shall address each of the items specified above for each affected agency.

6. <u>EFFECTIVE DATE AS A FUNCTION OF THE CERTIFICATE OF COMPLETION</u> (*Adopted June 13, 1979.)*

Unless otherwise specified by the Commission, the effective date for all actions shall be the date of issuance of the Certificate of Completion.

7. <u>REQUESTS FOR RECONSIDERATION</u> (*Adopted January 24, 1979; Amended April 9, 1980, June 8, 1983, May 18, 1988, August 29, 1990 and legislatively amended January 1, 2001.)*

Requests for reconsideration will be granted only when the petitioner can present some compelling new evidence, or show that significant factors relative to the situation were overlooked or have changed. The request shall be submitted in writing to the Executive Officer within thirty (30) days of the Commission's decision. No request shall be deemed filed unless appropriate filing fees are submitted. In the event multiple requests for reconsideration are filed, the Executive Officer will divide a single reconsideration fee among the various petitioners for reconsideration.

The adopted procedure for reconsideration requests is as follows:

Upon receipt of a legally filed request for reconsideration, the Executive Officer shall place the request on the agenda of the next Commission meeting for which notice can be provided. At the hearing, the Executive Officer will present the staff report and recommendations to the Commission and respond to questions. The Commission will then allow submission of any oral or written testimony on the issue; however, at the Chair's discretion, time limits may be placed on those wishing to provide an oral presentation. At the close of the hearing, the Commission may take one of the following actions:

1. The Commission may approve the request, and adopt a resolution superseding the resolution previously issued;

2. The Commission may deny the request; or

3. The Commission may continue the hearing for a maximum of seventy (70) days.

8. <u>INCORPORATION POLICIES</u> *(Adopted March 30, 1994.)*

In accordance with Government Code Section 56815.2, the Governor's Office of Planning and Research (OPR) issued Incorporation Guidelines that provide a step-by-step approach to understanding the cityhood process set forth in the law of the State of California. The San Bernardino LAFCO has adopted the OPR Incorporated Guidelines by reference and has indicated the incorporation proponents should undertake the cityhood process in the manner identified in the Guidelines (copies of the guidelines are included as Appendix 1).

In addition, the Commission has adopted the following policy statements unique to circumstances in San Bernardino County to assist in the guidance of unincorporated communities in their review of governmental options.

1. Incorporation proposals involving land within an existing city sphere of influence will not be accepted for filing. If a cityhood proposal would conflict with an established city's sphere of influence, the incorporation proponents must first initiate, and the Commission must approve, a sphere of influence amendment to exclude the study area from that sphere prior to circulation of formal incorporation petitions.

2. The Commission defines "financial feasibility" to mean the ability of a new city to maintain pre-incorporation service levels, with sufficient resources to provide a municipal-level law enforcement service consistent with the recommendations of the County Sheriff.

3. In determining feasibility, the Commission will consider only those revenues that are currently available to all general law cities. It will not consider revenues derived through special taxes or assessments, nor will it consider hypothetical revenues available through possible actions of a future city council (e.g., utility users taxes) in the determination of financial feasibility.

4. In determining feasibility, the Commission requires that proposed staff salary costs shall be based on an average of similar-sized cities or those cities which have the most comparable population within San Bernardino and Riverside Counties.

5. In determining compliance with Government Code Section 56720, the Commission finds that a "reasonable reserve" is a contingency fund equal to 10% of the projected general and special funds of the new city.

6. The Commission requires that a new city shall assume jurisdiction over all community-based special districts serving the incorporation area. A clear and compelling rationale must be provided if the continued overlay of a community-based district is proposed.

7. In order to qualify for incorporation, the community in question must contain a minimum of 10,000 people as determined by available census data or other reliable means (e.g., utility connections), and the sales tax revenues attributable to the study area must at least cover the expected administrative and legislative costs of the new city.

9. INDIVIDUAL NOTICE OF COMMISSION HEARINGS TO LANDOWNERS AND REGISTERED VOTERS *(Adopted February 19, 1997; Amended February 17, 1999, February 21, 2001{legislatively required},April 17, 2002, January 17, 2007, and April 21, 2010)*

1. INDIVIDUAL NOTICE

In implementing the provisions of Government Code Section 56157, the Commission determines that LAFCO staff shall provide individual notice to all landowners and registered voters of Commission hearings within the boundaries of a proposal for change of organization, sphere of influence change, or development-related service contract. In addition, the distance requirements for providing notice to landowners and registered voters surrounding the exterior boundaries, as required by Section 56157, will be determined according to the following criteria:

PROPOSAL AREA	DISTANCE
Less than 20 acres	Four (4) parcels or 700 feet
20 acres or more	Four (4) parcels or 1,350 feet

For the periodic sphere of influence review and update program required by Government Code Section 56425, notice will be limited to the manner required by law unless specific sphere changes are identified.

The adopted procedure for Individual Notice is as follows:

a. The proponents of a proposal or sphere of influence change shall be required to submit a completed “Assessor Parcel Number Listing” form for the area proposed for change.

b. LAFCO staff shall utilize the parcel information provided by the applicant to prepare landowner information within and surrounding the proposal for change of organization, sphere of influence change or development-related service contract through data included on

the most current Assessment Roll prepared by the County Assessor's office. LAFCO staff shall also utilize the parcel information to coordinate with the Registrar of Voters office to provide information on the registered voters within and surrounding the area proposed for change.

c. The parameters for preparing the notice for surrounding landowners and registered voters by LAFCO staff shall include the distance requirement, or number of parcels, in a linear direction from all points of the area proposed for change.

d. The individual notice of Commission proceedings shall be provided for all changes of organization, sphere of influence changes or development-related service contracts. Exceptions to this requirement are noted in Items 2 and 3 below.

2. AUTOMATIC WAIVER OF INDIVIDUAL NOTICE

In implementing Government Code Section 56157, the Commission determines that for a dissolution, merger, or establishment of subsidiary district; formation or consolidation of special districts; activation or divestiture of powers for special districts; consolidation of cities; or incorporation or disincorporation of a city proposal, the individual notice requirement will be waived on the basis that such items routinely exceed 1,000 notices. As required by §56157, an 1/8th page legal ad will be placed in a newspaper of general circulation within the area of consideration.

3. WAIVER OF INDIVIDUAL NOTICE

Pursuant to Government Code Section 56157, in cases where such a change would involve mailing more than 1,000 notices, the Commission may waive the individual notice requirement and direct its staff to publish a 1/8th page legal ad in a newspaper of general circulation within the area. However, the Commission directs that individual notice to landowners and registered voters shall not be waived for city island annexations filed pursuant to Government Code Section 56375.3, even if it includes more than 1,000 notices.
The adopted procedure for the publication of 1/8th page legal ad in lieu of individual notice to landowners and registered voters, is as follows:

a. After consultation with the applicant, if the Executive Officer has identified controversy related to the proposal, no waiver shall be granted.

b. Where no controversy has been identified by the Executive Officer, the waiver will be tentatively authorized subject to the following:

   i. The Executive Officer is to provide individual notice to each Commission member identifying the determination of no controversy and the preliminary determination to waive individual notice.

   ii. If the Executive Officer receives objection from any Commissioner to the tentative determination, no waiver shall be granted.

Regardless of the waiver of individual notice, the requirement for completion of the Assessor Parcel Number Listing form for the proposal area will be maintained.

10. <u>ISLAND ANNEXATION PURSUANT TO GOVERNMENT CODE SECTION 56375.3</u> *(Policy was repealed and replaced by action of the Commission March 31, 2005; Amended October 18, 2006)*

1. For the purpose of applying the provisions of Government Code Section 56375.3, the territory of an annexation proposal shall be deemed "substantially surrounded" if 60% of its boundary, as set forth in a boundary description accepted by the Executive Officer, is surrounded by (a) the affected City or (b) the affected City and adjacent Cities, or (c) the affected City and a service impediment boundary as defined by the Commission to include, but not be limited to, a freeway, a flood control channel or lands administered by the federal government.

2. The Commission directs that a City that proposes an island annexation proposal as such is defined in Government Code Section 56375.3 shall be required to have conducted a public relations/education effort within the affected area prior to the placement of the item on a Commission agenda for consideration. Such outreach/education efforts shall include, but not be limited to, providing information on the grandfathering of existing legal County uses into the City, costs to the resident/taxpayer associated with annexation, and land use determinations. Documentation of these efforts shall be a part of the staff report presented for consideration by the Commission.

3. The Commission identifies that following passage of SB 89, an urgency budget bill for Fiscal Year 2011-12 removing the motor vehicle in-lieu fees that were provided to incorporations and inhabited annexations completed after 2004, it will no longer automatically require annexation of island areas as a part of a development-related annexation application. The Commission believes that the removal of this discretionary funding

renders inhabited annexations unsustainable and discussion of supplemental funding would necessitate a protest process.

In order for the Commission to be apprised of the effects of this change in philosophy and policy, it directs that upon receipt of a development-related annexation or reorganization application, which anticipates development of 500 or more dwelling units and/or 500,000 square feet of commercial/ industrial development, LAFCO staff shall, within 90-days, place an item on the Commission's Information Item calendar to review that City's unincorporated island areas which meet the criteria identified in Government Code Section 56375.3. It is understood that this is a policy declaration of the Commission which may be overridden based upon individual circumstance.

11. <u>CONDUCT OF PROTEST HEARINGS</u> *(Adopted December 20, 2000; Amended November 21, 2001)*

The Commission determines that the responsibility for conduct of protest hearings, including notice and evaluation of protest levels, is delegated to the Executive Officer. The Executive Officer shall issue the final resolution certifying the completion of the proceedings based upon the level of protest submitted.

12. <u>RESOLUTION OF INITIATION REQUIREMENT</u> *(Adopted June 20, 2012)*

The Commission requires that for any resolution initiating an application for change of organization, in addition to the requirements outlined in Government Code Section 56654, it shall include a provision acknowledging the Commission's requirement for legal indemnification as outlined in Policies 10 and 11 of the Accounting and Financial Section of this Manual.

***13.* <u>DISADVANTAGED UNINCORPORATED COMMUNITY ANNEXATION PURSUANT TO GOVERNMENT CODE SECTION 56375(A)(8)</u>** *(Adopted June 20, 2012)*

(a) Based upon local circumstance the Commission determines that the requirement for imposition of subsection (A) of Government Code Section 56375(a)(8) setting forth the requirement for a supplemental annexation to the City of the disadvantaged unincorporated community shall be imposed as follows:

1) Valley and Mountain Cities – annexation greater than 10 acres

2) North and South Desert Cities – annexation greater than 25 acres

(b) The Commission determines that no annexation required to be submitted pursuant to this section shall create an island or peninsula of unincorporated territory substantially surrounded by the City to which the annexation is

proposed or the annexing city and an adjacent city.

(c) The Commission determines that in implementing subsection (B) (ii), it shall consider written evidence of opposition to include an application for sphere of influence removal or petitions for creation of a new government which were unsuccessful.

OUT OF AGENCY SERVICE CONTRACTS

BACKGROUND

Beginning January 1, 1994 the Local Agency Formation Commission was charged with the responsibility for reviewing and taking action on a city or district contract to extend service outside its jurisdiction under the provisions of Government Code Section 56133. These are unique actions not directly related to the processing of other types of proposals as defined in the Cortese-Knox-Hertzberg Local Government Reorganization Act.

IMPLEMENTING POLICIES

LAFCO has adopted policy declarations which affect the implementation of its obligations under Government Code Section 56133. They are:

A. **DEFINITIONS:**

The definition of terms that follows has been developed to assist in the implementation of Government Code Section 56133 since its terminology, in some areas, is not reflective of current statutory definitions or has no statutory definition within Cortese-Knox-Hertzberg:

1. "New or extended services" shall mean for Cities, the provision of those services authorized a city under its enabling legislation; and for Special Districts, service shall remain as defined in Government Code Section 56074. It is important to note that a District would be precluded from providing a "new service" unless it has been first authorized that service under existing special district regulations regarding activation of latent functions or services.

2. "Contract or agreement" shall mean a contract, agreement, or other legal instrument, which requires or agrees to the delivery of service to property.

3. "Written approval of the Commission" shall mean for development related contracts, the adoption of a resolution of the Commission approving the service agreement/contract at a noticed public hearing; for non-development related contracts written approval of the Commission shall mean the document signed by the Executive Officer authorizing the completion of the contract.

4. "Affected County" shall be defined in the same manner as Govt. Code Section 56012 but relating to the area to which contractual service will be delivered.

5. "Anticipation of a later change of organization." The inclusion of an area to be served within the sphere of influence of the serving agency may be sufficient to comply with this provision.

6. "Public Agency" shall be defined in compliance with Government Code Section 56070. The statutory definition of Public Agency is "the state or any state agency, board or commission, any city, county, city and county, special district or other political subdivision, or any agency, board or commission of the city, county, city and county, special district, or other political subdivision".

   The definition of public agency does not include a private or mutual water company. Any contract by a city or district to extend service to these types of service companies would require approval from the Commission prior to contract execution.

7. "Health and safety emergency concern" shall mean the extension of service to alleviate an immediate health and/or safety problem. Such connections would be limited to the provision of water and/or sewer service to an existing structure, the connection to a failing mutual or private water system requiring auxiliary service, the provision of fire protection and/or paramedic services as supplemental or alternative source for service, and other similar threats related to health and safety.

B. **OPERATING POLICIES:**

At the May 18, 1994 hearing the Commission adopted policies related to implementation of the provision of Government Code Section 56133. On December 20, 2000, the Commission amended its policies to address unique issues of implementation. Those amendments included: (a) an operating policy that delegates authority to the Executive Officer to approve or conditionally approve health and safety related service agreements/contracts and/or non-development related service extension; and (2) a policy which relates to the acquisition of a private water system by a public jurisdiction. This acquisition would require the city or district to continue the service and allow additional connections to the infrastructure without regard to the question of spheres of influence. In order for cities and districts to utilize this special policy it requires that they provide the Commission with documentation of the certificated service area of the system acquired. This documentation will be maintained on file by LAFCO for future reference.

The following are the adopted LAFCO policies:

OUT-OF-AGENCY SERVICE CONTRACTS OR AGREEMENTS *(Adopted May 18, 1994; Amended December 20, 2000.)*

1. The Commission has determined that the Executive Officer shall have the authority to approve, or conditionally approve, proposals to extend services outside jurisdictional boundaries in cases where the service extension is proposed to remedy a clear health and safety concern. In addition, the Executive Officer shall have the authority to approve or conditionally approve service extensions where the services in question will not facilitate development (for example, an inter-agency contract for fire protection services). In cases where the Executive Officer recommends denial of a proposed service extension, that proposal shall be placed on the next agenda for which notice can be provided. After the public hearing, the Commission may approve, conditionally approve, or deny the contract.

2. In the case where a city or district has acquired the system of a private or mutual water company prior to the enactment of this legislation, those agencies shall be authorized to continue such service and provide additional connections within the certificated service area of the private or mutual water company defined by the Public Utilities Commission or other appropriate agency, at the time of acquisition without LAFCO review or approval as outlined in Government Code Section 56133. The continuation of service connections under this policy shall not be constrained by the sphere of influence of that local agency at the time.

   Proposals to extend service outside this previously defined certificated area would come under the provisions of Govt. Code Section 56133 for the review and approval by the Commission prior to the signing of a contract/agreement for the provision of the service.

C. PROCEDURES

Unlike the normal initiation process for proposals for jurisdictional change, Government Code Section 56133 provides that only a city or district may request LAFCO review of an out-of-agency service agreement/contract.

Government Code Section 56133 gives LAFCO the authority to review and approve, approve with conditions, or deny these agreements/contracts. For all development-related applications for service, the item will be considered by the Commission at a noticed public hearing. The authority for action for non-development-related agreements/contracts has been delegated to the LAFCO Executive Officer by the Commission, pursuant to policies adopted on December 20, 2000.

A. Application for Review:

The filing requirements for review of an out-of-agency service contract/ agreement shall consist of:

1. Official Request from Applying Agency. A written request signed by the City Manager/District Manager requesting approval for an out-of-agency service agreement/contract or an adopted resolution from the city/district proposing to serve outside its boundaries must be submitted.

2. Payment of Appropriate Filing Fees. The applying agency must submit as part of the application the appropriate filing fees as outlined in the LAFCO Fee Schedule in effect at the time of application. In addition, these types of applications are also subject to the following deposits: legal counsel, environmental review, and individual notice. Applicants shall be required to reimburse the Commission for all charges and costs in excess of the deposits outlined above or will be refunded the balance at the close of the application.

3. A completed application form including the submission of a copy of the proposed agreement/contract that has been signed by the property owner(s) and, if necessary, the agency extending service(s), and maps showing the location of the property to be served, existing agency boundaries, the location of the existing infrastructure, and the proposed location of the infrastructure to be extended.

4. Any other information deemed appropriate by the Executive Officer in order to review the service extension request based upon its special circumstances.

B. Environmental Review Requirements:

The review of a service agreement/contract request will be subject to the review procedures defined in the California Environmental Quality Act (CEQA) and the San Bernardino LAFCO CEQA Guidelines. LAFCO will act as the Lead Agency under CEQA for its environmental review of any service extension request.

If an environmental assessment/analysis was prepared for the project associated with the service extension request (i.e. the County or agency's environmental analysis for a proposed Tentative Tract, Conditional Use Permit, etc.) and LAFCO Staff was afforded the opportunity to evaluate and comment during the Lead Agency's environmental review process,

then LAFCO can act as a Responsible Agency under CEQA for its environmental review of a service extension request. A complete set of the adopted environmental documents prepared for the project, a copy of the filed Notice of Determination/Notice of Exemption, and a copy of the Department of Fish and Game fee receipt must be submitted as part of the application.

D. REVIEW PROCEDURES

A. Development-related agreements/contracts associated with the development of tracts, subdivisions, a single-family dwelling unit, a commercial/industrial development on a parcel, or other types of development-related projects will require the following review:

1. The city or district proposing to provide service(s) outside its boundaries shall submit to LAFCO a completed application, with all its component parts as previously defined, for review and consideration. Within 30 days, the LAFCO Executive Officer shall notify the entity whether or not the application filing is complete. If incomplete, the applying agency will be notified of the specific insufficiencies within 30 days, as required by law.

2. The LAFCO staff shall forward a copy of the application to various County Departments for their review and comment.

3. The LAFCO staff shall also forward the application for service extension to the Commission's environmental consultant for review. The Commission shall act as the Lead Agency under CEQA and shall prepare the appropriate environmental analysis for the application proposal. If an environmental assessment/analysis has been prepared for a project associated with the service extension request, and LAFCO has been afforded the opportunity to evaluate and comment during the Lead Agency's environmental review process, then the Commission may act as a Responsible Agency under CEQA and shall prepare the appropriate environmental analysis for the application proposal.

   Completion of the CEQA review process will be required prior to placement on the Commission's agenda.

4. If necessary, a meeting with the applying agency and/or the various departments may be held dependent upon the circumstances and/or issues related to the service agreement/contract. The determination of whether or not to hold the meeting shall be made by the LAFCO Executive Officer.

5. Once these required elements have been completed, the item will be placed on a Commission Agenda. Surrounding property owners/registered voters will be notified of the proposed service extension request through individual notification. At a noticed public hearing, the Commission will consider the staff's presentation and presentations, if any, by interested and affected parties, and make a determination.

6. The Commission has the authority to approve, approve with conditions, or deny the request for out-of-agency service extension. The Commission's determination and any required findings will be set out in a resolution which specifies the area to be served, the services to be provided, and the authority of the agency to provide its services outside its boundaries.

B. Non-development related agreements/contracts (Administrative Review by LAFCO Executive Officer) that are related to providing service to an existing dwelling unit, commercial building, etc. or those contracts between public agencies for such items as fire protection mutual aid, etc. will be processed as follows:

1. Prior to the execution of an agreement/contract for service outside their boundaries, the city/district proposing to provide the service shall submit to LAFCO a completed application, with all its component parts as previously defined, for review and consideration.

2. Completion of the CEQA review process will be required prior to action by the Executive Officer. If there has been no environmental determination made by the applying agency, LAFCO will be the Lead Agency and will prepare the required environmental analysis. Such a determination will be required prior to authorization of the service extension.

3. The Executive Officer's administrative review will include the following determinations:

   a. The proposed service extension is either nondevelopment-related and/or involves health and safety concerns as defined by Commission policy.

   b. The area to be served is within the sphere of influence of the agency requesting to provide service outside its boundaries.

   c. The environmental analysis/assessment, as required by CEQA, has been completed.

4. The Executive officer can approve, approve with conditions, or deny the request for service extension. If the Executive Officer's recommendation is denial, that determination will be placed on the next available Commission agenda for which notice can be provided for discussion of the determination.

SERVICE REVIEW POLICIES

SERVICE REVIEW *(Adopted May 21, 2003)*

Through adoption of AB 2838, the State of California established the requirements for conducting Service Reviews of municipal service providers (Government Code Section 56430) as well as requiring sphere of influence updates for all agencies under LAFCO purview on a reoccurring cycle. In accordance with the requirements outlined in §56430, the Governor's Office of Planning and Research (OPR) in 2003 issued Municipal Service Review Guidelines that provide a step-by-step approach to understanding the service review process as set forth in the laws of the State of California. On May 21, 2003, the San Bernardino LAFCO adopted the OPR Municipal Service Review Guidelines by reference for its use during the conduct of its Service Reviews. In 2007 the legislature amended §56430, reducing the number of factors to be considered and establishing a deadline for consideration. The Guidelines were not updated after these changes; however, the Commission has retained them as a source document for the conduct of service reviews. A copy of the guidelines is included as Appendix 2 of this manual.

1. SERVICE REVIEW POLICIES *(Adopted February 20, 2002; Amended May 21, 2003)*

The Commission determines that service reviews are an important tool in promoting logical, orderly, and efficient service patterns for local agencies. The Commission also recognizes that such reviews, to be meaningful, must be accomplished with the participation and cooperation of affected local agencies. Finally, the Commission recognizes that the applicability of specific factors required for such reviews may substantially vary based on the unique conditions and circumstances found in San Bernardino County.

Approach:

In furtherance of the goals of Government Code Section 56430, the Commission determines to conduct such service reviews on a sub-regional basis, utilizing its community-by-community sphere approach and policies. Within this parameter, the Commission shall provide a function-by-function review (e.g., water functions, fire functions, etc.) of municipal services. The service review shall include the participation of management staff and/or board members responsible for delivering such services.

Responses to Statutory Findings:

The Commission recognizes that Section 56430 requires written responses to specific determinations in the conduct of service reviews. The Commission also recognizes, however, that some or all of the factors listed may not be applicable to specific reviews. Based on discussions, testimony, and appropriate other input from affected agencies and interested parties, the Commission finds that its statutory obligation for written findings will be fulfilled by indicating that, "No substantive issues relative to this factor were identified" when appropriate. *For further clarification see Policy #13 in the general Application Processing Section related to Disadvantaged Unincorporated Communities.*

The adopted service review procedures are:

> It is the Commission's position that service reviews must be conducted, whenever possible, through a participative and cooperative approach with affected agencies. As the Commission begins to undertake its sphere review/service review responsibilities, the first step shall be to convene a meeting with managers/board members of affected agencies.
>
> Through those discussions, specific service review factors can be identified for further review, and some review factors might be set aside as not requiring further study. Where disagreements among agencies or LAFCO staff might exist as to the applicability of a specific factor, the matter will be brought back to the Commission for a public hearing and decision.
>
> The Commission determines that it shall incorporate its findings related to the service reviews within the staff report prepared for the required sphere of influence update/study. This streamlines the process and provides for a more efficient Commission hearing schedule. The Commission will then incorporate its sphere of influence review/update and service review determinations within one resolution.

2. SERVICE REVIEW REQUIREMENT FOR SPHERE OF INFLUENCE AMENDMENTS (*Adopted February 20, 2002; Amended May 21, 2003)*

The Commission adopts the following policies relative to sphere of influence amendments:

1. An amendment to a retail water district sphere of influence will require a service review if both the following are met:

    a. The area is currently outside the sphere of influence of the appropriate wholesale purveyor.

b. Objection is received from any agency that provides water service and whose Sphere of Influence underlies or is adjacent to the subject territory.

2. Notwithstanding the foregoing, the Commission reserves the discretion to conduct a service review when it deems appropriate based upon unique conditions and circumstances.

SPHERE OF INFLUENCE

SPHERES OF INFLUENCE:

Government Code Section 56425 requires that LAFCO establish spheres of influence for each city and special district under its purview within San Bernardino County. In addition Government Code Section 56425(g) requires that the Commission shall review, as necessary, and update an agency's sphere of influence every five years.

PURPOSE:

Government Code Section 56076 defines a sphere of influence as "a plan for the probable physical boundaries and service area of a local agency, as determined by the commission." It is an area within which a city or district may expand, over an undefined period of time, through the annexation process. In simple terms, a sphere of influence is a planning boundary within which a city or district is expected to grow into over time. In those instances where a sphere of influence is drawn less than the jurisdictional boundary of the agency, it is the Commission's position that overtime a reorganization should take place to address a redistribution of service provision.

The purpose of a sphere of influence is to encourage the "logical and orderly development and coordination of local government agencies so as to advantageously provide for the present and future needs of the county and its communities." The following enumerated items comprise the statement of purpose adopted by San Bernardino LAFCO for spheres of influence:

1. To promote orderly growth of communities, whether or not services are provided by a city or district (board governed or independently governed);

2. To promote coordination of cooperative planning efforts among the county, cities, special districts, and identifiable communities by encouraging compatibility in their respective general plans;

3. To guide timely changes in jurisdiction by approving annexations, reorganizations, etc., within a sphere of influence only when reasonable and feasible provision of adequate services is assured;

4. To encourage economical use and extension of facilities by assisting governmental agencies in planning the logical and economical extension of governmental facilities and services, thereby avoiding duplication of services;

5. To provide assistance to property owners in relating to the proper agency to comprehensively plan for the use of their property;

6. To review, update, and/or change existing spheres of influence periodically to reflect planned, coordinated changes in factors which impact on spheres of influence; and

7. To encourage the establishment of urban-type services only within an adopted sphere of influence.

The Commission emphasizes that a sphere of influence is a planning tool and the establishment of a sphere of influence, or the inclusion of territory within a sphere of influence of an existing governmental entity, does not automatically mean that the area is being proposed for annexation or development.

1. Establishment of a Sphere:

As outlined under state law, the Commission is designated as the public body responsible for determining spheres of influence for each city and district within its jurisdiction.

As a function of incorporation and as outlined in Government Code Section 56426.5, the Commission must establish a sphere of influence for a newly-incorporated city or a newly formed special district within one year of its effective date. Usually within six months of the agency's effective date, the LAFCO staff notifies the city or district of the requirement pursuant to state law. The sphere proposal may be initiated by the Commission, the city council, special districts board of directors or the County Board of Supervisors, through adoption of a resolution of the governing body.

State law also stipulates that a sphere of influence will not be established or changed without specific review and study independent of any action before the Commission at the time. Public hearings are held to review sphere of influence proposals such as establishment, amendment, or in connection with any proposed annexation, which may or may not involve another agency's sphere of influence.

2. Factors of Consideration:

As part of a sphere of influence review and as outlined in Government Code Section 56425(e), LAFCO is required to review four "factors of consideration" in connection with any sphere of influence proposal. The factors of consideration are as follows:

1. The present and probable land uses within the area, including agricultural and open space lands;

2. The present and probable need for public facilities and services in the

study area;

3. The present capacity of public facilities and the adequacy of public services that the agency provides or is authorized to provide; and

4. The existence of any social or economic communities of interest in the study area, if the Commission determines they are relevant.

In these categories of review, a city or district must show that its planning activities can be beneficial to the area, and that the initiation of those activities is appropriate. None of the above factors by themselves shall be deemed to be a determining factor in the establishment or revision of a sphere of influence for a city, district, or community area, but shall be reviewed as part of the total project.

The factors of consideration noted above are addressed individually within the staff's report for each sphere of influence proposal.

COMMISSION POLICY FOR SPHERES OF INFLUENCE:

The approaches and/or methods listed below are policies adopted by San Bernardino LAFCO. The policies guide the Commission's review in its determination of spheres of influence, periodic reviews and/or updates, and any amendments of those sphere boundaries.

1. Concurrent Sphere Reviews:

   The Commission may include additional agencies as part of its review of a sphere of influence proposal. In considering the sphere of influence of a community, the Commission will concurrently evaluate all agencies serving that community, and as a policy guideline, it will need to establish a single, coterminous sphere for all such agencies.

2. Community-by-Community Approach:

   The community-by-community approach is a guide used to establish spheres of influence. The idea was adopted by San Bernardino LAFCO prior to the mandate for spheres of influence, and includes the practice of looking at a total area, which could be considered a community, and defining its boundaries. This approach also considers the existence of inter-related economic, environmental, geographic, and social interests, and attempts to harmonize the conflicting plans and services of the various service entities. Under this approach, an attempt is made to keep the spheres of influence of the various service districts as nearly the same as possible.

3. Coterminous Boundaries:

The Commission may establish a sphere of influence which is coterminous with existing city/district boundaries when it is not feasible for the public agency to expand beyond its present boundaries. However, as outlined in state law, a sphere of influence must be established for each city and district, regardless whether the sphere boundary is the same as the city or district boundary.

4. Zero Sphere of Influence:

The Commission may designate a "zero" sphere of influence indicating its position that a change of organization should take place assigning the entity's service obligations and responsibilities to another agency. Such future action could be either a consolidation or dissolution process.

5. Environmental Review for a Sphere:

A sphere of influence proposal requires review of the environmental aspects of the proposed sphere. The environmental review process is a requirement outlined in the California Environmental Quality Act (CEQA) that applies to the review of sphere of influence proposals. In compliance with CEQA and the State CEQA Guidelines, San Bernardino LAFCO adopted its own Guidelines and Policies Implementing CEQA on June 22, 1990 with a subsequent amendment adopted on January 18, 1995. The Commission's Guidelines and Policies tailor the general provisions of CEQA to LAFCO's specific functions as both a "Responsible" and a "Lead" agency. The Guidelines and Policies also provide specific procedures used by San Bernardino LAFCO to implement CEQA.

6. Exclusion of Territory:

Under certain circumstances, a sphere of influence may exclude portions of the existing boundaries of a city or district. The Commission encourages reorganization and special studies in this situation to make final determination of which city or district should serve.

For example, certain portions of the City of San Bernardino are surrounded on three sides by the City of Highland, as there are certain portions of the City of Highland that are surrounded on three sides by the City of San Bernardino. In these situations, a sphere of influence study may be initiated to determine which public agency could better serve the area of review. The sphere of influence study would include a review of the possibility of excluding territory from one jurisdiction and the placement of the same territory in another jurisdiction's sphere of influence. The purpose of excluding territory would be an attempt to straighten

irregular boundaries, and eliminate confusion arising from multiple jurisdictions.

7. Modification of a Sphere Review Area:

During the review of a sphere of influence proposal, the Commission may modify the area of review by expanding or reducing the area of review. The expansion or reduction of a sphere can be for several reasons, such as to include areas that may be better served by a public agency, or exclude areas that may be better served by another public agency.

8. Periodic Review/Update of a Sphere:

As a function of its duties and responsibilities, LAFCO is required to periodically review and/or update spheres of influence. Government Code Section 56425(e) requires the Commission to review and update, if necessary, all spheres of influence for cities and special districts at least once every five years.

The periodic sphere review does not preclude a public agency (city or district), or an individual from initiating a sphere proposal. The purpose of the periodic sphere review plan is to keep abreast of changes occurring within the public agencies under the jurisdiction of LAFCO.

9. Requirement for a Sphere Review in Relationship to Annexation:

State law precludes the Commission from approving annexation proposals lying outside of current sphere of influence boundaries for the affected city or district. If an annexation proposal lies outside the sphere of influence of a city or district, the annexation proposal must also include a sphere review. The joint sphere and annexation review is to maintain consistency in city or district boundaries and their sphere boundaries, for the extension and provision of services as it relates to proposed annexation sites.

10. Responsibility/Obligation for a Sphere of Influence Area:

When a sphere of influence is assigned, a city or district is required to commence long range land use and service planning activities, thereby enabling it to respond to any annexation requests it might receive from landowners or residents within the sphere. By accepting a sphere of influence, a city or district agrees to plan for the provision of services.

11. Urban Development within a City Sphere:

LAFCO takes the position that any new urban development which occurs within a city sphere of influence should take place as close to the city's

urban area as possible. This position is emphasized for two reasons: First, so that contiguous areas may easily be annexed to the city; and secondly, so that the new urban area can be served by reasonable extension of the city's already developed municipal services.

ENVIRONMENTAL REVIEW ADMINISTRATIVE GUIDELINES, POLICIES, AND PROCEDURES

I. INTRODUCTION

On June 20, 1990, the Local Agency Formation Commission for San Bernardino County (LAFCO) adopted, by Resolution #2267, the California Environmental Quality Act's (CEQA) State Guidelines and any amendments, as its environmental guidelines. The following information outlines the specific procedures used by LAFCO to tailor the general provisions of the State Guidelines to LAFCO's specific functions as both a "Responsible" and a "Lead" agency.

While portions of the State CEQA Guidelines are summarized or repeated verbatim herein, these provisions and procedures incorporate by reference (and are to be utilized with) the entirety of the State CEQA Guidelines, a copy of which is on file with the LAFCO Clerk, including those sections not repeated or directly referenced herein. All references to "Sections" or "Guidelines" in this text refer to the State CEQA Guidelines, unless otherwise noted.

These procedures will be revised as necessary to conform to amendments to the State Guidelines, within 120 days after the effective date of such amendments. However, LAFCO will implement any such statutory changes as soon as they become effective. On January 18, 1995, the Commission amended, by Resolution #2469, its adopted Environmental Review Guidelines, and Administrative Policies and Procedures. These changes have been incorporated into this document. (A copy of LAFCO Resolution #2469 outlining the specific changes is on file in the LAFCO office.) On June 20, 2012, the Commission reviewed and approved the San Bernardino County LAFCO Policy and Procedure Manual, which included the Environmental Review and Administrative Guidelines, Policies, and Procedures as a component section of the LAFCO Policy and Procedure Manual.

LAFCO's goals and mandates to protect the physical and human environment within its jurisdiction also encompass a responsibility to minimize delay and paperwork.

The Commission has hired an environmental consultant under contract to assist in the application of the California Environmental Quality Act. Tom Dodson, of the firm Tom Dodson and Associates, is the Commission's environmental consultant, who reviews proposals that are filed with LAFCO

for any environmental effects and provides a written response. Mr. Dodson's recommendation is advisory to the Commission and Executive Officer. The Commission makes the final determination and takes the final action.

LAFCO's Environmental Responsibilities

LAFCO's role as a regulatory agency involves "the discouragement of urban sprawl and the encouragement of the orderly formation and development of local agencies." A few of its duties require minimal environmental review, especially those involving the commissioning of studies, the hearing of protests, and consolidations, reorganizations and mergers of cities or districts. Most of these duties only constitute jurisdictional changes with no potential for land use changes or for significant effects on the physical environment.

Its more prominent roles including, but not limited to, creation of spheres of influence, formation of new districts, incorporation of new cities, and annexations to cities or special districts may require more in-depth analysis, especially if they result in the direct or indirect facilitation of growth and/or land-use alterations. Factors that must be assessed in these cases involve land area and use, all aspects of the physical and human environment, geographical features, population growth and density, social and economic changes, availability of infrastructure and government services, conformity with city or county land use- plans, creation of unincorporated "islands," etc. In providing for the context in which the Commission shall implement the provisions of CEQA the following information from within the State CEQA Guidelines is presented here:

GENERAL CEQA CONCEPTS

The following General Concepts outlined in the State CEQA Guidelines (Section 15002) frequently apply to LAFCO's consideration of projects presented to it. LAFCO must also comply with those portions of the State CEQA Guidelines omitted herein.

(a) Basic Purposes of CEQA. The basic purposes of CEQA are to:
- *(1) Inform governmental decision makers and the public about the potential, significant environmental effects of proposed activities.*
- *(2) Identify the ways that environmental damage can be avoided or significantly reduced.*
- *(3) Prevent significant, avoidable damage to the environment by requiring changes in projects through the use of alternatives or mitigation measures when the governmental agency finds the changes to be feasible.*
- *(4) Disclose to the public the reasons why a governmental agency approved the project in the manner the agency chose if significant environmental effects are involved.*

(b) Governmental Action. CEQA applies to governmental action. This action may involve:

(1) Activities directly undertaken by a governmental agency,
(2) Activities financed in whole or in part by a governmental agency, or
(3) Private activities which require approval from a governmental agency.

(e) Time for Compliance. A governmental agency is required to comply with CEQA procedures when the agency proposes to carry out or approve the activity.

(g) Methods for Protecting the Environment. CEQA requires more than merely preparing environmental documents. The Environmental Impact Report (EIR) by itself does not control the way in which a project can be built or carried out. Rather, when an EIR shows that a project would cause substantial adverse changes in the environment, the governmental agency must respond to the information by one or more of the following methods:
(1) Changing a proposed project
(2) Imposing conditions on the approval of the project;
(3) Adopting plans or ordinances to control a broader class of projects to avoid the adverse changes;
(4) Choosing an alternative way of meeting the same need;
(5) Disapproving the project;
(6) Finding that changing or altering the project is not feasible;
(7) Finding that the unavoidable significant environmental damage is acceptable as provided in Section 15093.

(i) Discretionary Action. CEQA applies in situations where a governmental agency can use its judgment in deciding whether and how to carry out or approve a project. A project subject to such judgmental controls is called a "discretionary project." (See: Section 15357.)

(1) Where the law requires a governmental agency to act on a project in a set way without allowing the agency to use its own judgment, the project is called "ministerial," and CEQA does not apply. (See: Section 15369.)
(2) Whether an agency has discretionary or ministerial controls over a project depends on the authority granted by the law providing the controls over the activity. Similar projects may be subject to discretionary controls in one city or county and only ministerial controls in another. (See: Section 15268.)

(j) Public Involvement. Under CEQA, an agency must solicit and respond to comments from the public and other agencies concerned with the project. (See: Sections 15073, 15086, 15087, and 15088.)

(k) Three Step Process. An agency will normally take up to three separate steps in deciding which document to prepare for a project subject to CEQA.

(1) In the first step the Lead Agency examines the project to determine whether the project is subject to CEQA at all. If the project is exempt, the process does not need to proceed any farther. The agency may prepare a Notice of Exemption. (See: Sections 15061 and 15062.)
(2) If the project is not exempt, the Lead Agency takes the second step and conducts an Initial Study (Section 15063) to determine whether the project may have a significant effect on the environment. If the Initial Study shows that there is no substantial evidence that the project may have a significant effect, the Lead Agency prepares a Negative Declaration. (See: Sections 15070 et seq.)
(3) If the Initial Study shows that the project may have a significant effect, the Lead Agency takes the third step and prepares an EIR. (See: Sections 15080 et seq.)

POLICIES

The following Policies outlined in the State CEQA Guidelines (Section 15003) provide direction to the Commission in its considerations:

(f) *CEQA was intended to be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language. (Friends of Mammoth v. Board of Supervisors, 8 Cal. 3d 247.)*

(g) *The purpose of CEQA is not to generate paper, but to compel government at all levels to make decisions with environmental consequences in mind. (Bozung v. LAFCO (1975) 13 Cal.3d 263)*

(h) *The lead agency must consider the whole of an action, not simply its constituent parts, when determining whether it will have a significant environmental effect. (Citizens Assoc. For Sensible Development of Bishop Area v. County of Inyo (1985) 172 Cal.App.3d 151)*

(i) *CEQA does not require technical perfection in an EIR, but rather adequacy, completeness, and a good-faith effort at full disclosure. A court does not pass upon the correctness of an EIR's environmental conclusions, but only determines if the EIR is sufficient as an informational document. (Kings County Farm Bureau v. City of Hanford (1990) 221 Cal.App.3d 692)*

(j) *CEQA requires that decisions be informed and balanced. It must not be subverted into an instrument for the oppression and delay of social, economic, or recreational development or advancement. (Laurel Heights Improvement Assoc. v. Regents of U.C. (1993) 6 Cal.4th 1112 and Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal.3d 553)*

GENERAL RESPONSIBILITIES

A public agency must meet its own responsibilities under CEQA and shall not rely on comments from other public agencies or private citizens as a substitute for work CEQA requires the Lead Agency to accomplish. For example, a Lead Agency is responsible for the adequacy of its environmental documents. The Lead Agency shall not knowingly release a deficient document hoping that public comments will correct defects in the document. The duty is to minimize environmental damage and balance competing public objectives:

(a) *CEQA establishes a duty for public agencies to avoid or minimize environmental damage where feasible.*
- *(1) In regulating public or private activities, agencies are required to give major consideration to preventing environmental damage.*
- *(2) A public agency should not approve a project as proposed if there are feasible alternatives or mitigation measures available that would substantially lessen any significant effects that the project would have on the environment.*

(b) *In deciding whether changes in a project are feasible, an agency may consider specific economic, environmental, legal, social, and technological factors.*

(c) The duty to prevent or minimize environmental damage is implemented through the findings required by Section 15091.

(d) CEQA recognizes that in determining whether and how a project should be approved, a public agency has an obligation to balance a variety of public objectives, including economic, environmental, and social factors and in particular the goal of providing a decent home and satisfying living environment for every Californian. An agency shall prepare a statement of overriding considerations as described in Section 15093 to reflect the ultimate balancing of competing public objectives when the agency decides to approve a project that will cause one or more significant effects on the environment.

AUTHORITY PROVIDED BY CEQA

(a) CEQA is intended to be used in conjunction with discretionary powers granted to public agencies by other laws.

(b) CEQA does not grant an agency new powers independent of the powers granted to the agency by other laws.

(c) Where another law grants an agency discretionary powers, CEQA supplements those discretionary powers by authorizing the agency to use the discretionary powers to mitigate or avoid significant effects on the environment when it is feasible to do so with respect to projects subject to the powers of the agency. Prior to January 1, 1983, CEQA provided implied authority for an agency to use its discretionary powers to mitigate or avoid significant effects on the environment. Effective January 1, 1983, CEQA provides express authority to do so.

(d) The exercise of the discretionary powers may take forms that had not been expected before the enactment of CEQA, but the exercise must be within the scope of the power.

(e) The exercise of discretionary powers for environmental protection shall be consistent with express or implied limitations provided by other laws.

(f) A lead agency for a project has authority to require feasible changes in any or all activities involved in the project in order to substantially lessen or avoid significant effects on the environment, consistent with applicable constitutional requirements such as the "nexus" and "rough proportionality" standards established by case law (Nollan v. California Coastal Commission (1987) 483 U.S. 825, Dolan v. City of Tigard, (1994) 512 U.S. 374, Ehrlich v. City of Culver City, (1996) 12 Cal. 4th 854.).

(g) When a public agency acts as a Responsible Agency for a project, the agency shall have more limited authority than a Lead Agency. The Responsible Agency may require changes in a project to lessen or avoid only the effects, either direct or indirect, of that part of the project which the agency will be called on to carry out or approve.

(h) A public agency may disapprove a project if necessary in order to avoid one or more significant effects on the environment that would occur if the project were approved as proposed. A Lead Agency has broader authority to disapprove a project than does a Responsible Agency. A Responsible Agency may refuse to approve a project in order to avoid direct or indirect environmental effects of that part of the project which the Responsible Agency would be called on to carry out or approve. For example, an air quality management district acting as a Responsible Agency would not have authority to disapprove a project for water pollution effects that were unrelated to the air quality aspects of the project regulated by the district.

II. LAFCO ENVIRONMENTAL PROCESS AND PROCEDURES

A. LAFCO's Role as an "Interested" Agency

The Executive Officer will review, and, if necessary, comment on all environmental documents submitted by a Lead Agency involving projects/decisions relating to and/or affecting LAFCO projects or policies.

B. LAFCO's Role as a Responsible Agency

"Responsible" Agency status occurs when LAFCO is not the "Lead" Agency. The Guidelines define "Lead Agency" as "the public agency which has the principal responsibility for carrying out or approving a project (Section 15367) LAFCO assumes Responsible Agency status when it has subsequent discretionary approval authority over a project or some aspect of a project in accordance with Sections 15096 and 15381.

Examples of lead agencies involving LAFCO as a Responsible Agency include but are not limited to:

- *A city approving an annexation request to LAFCO, only after pre-zoning the area in question. When a city has pre-zoned an area, the city serves as the Lead Agency for any subsequent annexation of the area and should prepare the environmental documents at the time of pre-zoning or other land use approval.*

- *The County approving a development related project that requires services from an Agency (City or Special District) through an Out-of-Agency service agreement.*

- *When a special district has conducted an environmental review and prepared an environmental determination for a plan to serve an area proposed for annexation to the district.*

When acting as a responsible agency, LAFCO will operate under the assumption that it will use the environmental document prepared by the Lead Agency for LAFCO's environmental determinations if the Executive Officer deems it adequate for such use. Procedures for determining adequacy are summarized as follows:

1. Consultation

   a. Each Lead Agency carrying out a project within LAFCO's jurisdiction and function shall inform LAFCO in writing of its

intent and schedule at the beginning of its CEQA review process, including but not limited to copies of applications. Under Section 15052 of the State CEQA Guidelines LAFCO may assume Lead Agency status if the original Lead Agency does not consult with LAFCO or if the document is judged inadequate.

b. The Lead Agency shall consult with LAFCO regarding preparation of its environmental documents/determinations (Statutory Exemptions, Categorical Exemptions, Initial Studies/Negative Declarations, Environmental Impact Reports (EIRs), etc.) which must also be used by LAFCO in its role as a Responsible Agency; consultation can be written or verbal and LAFCO's input shall be incorporated/addressed in the Lead Agency's analysis, documentation and determinations.

c. The Executive Officer shall, as soon as practical but within 30 days of notification, comment as to the appropriate environmental determination from LAFCO's perspective as well as issues of concern to be addressed in any environmental document. The requirement for written notification from the Lead Agency can be waived at the Executive Officer's discretion.

d. Where LAFCO disagrees with the Lead Agency's proposed environmental determination (such as a Negative Declaration), LAFCO will identify the specific environmental effects which it believes could result from the project and recommend the project be mitigated with measures to reduce the potential impacts to less than "significant" (when feasible) or that an EIR be prepared to properly characterize potentially significant impacts.

e. When it intends to prepare an EIR, the Lead Agency shall send a Notice of Preparation by certified mail or equivalent notification procedure to LAFCO to solicit input in accordance with Section 15082 of the State CEQA Guidelines.

f. LAFCO shall respond to this notice in writing within 30 days, specifying the scope and content of the environmental data and analysis germane to LAFCO's statutory responsibilities for the proposed project.

2. Preparation of Environmental Documents by a Lead Agency

   a. The Lead Agency shall include information in the Statutory Exemption, Categorical Exemption, Initial Study/Negative Declaration/EIR to allow its subsequent use by LAFCO for its considerations; referencing on the title page and in the project description any boundary changes or other proposed actions requiring discretionary action by LAFCO to fully implement the project.

   b. The Lead Agency shall send the draft document to LAFCO as part of the public review process required by the CEQA and applicable guidelines (Sections 15072 and 15082 of the State CEQA Guidelines). The Executive Officer will, within the allotted period, send comments to the Lead Agency in writing or electronically, all of which LAFCO expects to be incorporated and assessed in the final document. These comments should focus on the appropriateness of an Initial Study/Negative Declaration, adequacy of the EIR, additional alternatives or mitigation measures, etc., but must be confined to project aspects, to LAFCO's expertise, or to environmental effects germane to LAFCO's subsequent discretionary action.

   c. A final EIR prepared by a Lead Agency or a Negative Declaration adopted by a Lead Agency shall be conclusively presumed to comply with CEQA for purposes of use by Responsible Agencies which were consulted pursuant to sections 15072 or 15082 unless one of the following conditions occurs:

      (a) The EIR or Negative Declaration is finally adjudged in a legal proceeding not to comply with the requirements of CEQA, or
      (b) A subsequent EIR is made necessary by Section 15162 of these Guidelines.

3. Filing with LAFCO

   a. Applications filed by Lead Agencies with LAFCO shall include copies of one or more of the following appropriate environmental documents as specified in LAFCO's filing requirements and all applicable findings for an EIR per Sections 15091 and 15093 of the State CEQA Guidelines.

      - Certification the action is exempt from CEQA, i.e., copy of the Notice of Exemption;

- Notice of Availability/Notice of Completion of a Proposed Negative Declaration;

- Final Negative Declaration (including copy of Initial Study);

- Final Negative Declaration with mitigation measures (including copy of Initial Study and Mitigation Monitoring/Reporting Plan);

- Notice of Subsequent Use of an Existing EIR (which was previously available to LAFCO);

- Final EIR; and/or

- Statements of Findings/Overriding Considerations, and Mitigation Monitoring and Reporting Program; and

- Conformed or stamped copy of a Notice of Determination

- Copy of the California Department of Fish and Game's environmental filing fee receipt. If applicable, include the following:
  - CEQA Filing Fee No Effect Determination Form; or
  - Certificate of Fee Exemption (De Minimis Impact Finding) for pre-2007 environmental documents.

b. When an application is submitted and LAFCO is a Responsible Agency, the Executive Officer may deem an application incomplete, unless accompanied by the required CEQA documents. The Executive Officer shall review these documents to assure their adequacy for use by LAFCO for its determination as the Responsible Agency.

4. <u>LAFCO's Use of Lead Agency's Environmental Documents</u>

a. In making its determinations on boundary change proposals, LAFCO will use the environmental document prepared by the Lead Agency if the procedures outlined above have been followed and LAFCO has concluded that the document is adequate for its use as a responsible agency.

b. Prior to project approval, the Commission will certify that it has reviewed and considered the information contained in the Lead Agency's document. LAFCO may request the Lead Agency furnish additional information or findings as required to support

a legally adequate Responsible Agency environmental determination in accordance with Section 15096 of the State CEQA Guidelines.

c. When a Lead Agency's EIR identifies significant environmental effects, LAFCO will incorporate the Lead Agency's findings or formulate its own, for each significant effect, per Section 15091.

d. LAFCO may take any of the following actions to conform to CEQA requirements when rendering a decision on an application:

- LAFCO shall not approve a proposed project with significant impacts if it can adopt feasible alternatives or mitigation measures within its powers that would substantially lessen the magnitude of such effects under its authority, unless it adopts a Statement of Overriding Considerations;

- If LAFCO mitigates impacts listed in the EIR to below a level of significance via the adoption of boundary alternative or conditions of approval (negotiated with the local agency), such findings shall be reinforced by adequate rationale and inserted in the record; or

- If the LAFCO decision does not include mitigation of significant impacts listed in the EIR to below a level of significance," LAFCO shall adopt the Lead Agency's Statement of Overriding Considerations or formulate its own, per Section 15093 of the State CEQA Guidelines.

e. Upon project approval, LAFCO shall file a Notice of Determination in a like manner as a Lead Agency. The Notice of Determination shall be filed with the San Bernardino County Clerk of the Board of Supervisors.

III. LAFCO'S ROLE AS A LEAD AGENCY

A. General Information

LAFCO will be the Lead Agency responsible for performing CEQA mandated environmental review when its discretion for approval or denying a project involves general governmental powers. This is in contrast with a Responsible Agency role which only has single, limited powers over the project, normally subsequent and secondary to LAFCO's function, such as when a city pre-zones a property of interest.

Examples of projects requiring LAFCO to act as a Lead Agency include but are not limited to the following:

- Formation and boundary changes of cities and special districts: (Annexations, detachments, incorporations, disincorporations, dissolutions, and reorganizations).
- Establishment of spheres of influence for cities and special districts.
- Studies of local government agencies.

Where another public agency is initially the appropriate Lead Agency for a project requiring subsequent LAFCO approval, LAFCO will assume the role of Lead Agency in those instances where:

1. The Lead Agency failed to prepare an environmental document and the statute of limitations to a challenge of the action of the Lead Agency has expired.
2. An inadequate environmental document was prepared without consultation with San Bernardino LAFCO per State CEQA Guideline procedures and the statute of limitations for a challenge has expired.
3. A subsequent or supplement to an EIR or an addendum is required pursuant to Sections 15162-15164 of the State CEQA Guidelines and the original Lead Agency chooses not to prepare the appropriate document.

LAFCO shall assume Lead Agency responsibility under situations (1) and (2) only when it has been unsuccessful in effecting necessary changes in environmental documentation by the Lead Agency through the normal administrative review process.

B. Delegation of Responsibilities by the Commission to the Executive Officer

The following quotations from Section 15025 of the State Guidelines indicate those functions that can and cannot be delegated to the Executive Officer by the Commission:

A public agency (the Commission) MAY assign specific functions to its staff (Executive Officer) to assist in administering CEQA. Functions which may be delegated include but are not limited to:

1. Determining whether a project is exempt.

2. Conducting an Initial Study and deciding whether to prepare a draft EIR or Negative Declaration (refer to Section IV, F. 2. of these guidelines for a discussion of the appeal process when an EIR is required.)

3. Preparing a Negative Declaration or EIR.

4. Determining that a Negative Declaration has been completed within a period of 180 days (see Section 21100.2 of CEQA).

5. Preparing responses to comments on environmental documents.

6. Filing notices.

The decision-making body of a public agency (the Commission) shall NOT delegate the following functions:

1. Review and consideration of a final EIR or approval of a Negative Declaration prior to making a decision on a project before the Commission.

2. The making of findings as required by Sections 15091 and 15093.

IV. LAFCO'S LEAD AGENCY PROCEDURES

The following process and procedures, specific to LAFCO's function, summarize or supplement the State CEQA Guidelines and are to be used to process all accepted applications:

A. Application Acceptance (Section 15101)

LAFCO will accept or reject a project application, based on its completeness, within 30 days of its filing.

B. Projects Exempt from CEQA

Exemptions – Generally, a project is exempt from CEQA if it is exempt by statute (State CEQA Guidelines, Section 15260 et. seq.), if it is exempt pursuant to a categorical exemption (State CEQA Guidelines, Section 15300 et. seq.), if it is exempt pursuant to the provisions of State CEQA Guidelines, Section 15191 et. seq., or if it is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment, and it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment (State CEQA Guidelines, Sections 15061(b)(3), 15378).

Statutory Exemptions (State CEQA Guidelines, Section 15260 et. seq.) – Projects qualifying for this status are actions defined by the Legislature in State CEQA Guidelines section 15260 et. seq. to be statutorily exempt from CEQA review, regardless of the potential for causing impacts on the environment.

While other statutory exemptions may apply in certain circumstances, statutorily exempt projects defined by the Legislature that most commonly apply to a LAFCO project include the following:

1. Feasibility and Planning Studies

   A project involving only feasibility or planning studies for possible future actions which the agency, board, or commission has not approved, adopted, or funded does not require the preparation of an EIR or Negative Declaration but does require consideration of environmental factors. This section does not apply to the adoption of a plan that will have a legally binding effect on later activities.

2. Ministerial Actions or Ministerial Projects

   "Ministerial" describes a decision involving little or no personal judgment as to the wisdom or manner of carrying out the project, where the law is applied to the facts as presented without special discretion or judgment in reaching a decision.

   Examples include:
   - Issuance of Certificates of Filing and Completion.
   - Consolidation of special districts where the consolidation is approved by both district boards by resolution.
   - Certain island annexations (under Section 56375 [a]) where approval is mandated if the annexation meets certain discretionary findings.

3. Rates, Tolls, Fares and Charges (Section 15273)

   (a) CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, or other charges by public agencies which the public agency finds are for the purpose of:
      (1) Meeting operating expenses, including employee wage rates and fringe benefits,
      (2) Purchasing or leasing supplies, equipment, or materials,
      (3) Meeting financial reserve needs and requirements,

4. General Rule Exemption (Section 15061(b)(3)

   Many of the project that come before the Commission are adjustments of jurisdictional boundaries that have no potential to modify the physical environment. For these projects the Commission relies upon the general rule exemption referenced in Section 15061(b)(3) of the State CEQA Guidelines.

5. Categorical Exemptions (State CEQA Guidelines, Section 15300 et. seq.)

   The following classes of projects, specifically pertaining to LAFCO's activities, have been identified in the State Guidelines as not having the potential for significant environmental effects, and are categorically exempt from the requirements of CEQA (Note: A categorical exemption shall not be used for these activities where there is a reasonable possibility that the activity will have a significant effect due to unusual and/or cumulative circumstances.):

a. Class 3: New Construction or Conversion of Small Structures

Included within this category are out-of-agency service agreements involving the extension of water, sewer, or utility service by a city or district outside its boundaries but lying within its respective sphere of influence.

b. Class 19: Annexations of Existing Facilities and Lots for Exempt Facilities

Included within this category are:

1) Annexations to a city or special district of areas containing existing public or private structures developed to the density allowed by the current zoning or pre-zoning of either the gaining or losing governmental agency whichever is more restrictire, provided, however, that the extension of utility services to the existing facilities would have a capacity to serve only the existing facilities. ;

2) Annexations of individual small parcels of the minimum size for facilities exempted by Section 15303, New Construction or Conversion of Small Structures

c. Class 20: Changes in Organization of Local Agencies

Included within this category are changes in the organization or the reorganization of local agencies where the changes do not modify the geographic area in which previously existing powers are exercised. Examples include but are not limited to:

1) Establishment of a subsidiary district;

2) Consolidation of two or more districts having identical boundaries;

3) Merger with a city of a district lying entirely within the boundaries of the city; or

4) Reorganization of agencies consisting of annexations or detachments providing similar services.

<u>Process:</u>

When a LAFCO project qualifies for an exemption, staff will file a LAFCO “Notice of Exemption” form, to include:

a. A brief project description;
b. The project location
c. The specific exemption including the finding and citation to the State Guidelines section or statute under which it is found to be exempt;
d. The rationale for its selection, including a brief statement of reasons to support the finding.

Notice Requirements:

When LAFCO decides to adopt a Notice of Exemption (NOE), the NOE shall accompany the project application through the process and be filed upon project approval by the Commission with the San Bernardino County Clerk of the County Board of Supervisors. Notification of this CEQA determination shall be made available to the public and sent to all Responsible and affected agencies a minimum of 21 days prior to a LAFCO action on the project. A list of such notices shall be posted on a monthly basis in the Clerk's and/or LAFCO offices for a 30-day period. The filing and posting start a 35-day statute of limitations period on legal challenges to LAFCO's decision of 'exemption.' If a Notice is not filed, a 180-day statute of limitations will apply.

C. Initial Studies

A project for which LAFCO is the Lead Agency and which is not exempt will require the preparation of an Initial Study to determine if the project has the potential for causing a significant environmental effect. The Initial Study assessment shall consider all phases of the project; the purposes, policies, rules, regulations and standards set forth in CEQA and the State CEQA Guidelines; these procedures and the adopted plans and policies of cities, San Bernardino County, and LAFCO. An Initial Study need not be prepared if the Executive Officer determines at the beginning stages of review that a full-scope EIR will be required, but if prepared, should be used to document the significance of specific impacts requiring a focused EIR, i.e. the Initial Study should document the rationale for narrowing the scope of issues to be addressed in an EIR.

The Initial Study will be prepared on a LAFCO Standard Environmental Checklist form using the project application, environmental description forms, appropriate literature, etc. A site visit may be necessary. Individual findings for environmental issues will be documented with sufficient technical data to substantiate conclusions regarding the potential for significant adverse impact. Insufficiency of available

information will be noted on the form if it affects the ability to reach a conclusion and may be used as the basis for preparation of an EIR.

Process:

The preparer (LAFCO staff, agency staff or qualified consultant) shall consult with any and all Responsible and Trustee Agencies and other public agencies/persons/organizations affected by or knowledgeable of the project and its issues. Under appropriate circumstances such review could also involve use of the County's or a city's Environmental Review Committee or comparable organization and its public forum to more fully assess the physical, social and infrastructural implications of complex projects. The Initial Study will be the supporting document for findings of 'significance' and 'non-significance' (whether to prepare an EIR or Negative Declaration). It is a tool for modifying projects and/or stipulating mitigation measures to allow a finding of 'non-significance.' It can also be used to focus the EIR on effects determined to be 'significant' or to determine whether a previously prepared EIR could be used/modified for the project, etc.

The Initial Study shall contain:

a. A project description and location;

b. Environmental setting;

c. Identification of all environmental impacts using the environmental checklist form and adequate substantiation to support environmental impact findings, including ways to mitigate (avoid, minimize, compensate or otherwise reduce a significant impact to a less than significant level;

d. Examination of project consistency with zoning and land-use plans, etc.; and,

e. The name of the person or persons who prepared or participated in preparation of the initial study.

Section 15063 of the State CEQA Guidelines contains a detailed description of the content of and uses for an Initial Study and it is hereby incorporated by reference. Funding for the preparation of an Initial Study shall be borne by the applicant for the LAFCO action pursuant to Commission policy, or by the Commission if self-initiated.

D. Executive Officer's Determinations/Findings

After review of the Initial Study and all supporting information, the Executive Officer shall determine the appropriate environmental determination based on one of the following findings:

1. The project is exempt, assuming this was not determined prior to the preparation of an Initial Study. Recommend adoption of a Notice of Exemption.

2. The project will not have a significant environmental effect. Publish a notice of intent to adopt a Negative Declaration, prepare, circulate, and comply with the other requirements for a Negative Declaration. After appropriate public review, the documentation will be forwarded to the Commission with a recommendation for adoption. If the Negative Declaration is adopted and the project approved, a Notice of Determination should be prepared, filed, and posted in conformance with CEQA's requirements.

3. The project, as proposed, would have a significant environmental effect, but with alterations, stipulations, or mitigation measures, all adverse impacts can be mitigated to a threshold less than "significant." Publish a notice of intent to adopt a Mitigated Negative Declaration, prepare, circulate, and comply with all other legal requirements for a Mitigated Negative Declaration. After appropriate public review, the documentation will be forwarded to the Commission with a recommendation for adoption. If the Negative Declaration is adopted and the project approved, a Notice of Determination should be prepared, filed, and posted in conformance with CEQA's requirements.

4. The project will have a significant environmental effect, but all such impacts have been adequately assessed in a previously approved Negative Declaration, Mitigated Negative Declaration, EIR or other appropriate environmental document previously prepared or reviewed by LAFCO and mitigated to the extent possible if required, and no subsequent or supplemental EIR, Negative Declaration, or addendum is required. Submit to the Commission with proposed appropriate findings, including that no further environmental review is required.

5. The project will have a significant environmental effect. An EIR will be prepared and circulated in compliance with CEQA, and submitted to the Commission with proposed appropriate findings. If the EIR is certified and the project approved, a Notice of

Determination should be prepared, filed, and posted in conformance with CEQA's requirements.

6. The project will have a significant environmental effect and a Negative Declaration, Mitigated Negative Declaration, EIR, or other appropriate environmental document has previously been prepared. However, one of the circumstances in State CEQA Guidelines Section 15162 has been triggered, such as the proposal of a substantial change in the project that requires major revisions of the previous environmental document due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effect; the occurrence of a substantial change with respect to the circumstances under which the project is undertaken new information or changed conditions affecting the project or the site warrant additional analysis; or new information of substantial importance shows that the project will have one or more significant effects not discussed in the previous environmental document, significant effects previously examined will be substantially more severe than shown in the previous EIR, mitigation measures or alternatives previously found not to be feasible would substantially reduce one or more significant effects of the project, but project proponents decline to adopt the mitigation measure or alternative, or mitigation measures or alternatives considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative. In this situation, a subsequent EIR, supplement to the EIR, or addendum to the original EIR should be prepared focusing on these changes. Submit to the Commission with proposed appropriate findings for certification. If the environmental document is adopted or certified and the project approved, a Notice of Determination should be prepared, filed, and posted in conformance with CEQA's requirements.

E. <u>Negative Declaration</u>

A Negative Declaration (finding of no significant effects) or a Mitigated Negative Declaration (finding of no significant effects with project changes/mitigation measures/conditions of approval) will be prepared on a LAFCO form by staff or a qualified consultant selected by LAFCO per the findings of the Initial Study. Its contents will include a brief project description, location (i.e., vicinity map), name of applicant, the 'finding of non-significance,' attached Initial Study, and a list of mitigation measures (if any). A determination of the Initial Study's adequacy and the preparation of the accompanying Negative

Declaration initially rests with the Executive Officer. The formal adoption of the Negative Declaration rests ultimately with the Commission upon its determination of the adequacy of the Initial Study and Negative Declaration.

1. Notice Requirements

   The document will be available at the LAFCO office for public review and comment for a minimum of 21 days prior to LAFCO action on the project for projects for which there are no state agency approvals and that are not projects of statewide, regional, or area-wide significance. Recommended Negative Declarations (in the form of a notice of intent to adopt a Negative Declaration) will be noticed at least once in a newspaper of general circulation (The Sun); noticed in the "local" newspaper of the affected area (if any); mailed to all Responsible and Trustee Agencies, and public agencies with jurisdiction within the project area; and mailed to those individuals and organizations who have requested such notices. Where one or more state agencies will be a Responsible or Trustee Agency or will exercise jurisdiction over natural resources affected by the project, LAFCO shall send copies of the Negative Declaration to the State Clearinghouse for distribution to these state agencies. Projects that will be reviewed by state agency(s) or that will be of statewide, regional, or area-wide significance will require a minimum 30-day period unless reduced by prior approval of the State Clearinghouse. Pursuant to adopted Commission policy, costs associated with the Notice and distribution requirements shall be funded by the applicant for the LAFCO action

2. LAFCO Consideration

   The Commission will consider the proposed Negative Declaration and any public and agency comments prior to approving a project, and will approve the Negative Declaration if it finds there is no substantial evidence in the whole of the administrative record that the project will have a 'significant environmental effect.' Where mitigation is included as a condition of a Mitigated Negative Declaration, a mitigation monitoring and reporting program (MMRP) shall be adopted that assigns responsibility for implementing the mitigation measure(s) at the same time the Mitigated Negative Declaration is approved by the Commission.

3. Notice of Determination

After the Commission's approval of a project for which a Negative Declaration has been adopted, the Executive Officer shall file a Notice of Determination.

The Notice of Determination's content shall include:

a. Project description, identification and location;

b. LAFCO's name and the date the project was approved by LAFCO;

c. Determination that the project will not have a significant effect on the environment;

d. Statement that a Negative Declaration has been prepared; and

e. Address of LAFCO office where a copy of Negative Declaration is filed.

The Notice shall be filed with the San Bernardino County Clerk of the Board of Supervisors within five working days of project approval. If the project requires a discretionary approval from any state agency, the Notice shall also be filed with the State Office of Planning and Research, State Clearinghouse. Fees for filing a Notice of Determination for a Negative Declaration shall be funded by the applicant for the LAFCO action.

The filing of the Notice and the proper posting of such notices starts a 30-day statute of limitations on legal challenges to the adequacy of the environmental determination.

F. Environmental Impact Report

If the Executive Officer or the Commission finds, based on substantial evidence in the record or contained in the Initial Study and public comments, that a project may have a significant environmental effect, the Executive Officer will initiate the preparation of an Environmental Impact Report (EIR).

1. Purpose

An EIR is an informational document; a major tool in the decision-making process, informing LAFCO Commissioners and all parties involved of the environmental consequences of project

approval/denial/alteration, etc. Its primary functions are to identify and mitigate significant adverse impacts and to provide alternative project and boundary options. An EIR is not an instrument to rationalize approval or denial of a project; nor do indications of adverse impacts require automatic denial. LAFCO has the authority to balance environmental, economic, social or other objectives as part of its mandate to develop orderly governmental boundaries.

An EIR should be prepared early in the application process to facilitate the integration of environmental considerations in project or boundary design.

The applicant is responsible for submitting all necessary project data for the EIR per the Executive Officer's request.

2. Appeals

The Executive Officer's determination to require an EIR is appealable to the Commission within 10 working days of the issuance of the decision to prepare an EIR. Such appeal must be filed, on LAFCO forms, with the Executive Officer and must include specific substantiation for the appeal, directly related to environmental issues. The appeal shall be heard on the next regularly scheduled Commission agenda that permits adequate public notification. There is no appeal from a Commission requirement for an applicant to prepare an EIR.

3. Notice of Preparation

Immediately following the Executive Officer's/Commission's decision to prepare an EIR (based on the administrative record or an Initial Study), a Notice of Preparation (NOP) will be mailed to all responsible, trustee, and any affected state, federal, local agencies (including the State Clearinghouse) and any parties requesting notification.

State review of an EIR will result in the issuance of an identification number (State Clearinghouse Number, SCH#) which shall be used on all subsequent documentation and correspondence.

The NOP shall include sufficient information on the project and its anticipated impacts to facilitate meaningful responses on the environmental issues that may cause significant adverse impacts. Such content to include:

a. Project description;
b. Mapped location and physical address, if any;
c. Probable environmental effects; and
d. A copy of the Initial Study or substantial evidence in the record justifying the preparation of an EIR, etc.

It shall be sent to the State Clearinghouse and all responsible/trustee agencies or interested parties via certified mail or other method to document its receipt.

Within 30 days after receipt of the NOP, each Responsible Agency/interested party shall submit to LAFCO specific information directly related to that agency's/party's statutory responsibility for the project; the environmental issues, alternatives, and mitigation measures to be explored; and the agency's/party's role in the project's review, etc.

If LAFCO does not receive a response or request for additional time by the end of the 30-day NOP review period, LAFCO may presume that no response will be made from an agency or party that received the NOP.

4. Scope of EIR

LAFCO may also convene meetings involving all parties (especially at the request of a Responsible or Trustee Agency, OPR, or the project applicant) to further assist in the determination of the EIR's scope and content, no later than 30 days after such request. Early and complete scoping, consultation and negotiation are critical to the preparation of an adequate EIR. LAFCO could request use of the County's or a local agency's Environmental Review Committee in a public meeting forum to aid in the identification and resolution of any technical issues. LAFCO will compile all comments and identify in writing the focus for the EIR.

An EIR can be prepared by staff or consultants under contract to LAFCO, coordinated by the Executive Officer or designee. LAFCO may accept data for an EIR from any source subject to independent validation by LAFCO staff. Also, LAFCO may charge an applicant appropriate fees to cover all costs for preparing and processing an EIR.

5. EIR Content

Article 9 of the State CEQA Guidelines describes the complete content of all required sections of an EIR. The scoping process can

only determine which potential impacts should be assessed. All other sections are mandatory and will be included in EIRs prepared for LAFCO.

6. Consultant EIRs

The Executive Officer shall use a RFP (Request for Proposal) process to select a consultant to write the EIR. The office shall maintain and update as necessary a list of consultants, a minimum of three from which proposals shall be solicited for each consultant prepared EIR. The Executive Officer and the applicant will screen the proposals in an attempt to gain a consensus on choosing the consultant. The Executive Officer is responsible for final selection of the consultant. The Commission will review the scope of work, consultant qualifications, contract cost, and all other aspects before authorizing a contract.

The applicant will be charged a fee to cover all contract and staff costs, to be deposited into a LAFCO trust fund. (Note: The contract will be between LAFCO and the consultant which will work solely at the Executive Officer's, not the applicant's, direction.) The Executive Officer will disburse the funds to the consultant at stages specified in the contract based on completion and performance.

In addition to the contract costs, the fees charged will be based on actual staff time involved in, but not limited to:

a. Consultant selection including bid solicitation and review, submission of information to consultants, etc.;

b. Review of Draft EIR, corrections, additions, etc.;

c. Compiling comments for preparation of Final EIR; and

d. Meetings with applicant, consultant and public regarding EIR preparation.

7. Emphasis (Section 15143)

The EIR shall focus on the significant effects on the environment. The significant effects should be discussed with emphasis in proportion to their severity and probability of occurrence. Effects dismissed in an Initial Study as clearly insignificant and unlikely to occur need not be discussed further in the EIR unless the Lead Agency subsequently receives information inconsistent with the finding in the Initial Study. A copy of the Initial Study may be

attached to the EIR to provide the basis for limiting the impacts discussed.

8. Forecasting (Section 15144)

   Drafting an EIR or preparing a Negative Declaration necessarily involves some degree of forecasting. While foreseeing the unforeseeable is not possible, an agency must use its best efforts to find out and disclose all that it reasonably can.

9. Speculation (Section 15145)

   If, after thorough investigation, a Lead Agency finds that a particular impact is too speculative for evaluation, the agency should note its conclusion and terminate discussion of the impact.

10. Degree of Specificity (Section 15146)

    The degree of specificity required in an EIR will correspond to the degree of specificity involved in the underlying activity which is described in the EIR.

    (a) An EIR on a construction project will necessarily be more detailed in the specific effects of the project than will be an EIR on the adoption of a local general plan or comprehensive zoning ordinance because the effects of the construction can be predicted with greater accuracy.
    (b) An EIR on a project such as the adoption or amendment of a comprehensive zoning ordinance or a local general plan should focus on the secondary effects that can be expected to follow from the adoption or amendment, but the EIR need not be as detailed as an EIR on the specific construction projects that might follow.

11. Technical Detail (Section 15147)

    The information contained in an EIR shall include summarized technical data, maps, plot plans, diagrams, and similar relevant information sufficient to permit full assessment of significant environmental impacts by reviewing agencies and members of the public. Placement of highly technical and specialized analysis and data in the body of an EIR should be avoided through inclusion of supporting information and analyses as appendices to the main body of the EIR. Appendices to the EIR may be prepared in volumes separate from the basic EIR document, but shall be readily

available for public examination and shall be submitted to all clearinghouses which assist in public review.

12. Standards of Adequacy of an EIR (Section 15151)

    An EIR should be prepared with a sufficient degree of analysis to provide decision makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but the sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure.

13. Public Participation (Section 15201)

    Public participation is an essential part of the CEQA process. Each public agency should include provisions in its CEQA procedures for wide public involvement, formal and informal, consistent with its existing activities and procedures, in order to receive and evaluate public reactions to environmental issues related to the agency's activities. Such procedures should include, whenever possible, making environmental information available in electronic format on the Internet, on a web site maintained or utilized by the public agency.

14. Notice of Completion (Section 15085)

    As soon as the draft EIR is completed, a Notice of Completion (NOC) must be filed with OPR, denoting the project's description and location, address where EIR copies are available and the period which comments can be submitted. Where the EIR will be reviewed through the State Clearinghouse, the cover form required by the Clearinghouse will serve as the NOC.

15. Agency/Public Review

    At the time the NOC is sent, the Executive Officer shall provide public notice of the draft EIR's availability to all organizations, agencies and individuals who previously requested such notice; as well as publication in The Sun and/or local newspapers. The Executive Officer shall also distribute copies of the draft EIRs and requests for comments to all public agencies with jurisdiction within

the project area; to persons or organizations previously requesting such copies; to public libraries in the affected areas; as well as maintaining copies in the LAFCO and any Responsible Agency's offices. The Executive Officer may consult with any person who has special expertise in any environmental issue involved.

Review periods are not to be less than 30 days nor longer than 60 days from the date of the NOC except in unusual situations, per the Executive Officer's discretion. The review period for draft EIRs submitted to state agencies via the State Clearinghouse will be a minimum of 45 days. The last date for comment submittal shall be specified in the request for comments. A lack of response by that date constitutes a 'non-objection' or 'no-comment' by that particular party.

The sufficiency of the EIR per State Guidelines is the only issue to be addressed during this review. Questions/issues regarding the feasibility or desirability of the project itself shall only be considered by the Commission at the appropriate hearing, not integrated into the environmental review process.

The Executive Officer can convene a meeting of the County's or a local agency's Environmental Review Committee to provide a more thorough forum for the determination of EIR adequacy in any instances of complex technical issues or disagreements among experts.

16 Adequacy

The Executive Officer will make preliminary (not appealable) determinations of the EIR's adequacy, utilizing all aspects of the public record; in turn making specific recommendations on adequacy to the Commission, for its findings, at the time the project is heard.

17. Response to Comments on an EIR (Section 15088)

The Executive Officer shall prepare a written response to all comments received during the comment period (and MAY respond to those received after the period): describing the disposition of issues, opinions or facts raised, project revisions or mitigation measures resulting from these comments, reasons for not accepting recommendations, all substantiated by factual information.

The response to comments may be in the form of revisions to the

EIR text, a separate section in the final EIR or as notes typed in the margins of the comment letters, depending on the event of the resulting revisions.

18. Preparation of Final EIR (Sections 15089 and 15132)

The Executive Officer/consultant will prepare a final EIR before the Commission makes a decision on the project. Project denial does not require certification of the Final EIR. Contents include:

a. The draft EIR or a revision;
b. Comments and recommendations received on the draft EIR either verbatim or in summary
c. A list of persons, organizations and agencies commenting on the draft EIR;
d. LAFCO's responses to significant points raised during review and consultation;
e. Plus any other pertinent information.

The Executive Officer may provide an opportunity for the public or agencies to review the final EIR, focusing only on the responses to comments as they relate to document adequacy. Final EIRs shall be available a minimum of 10 days prior to the Commission hearing on a project.

The final EIR shall be submitted to the Commission with the project application and a mitigation measure monitoring plan/program (if necessary) for certification prior to the decision.

19. Certification of Final EIR (Section 15090)

Prior to approving a project for which an EIR has been prepared, the Commission shall certify (via minute record) that:

a. The final EIR has been completed in compliance with CEQA;
b. The final EIR was presented to the Commission which reviewed and considered it prior to approving the project; and,
c. The final EIR reflects the lead agency's independent judgment and analysis

If the Commission, through testimony or its own review of the data, finds that the environmental review is incomplete or the EIR does not adequately assess the full range of project implications, it can refer it back to staff for revisions; deferring approval of the project until it can certify the amended final EIR. Under such

circumstances, the Commission shall instruct staff to recirculate/not recirculate the amended EIR in accordance with the extent of requested revisions.

20. Findings (Section 15091)

    The Commission cannot approve or carry out a project for which an EIR identifies one or more significant environmental effects unless it makes one or more written findings for each significant effect, each reinforced by substantial evidence in the record. Such findings include:

    a. Changes have been incorporated into the project which avoid or substantially reduce the significant environmental effect(s) identified in the final EIR.

    b. Such changes are not within LAFCO's jurisdiction, but are within the responsibility and jurisdiction of another agency which has adopted such changes or which can and should adopt such changes.

    c. Specific economic, social or other considerations make infeasible the mitigation measures or project alternatives identified in the final EIR.

21. Approval (Section 15092)

    LAFCO shall not approve or carry out a project for which an EIR was prepared unless either:

    a. The project, as approved, will not have a significant environmental effect; or

    b. LAFCO has eliminated or substantially reduced all significant effects where feasible per Section 15091, and determined that any remaining significant effects found to be unavoidable per Section 15091 are acceptable due to overriding concerns described in Section 15093.

22. Statement of Overriding Considerations (Section 15093)

    If the benefits of a proposed project outweigh its unavoidable adverse effects, these effects may be considered "acceptable." When the Commission allows the occurrence of environmental effects not mitigated to a level less than 'significant,' it shall state in writing the specific reasons to support its action based on the final

EIR and/or other information in the record. The Commission's statement of overriding considerations should be included in the record of the project approval and should be mentioned in the Notice of Determination.

23. Notice of Determination (Section 15094)

The Executive Officer shall file a Notice of Determination following each project approval for which an EIR was considered. The notice shall include:

a. Project description;

b. Date approved;

c. A brief description and identification of the project;

d. Identification of LAFCO as lead agency;

e. Determination of any significant environmental effects;

d. Statement that an EIR was prepared and certified pursuant to CEQA;

e. Whether mitigation measures were made conditions of the project;

f. Whether findings were made per Section 15091;

g. Whether a statement of overriding considerations was adopted; and,

h. The address of the location of a copy of the final EIR and the project record.

The notice shall be filed with the Clerk of the County Board of Supervisors. If the project requires discretionary approval from a state agency, the notice shall also be filed with OPR State Clearinghouse. The filing and the posting of such notice starts a 30-day statute of limitations on court challenges to the adequacy of the EIR and environmental determination.

24. Disposition of Final EIR (Section 15095)

The Executive Officer shall:

a. File a copy of the Final EIR with the San Bernardino County Planning Division and the city where significant environmental effects may occur;

b. Include the final EIR in all subsequent project administration;

c. Retain a copy of the final EIR as a public record for a reasonable period; and

d. Require a copy of the certified, final EIR to be provided to each Responsible Agency, by the applicant or, if none, by staff.

Pursuant to adopted Commission policy, funding for the preparation of an EIR, fees (if required) for filing a Notice of Determination, and other related fees (i.e. notice and distribution requirements), are the responsibility of the applicant for the LAFCO action.

V. COMPLETION OF ENVIRONMENTAL LITIGATION PRIOR TO CONSIDERATION OF CHANGE:

It is the policy of San Bernardino LAFCO that in those instances where it is a responsible agency under CEQA and there has been a legal challenge to the environmental document prepared by the lead agency, no action on the proposal shall be taken until resolution of the environmental litigation.

In those instances where the Commission determines to override this policy based upon the unique circumstance of the application and approve the application, it shall include the following condition in its resolution of approval:

In the event that a court of competent jurisdiction invalidates the action taken by this resolution for any reason, the City of _____ or _____District shall enter into an out-of-agency service agreement(s) with the previous service provider(s) for the provision of all services transferred by this action and shall present said contract(s) and/or agreement(s) to the San Bernardino LAFCO pursuant to Government Code Section 56133 within 60 days of such court determination. The affected agency(s) shall provide written consent to this condition within five (5) working days of the adoption of the resolution of approval and the protest process shall not commence until the Executive Officer has received that consent.

VI. RECONSIDERATION

The Cortese-Knox-Hertzberg Act establishes procedures for agencies to request amendments to, or reconsideration of resolutions adopted by the Commission (Govt. Code Section 56857). Whenever the Commission accepts a written request for amendment to, or reconsideration of an adopted resolution, the period for which a CEQA challenge may be filed is tolled while the request for reconsideration is under review by the Commission. Following the Commission's reconsideration, the statute of limitations on the original filing of either the Notice of Determination or Notice of Exemption will continue.

VII. REVIEW OF ENVIRONMENTAL APPEALS *(Adopted August 13, 1980.)*

Where the published notice of the LAFCO agenda items includes notice of a hearing on any possible appeal from an environmental review determination, the LAFCO may hear the appeal on the same date it hears the agenda item, if:

1. The appeal was timely filed;

2. The time for filing an appeal has run;

3. The appellant and/or applicant have received personal notice of the hearing;

4. Any party who has requested in writing to be notified has received personal notice of the hearing; and

5. The appeal is heard in advance of the agenda item.

SPECIAL DISTRICTS

POLICY STATEMENT ADOPTED BY INDEPENDENT SPECIAL DISTRICTS AND LAFCO REGARDING LAFCO INDEPENDENT SPECIAL DISTRICT REPRESENTATION:

1. SPECIAL DISTRICT REPRESENTATION. *(Amended April 17, 2002)*

   Pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000**,** independent special districts shall have two representatives plus one alternate on LAFCO.

2. METHOD OF SELECTION. *(Amended April 17, 2002)*

   An Independent Special Districts Selection Committee shall be composed of the presiding officers of the legislative body of each independent special district located wholly within the County of San Bernardino and those containing territory within said County representing 50% or more of the assessed value of taxable property of each district. The Selection Committee shall appoint all independent special district representatives and alternate. Each member of the Selection Committee shall be entitled to one vote for each independent special district for which they are presiding officer. The meetings of the Selection Committee shall be in accordance with the provisions of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Government Code Section 56000 et seq.

3. TERM OF OFFICE. *(Amended April 17, 2002)*

   Other than the initial special districts representatives, the terms of office shall be for four years and until the appointment and qualification of a successor. Every officer whose term has expired shall continue to discharge his duties until his successor has qualified.

4. SPECIAL DISTRICT REPRESENTATIVES. *(Amended April 17, 2002)*

   It shall be the policy of LAFCO that special district representatives and alternate should represent districts located in the San Bernardino Valley area, the desert area, and the mountain area. Inasmuch as possible, they should not represent agencies that provide like service, (i.e., they should represent fire protection service, water service, sewer service, cemetery service, etc.). They shall be chosen as provided by the provisions within Government Code Section 56000 et seq.

5. SPECIAL DISTRICTS ASSOCIATION. The association offers its services to work with the districts and LAFCO to provide assistance and coordination and to act as a forum to air and discuss problems of special districts and to make recommendations to LAFCO and the Selection Committee.

6. ALTERNATIVE FUNDING FORMULA *(Adopted by Special District Vote July 2002; Amended by Special District Vote March 2, 2010)*

   Pursuant to authority provided by Government Code Section 56381, the Independent Special Districts, by majority vote, have determined an Alternative Funding Formula to the Independent Special Districts' mandatory share of the LAFCO net operating costs as follows:

   1. Healthcare (Hospital) Districts shall be limited to payment of $1,500 regardless of Total Revenue.

   2. Those districts with Total Revenue of more than $50,000,000 shall pay $30,000.

   3. Those districts with Total Revenue of between $20,000,000 to $50,000,000 shall pay $20,000.

   4. Those districts with Total Revenue of between $5,000,000 to $20,000,000 shall pay $10,000.

   5. Those districts with Total Revenue of between $2,000,000 to $5,000,000 shall contribute an amount not to exceed $5,000.

   6. Those districts with Total Revenue of less than $2,000,000 shall be apportioned an amount to be determined by the ratio of each district's Total Revenue as compared to the Total Revenues whose share does not exceed $5,000.

7. CONVERSION TO ALL MAIL BALLOTING FOR SPECIAL DISTRICT SELECTION COMMITTEE BUSINESS *(Adopted by Special District Vote April 2008)*

   The business of the Special District Selection Committee shall be routinely conducted by mail. The procedures for such processing are outlined in Government Code Section 56332(c)(1).

RULES AND REGULATIONS OF THE LOCAL AGENCY FORMATION COMMISSION OF SAN BERNARDINO COUNTY AFFECTING FUNCTIONS AND SERVICES OF SPECIAL DISTRICTS:

SECTION 1 - AUTHORIZATION. *(Amended April 17, 2002)*

These rules and regulations are authorized pursuant to the provisions of Government Code Section 56000 et seq**.** and were originally adopted concurrent with an order for representation on the Commission by Independent Special Districts.

SECTION 2 - APPLICATION.

These rules and regulations shall apply to and affect all special districts located within San Bernardino County or for which said County is the principal county of the district, as specifically provided hereinafter. (Exhibit "A")

SECTION 3 - POWER OF THE COMMISSION. *(Amended April 17, 2002)*

The Commission shall:

1. Classify the various types of services which customarily are or can be provided within a single function of a special district.

2. Require existing districts to file written statements with the commission specifying the functions or classes of service provided by such district.

3. Establish the nature, location, and extent of any functions or classes of service provided by existing districts

4. Determine that, except as otherwise authorized by such rules and regulations, no new or different function or class of service shall be provided by any existing district.

These rules and regulations shall not apply to the extension or enlargement, within the boundaries of an existing district, of any function or service which the commission, pursuant to these rules and regulations, has established as currently being provided by such special district.

SECTION 4 - DEFINITIONS. *(Amended April 17, 2002)*

The definitions as outlined within the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 shall apply in these rules and regulations.

SECTION 5 - CLASSIFICATION OF FUNCTIONS AND SERVICES.

The classifications of functions and services are hereby established as provided in Exhibit "B," attached hereto and made a part of these rules and regulations.

SECTION 6 - INVENTORY OF SPECIAL DISTRICTS SERVICES.

Upon approval of the Rules and Regulations, at the request of the Executive Officer, and within sixty (60) days thereof, each special district shall provide the Commission with the following information and materials:

1. A report of the functions and services, as classified herein, being provided by the district prior to the date of the adoption of these rules and regulations.

2. A statement concerning the legal authority for the rendering of such functions and services.

3. A map or maps showing the boundaries of the district and the location(s) where such functions and services are then being provided.

For the purposes of these rules and regulations, a district shall be deemed to be providing a function or service if the district is actually exercising its powers to provide such function or service for the benefit of land or inhabitants within its boundaries.

Factors to be considered in a determination of whether a district is actually exercising its powers to provide such function or service may include, but not be limited to:

1. The existence of authorized but unsold bonds or the existence of actual bonded indebtedness where such bonds were authorized or sold in order to generate funds for the provision of such function or service.

2. The expenditure of funds and/or the obligation of funds, previously incurred contractual obligations, or the accumulation of funds for property, facilities, contract rights or equipment where such expenditure, obligation, or accumulation is for a specific objective or goal related to the provision of such function or service.

3. The actual provision of such function or service to the public, as, for example, the actual provision of sewer service, fire protection service, TV translation service, etc.

SECTION 7 - ESTABLISHMENT OF EXISTING FUNCTIONS AND SERVICES.

Following receipt of the reports required by Section 6, above, the Commission shall

establish by one of the following procedures the nature, location, and extent of all functions and services, as classified herein, then being provided by such special district:

1. By approving the original report filed by the special district, or as it may be modified by the district.

2. If the Commission desires any change in the report, it shall be returned to the district with requested modifications, and shall be resubmitted to the Commission within thirty (30) days.

3. If any special district shall fail or refuse to file any report required herein, or if any modified report is not approved by the Commission, the Commission shall make its own study and report on the functions and services being provided by the district, and shall consider the matter at a public hearing before making a final decision thereon.

LAFCO shall have the final authority to determine whether a special district is presently exercising a function or service, as such exercise is defined in Section 6 of these rules and regulations.

SECTION 8 - LIMITATIONS UPON EXERCISE OF FUNCTIONS AND SERVICES. *(Amended April 17, 2002)*

Upon establishment of the functions and services being provided by a special district, the district shall not provide or engage in any new or different function or class of service, except as authorized by these rules and regulations.

The rules and regulations shall not apply to the extension or enlargement, within the boundaries of an existing district, of any function or service which the Commission, pursuant to these rules and regulations, has established is currently being provided by such special district.

SECTION 9 - APPLICATION FOR PROVISION OF NEW OR DIFFERENT FUNCTION OR SERVICE. *(Amended April 17, 2002)*

Any special district proposing to provide any new or different function or service, in addition to those identified and established by the Commission pursuant to Section 7, hereof, shall file with the Executive Officer a resolution of its governing board making application for the provision of such additional function or service. The resolution of application shall be in such form as defined by the Commission and shall include**,** but not be limited to, all matters as identified in Government Code Section 56700. The appropriate application form shall be prepared and shall include, or be accompanied by**,** all of the following:

1. A statement of the nature of the proposal and the reasons therefore, and shall include, but not be limited to: general plan, growth rate, topography, and economic feasibility.

2. A "Plan for Service" as defined by Government Code Section 56824.12.

3. A legal description and map of the territory which is the subject of the proposal.

4. Names and addresses of other agencies or service providers affected by this change.

5. The names and addresses of the officers or persons, not to exceed three, who are to be given mailed notice of the hearing.

6. Such additional data and information as may be required by the Executive Officer pertaining to any of the matters or factors which may be considered by the Commission.

SECTION 10 - HEARING ON APPLICATION FOR PROVISION OF NEW OR DIFFERENT FUNCTION OR SERVICE. *(Amended April 17, 2002)*

Upon the filing of the resolution of application, the Executive Officer shall, after environmental review, set the matter for hearing by the Commission.

1. The date of the hearing shall not be more than ninety (90) days after such filing.

2. The Executive Officer shall cause notice of hearing to be published in a newspaper of general circulation within the area for which the provision of additional function or service is proposed, at least twenty-one (21) days prior to the date of the hearing.

3. The Executive Officer shall also cause notice of such hearing to be mailed, at least twenty-one (21) days prior to the date of hearing to: (1) the district adopting the resolution of application; (2) each city or district within three (3) miles of the subject district; (3) each person who is designated in the application to receive notice; and (4) any person who has filed a written request for special notice with the Executive Officer.

4. Such hearing may be continued from time-to-time from the original date of such hearing. The conduct of such hearing shall be governed by the provisions of Govt. Code Section 56000 et seq. and by the rules

of the Commission. At any time not later than thirty-five (35) days after the conclusion of the hearing, the Commission shall adopt a resolution making determinations, and approving or disapproving the provision of the additional function or service by the district.

SECTION 11 - REVIEW OF FUNCTIONS AND SERVICES.

The Commission may periodically review and update the inventory of functions and services established for each special district. In conducting such a review, the Commission may require the special districts to provide current information concerning established functions and services and the special districts shall comply with this request. The Commission may, after public hearing, remove any function or service established for a special district, if the Commission determines that the function or service is not currently being provided by the district.

SECTION 12 - PROCEEDINGS FOR ADOPTING, AMENDMENT OR REPEAL OF RULES AND REGULATIONS. *(Amended April 17, 2002)*

The Commission may take proceedings pursuant to this article for the adoption, amendment or repeal of rules and regulations affecting the functions and services of special districts within the county. Such proceedings may be initiated either by the Commission or by independent special districts within the county.

SECTION 13 - MINOR CHANGES IN EXISTING RULES AND REGULATIONS. *(Amended April 17, 2002)*

Minor changes in any existing rule or regulation affecting special districts may be ordered by the Commission, without adoption of a resolution of intention, notice and hearing, or reference to a special district advisory committee, provided, that the Commission makes a determination that such changes will not substantially affect the functions and services of any special district subject to such rules and regulations and such determinations are concurred in by both Commission members appointed to represent independent special districts.

SECTION 14 - DISTRICTS AND PRINCIPAL ACTS *(Amended May 15, 1996, and April 17, 2002).*

The type of districts to be included in representation are outlined in Government Code Section 56036 and are listed in Exhibit “C” along with their principal acts. The type of districts to be excluded from representation are outlined in Government Code Section 56044.

EXHIBIT "A"

LISTING OF SPECIAL DISTRICTS FUNCTIONS AND SERVICES

(Reference to Section 2 of Said Rules and Regulations)
(Updated June 2012)

Independent Districts

DISTRICT	FUNCTIONS	SERVICES
AIRPORT DISTRICTS		
Big Bear	Airport	Operations and maintenance
Yucca Valley	Airport	Operations and maintenance
CEMETERY DISTRICTS		
Barstow	Cemetery	Burials, selling plots, opening and closing of graves
Twentynine Palms	Cemetery	Interment
COMMUNITY SERVICES DISTRICTS		
Baker (amended 1/18/06)	Water	Supply water for domestic, sanitation, irrigation, fire prevention, collect and store water and storm water
	Sewer	Collection, treatment, disposal
	Fire Protection	Structural, watershed
	Park and Recreation	Local park development, operation, recreation
	Streetlighting	Streetlighting
	Ambulance	Ambulance and related health services
	TV Translator	TV Translator

DISTRICT	FUNCTIONS	SERVICES
	Solid Waste	Garbage, Refuse
Barstow Heights (amended 1/18/06)	Park and Recreation	Maintenance
Big Bear City (amended 9/29/11)	Water	Retail, domestic, agriculture, replenishment
	Sewer	Collection, transportation
	Streetlighting	Streetlighting
	Fire Protection	Structural, watershed, suppression, prevention, paramedic, ambulance, rescue, first aid
	Solid Waste	Collection and disposal
	Park and Recreation	Local park development
Big River (amended 4/16/09)	Park and Recreation	Acquisition, maintenance
	Police	Security patrol
Daggett (amended 7/16/09)	Water	Retail, wholesale, domestic, industrial, irrigation, fire protection, sanitation
	Streetlighting	Streetlighting
	Park and Recreation	Local park development, operation, maintenance
	Fire Protection	Structural, watershed, suppression, prevention
Helendale (District formed 12/4/06)	Water	Supply water for any beneficial use as outlined in the Municipal Water District Law of 1911 (commencing with Section 71000) of the Water Code

DISTRICT	FUNCTIONS	SERVICES
	Sewer	Collect, treat, or dispose of sewage, wastewater, recycled water, and storm water, in the same manner as a sanitary district formed pursuant to the Sanitary District Act of 1923 (commencing with Section 6400 of the Health and Safety Code).
	Streetlighting	Acquire, construct, improve, maintain and operate street lighting and landscaping on public property, public rights-of-way, and public easements.
	Refuse Collection	Collect, transfer, and dispose of solid waste and provide solid waste handling service, including, but not limited to, source reduction, recycling, composting activities, pursuant to Division 30 (commencing with Section 4000), and consistent with Section 41821.2 of the Public Resources Code.
	Recreation and Parks	Acquire, construct, improve, maintain, and operate recreation facilities, including, but not limited to, parks and open space, in the same manner as a recreation and park district formed pursuant to the Recreation and Park District Law (commencing with Section 5780) of the Public Resources Code.
	Graffiti Abatement	Abate graffiti
Lake Arrowhead (amended 12/9/10)	Water	Retail, domestic, operation of water, conservation, reclaimed water for irrigation purposes
	Sewer	Collection, transportation, treatment, reclamation, disposal
Morongo Valley (amended 1/18/06)	Fire Protection	Structural, watershed, prevention, emergency first aid, maintenance of emergency phone service

DISTRICT	FUNCTIONS	SERVICES
	Park and Recreation	Local park development, operation, recreation
	Streetlighting	Streetlighting
	Library Service	Library service
Newberry (amended 7/16/09)	Water	Management, domestic use, irrigation, sanitation, industrial, fire protection, recreation
	Fire Protection	Structural, watershed, suppression, prevention
	Streetlighting	Streetlighting
	Park and Recreation	Local park development, operation, maintenance
	Sewer	Planning and engineering
Phelan Piñon Hills (District formed 3/18/08; amended 2/16/12)	Water	Supply water for any beneficial use as outlined in the Municipal Water District law of 1911 (commencing with Section 71000) of the Water Code
	Park and Recreation	Acquire, construct, improve, maintain and operate recreation facilities, including, but not limited to, parks and open space, in the same manner as a recreation and park district formed pursuant to the Recreation and Park District Law (commencing with Section 5780) of the Public Resources Code
	Streetlighting	Acquire, construct, improve, maintain and operate streetlighting and landscaping on public property, public right-of-way, and public easements

DISTRICT	FUNCTIONS	SERVICES
	Solid Waste and Recycling	Collect, transfer, and dispose of solid waste and provide solid waste handling service, including, but not limited to, source reduction, recycling, composting activities, pursuant to Division 30 (commencing with Section 40000), and consistent with Section 41821.2 of the Public Resources Code.
Yermo (amended 8/20/2009)	Fire Protection	Structural, watershed, suppression, prevention
	Streetlighting	Streetlighting
	Park and Recreation	Local park development, operation, maintenance
	Water	Supply water for any beneficial use as outlined in Municipal Water District Law (commencing with Section 71000) of the Water Code

FIRE PROTECTION DISTRICTS

Apple Valley	Fire Protection	Structural, watershed, rescue, ambulance, paramedic, suppression, prevention
Barstow (Subsidiary District)	Fire Protection	Suppression, prevention, structural, watershed, first aid, rescue, paramedic, ambulance
Big Bear Lake (Subsidiary District)	Fire Protection	Structural, watershed, suppression, prevention, rescue, first aid
Chino Valley Independent	Fire Protection	Protection, structural, watershed, inspection, suppression, paramedic
Crest Forest (amended 12/9/10)	Fire Protection	Structural, watershed, suppression, prevention, rescue, communications, ambulance, paramedic

DISTRICT	FUNCTIONS	SERVICES
Fontana Fire Protection District (Subsidiary District) (formerly named Central Valley Fire Protection District)	Fire Protection	Structural, watershed, prevention, inspection, suppression, weed abatement, hazardous materials services, rescue, first aid, paramedic, emergency response, and disaster preparedness planning
Hesperia (Subsidiary District)	Fire Protection	Structural, watershed, suppression, prevention, ambulance, paramedic
Rancho Cucamonga (Subsidiary District) (formerly named Foothill FPD)	Fire Protection	Structural, suppression, watershed, prevention, protection, first aid, rescue
Victorville (District dissolved effective 5/18/2009; City of Victorville successor agency.)		

HEALTH CARE DISTRICTS

Bear Valley Community (amended 2/16/12)	Healthcare	Establish, acquire, maintain and/or operate one or more healthcare facilities; operation of acute care and continual care hospital facility
Hi-Desert Memorial (amended 5/17/12)	Hospital	Establish, acquire, maintain and/or operate one or more healthcare facilities; operation of acute care and continual care hospital facility
San Bernardino Mountains Community (amended 2/16/12)	Healthcare	Establish, acquire, maintain and/or operate one or more healthcare facilities; operation of acute care and continual care hospital facility

MOSQUITO ABATEMENT DISTRICTS

West Valley Vector Control	Vector Extermination	Extermination of mosquitoes, flies, or other insects, rats or other rodents

RECREATION AND PARK DISTRICTS

Hesperia	Park and Recreation	Local park development, operation, recreation

DISTRICT	FUNCTIONS	SERVICES
	Streetlighting	Streetlighting
Parker Dam (District dissolved effective October 20, 2006; San Bernardino County successor agency.)		
Rim of the World (amended 7/21/10)	Park and Recreation	Local park development, operation, maintenance, recreation, child care
Victorville (District dissolved effective 5/18/2009; City of Victorville successor agency.)		

RESOURCE CONSERVATION DISTRICT

Inland Empire	Resource Conservation	Control of runoff, prevention of soil erosion, development and distribution of water and improvement of land capabilities
East Valley and Inland Empire West RCDs (consolidation effective July 1, 2005 consolidated East Valley RCD and Inland Empire West RCD into successor Inland Empire RCD)		
Mojave Desert (amended 2/20/08)	Resource Conservation	Control of runoff, prevention of soil erosion, development and distribution of water, improvement of land capabilities, and habitat preservation
Riverside-Corona	Resource Conservation	Control of runoff, prevention of soil erosion, development and distribution of water and improvement of land capabilities

SANITARY DISTRICT

Victorville
(District dissolved effective 9/16/08; City of Victorville successor agency.)

SANITATION DISTRICT

DISTRICT	FUNCTIONS	SERVICES
Crestline (District became an independent special district effective 10/1/10; amended 4/19/12)	Sewer	Collect, treat, and/or dispose of sewage, wastewater, recycled water, and storm water

WATER CONSERVATION DISTRICTS

Chino Basin	Water Conservation	Water conservation
San Bernardino Valley (amended 3/15/06)	Water Conservation	Appropriation, acquisition, and conservation of water and water rights for any useful purpose. Acquisition and construction of dams, reservoirs, canals, conduits, spreading basins, and sinking basin in order to conserve, store, spread and sink water.
	Surveys of Water Supply and Resources	Make surveys and investigation of the water supply and resources of the Water Conservation District. (added 3/15/06)

WATER DISTRICTS

Apple Valley Foothill	Water	Domestic, retail, agricultural, replenishment
Apple Valley Heights	Water	Retail, domestic
Arrowbear Park (amended 4/22/11)	Water	Retail, domestic, wholesale, conservation
	Sewer	Collection, transportation
	Fire Protection	Structural, watershed, suppression, prevention, first aid, rescue
	Park and Recreation	Operation, maintenance
	Sanitation	Refuse collection at parks

Baldy Mesa
(Consolidation effective 8/15/07 consolidated Baldy Mesa Water District and Victor Valley Water District into successor agency Victorville Water District.)

DISTRICT	FUNCTIONS	SERVICES
Crestline Village (amended 1/20/11)	Water	Retail, domestic, operation of water, conservation, reclamation
Cucamonga Valley	Water	Retail, agricultural, domestic, replenishment, wholesale, treatment
	Sewer	Collection, source control, reclamation
East Valley	Water	Retail, agricultural, domestic, replenishment
	Sewer	Collection
	Park and Recreation	Development, maintenance
Hesperia (Subsidiary District)	Water	Wholesale, retail, agricultural, domestic replenishment
	Sewer	Engineering, planning, operations, maintenance, construction
	Park and Recreation	Park and recreation limited to trout farm, construction
Hi-Desert (amended 2/18/10)	Water	Retail, agricultural, domestic, replenishment, fire flow, fire hydrants
	Sewer	Collection, transportation, treatment, reclamation, disposal, planning and engineering
	Park and Recreation	Engineering, planning
Joshua Basin (amended 8/15/07)	Water	Retail, agricultural, domestic, replenishment

DISTRICT	FUNCTIONS	SERVICES
	Sewer	Operation of Package Treatment Plans defined as consisting of units or modules designed for construction, assembly, connection and installation at the site for treatment of sewage and are to be operated for a limited area, including but not limited to a residential subdivision
		Planning and engineering for regional sewer service
Juniper Riviera	Water	Retail and domestic
Mariana Ranchos	Water	Sale of domestic water
Monte Vista	Water	Agricultural, domestic replenishment, retail
	Park and Recreation	Local park development
Running Springs (amended 4/22/11)	Water	Domestic, retail, wholesale, conservation
	Sewer	Collection, transportation, treatment
	Fire Protection	Structural, watershed, suppression, prevention, first aid, advance life support, ambulance, rescue
	Park and Recreation	Local park and recreation
	Sanitation	Collection, transportation, waste and trash disposal
Thunderbird	Water	Domestic
Twentynine Palms (amended 6/21/12)	Water	Retail, agricultural, domestic, replenishment
	Sewer	Planning and engineering
	Fire	Structural, watershed, first aid, rescue, prevention, inspection

DISTRICT	FUNCTIONS	SERVICES
Victor Valley (consolidation effective 8/15/07 consolidated Baldy Mesa Water District and Victor Valley Water District into successor agency Victorville Water District.)		
Victorville (Subsidiary District) (amended 12/21/11)	Water	Retail, agricultural, domestic, replenishment, conservation, reclaimed water for irrigation/cooling towers for power plant
	Sewer	Collect, treat, and/or dispose of sewage, wastewater, recycled water, and storm water
West Valley	Water	Domestic, irrigation, spreading
	Sewer	Collection
Yucaipa Valley	Water	Retail, agricultural, domestic, replenishment, wholesale
	Sewer	Sewage collection, treatment, wastewater reclamation
MUNICIPAL WATER DISTRICTS		
Big Bear (amended 9/29/11)	Water	Acquisition of facilities, recreation, conservation, retail
	Sewer	Reclamation
	Park and Recreation	Development, operation, maintenance
	Fire Protection	Structural, watershed, first aid, rescue, prevention, inspection, lake patrol
Inland Empire Utilities Agency (formerly known as Chino Basin Municipal Water District)	Water	Wholesale, reclamation, wastewater collection, planning, replenishment
	Sewer	Regional treatment, collection
	Total Basin Management	Planning for Chino hydrological basin

DISTRICT	FUNCTIONS	SERVICES
San Bernardino Valley	Water	Wholesale, retail, agricultural, domestic, replenishment, conservation
	Sewer	Collection, transportation, treatment, reclamation, disposal
	Power	Generation, distribution
	Park and Recreation	Development, operation, recreation
	Electrical Production	
	Electrical Transmission	
SPECIAL ACT WATER AGENCIES		
Bighorn-Desert View	Water	Acquisition, retail, distribution
Crestline-Lake Arrowhead	Water	Acquisition, wholesale, retail, domestic
Mojave Water	Water	Acquisition, wholesale, retail, replenishment, conservation, basin management
	Sewer	Regional treatment, wastewater reclamation
Odessa Water District (Board of Directors is City Council of the City of Barstow)	Water	Acquisition, retail, wholesale

Dependent Districts

DISTRICT	FUNCTIONS	SERVICES
COUNTY SERVICE AREAS		
CSA 9 (Phelan) (District dissolved effective 3/18/08; Phelan-Pinon Hills Community Services District is successor agency)		
CSA 17 (Apple Valley) (District dissolved effective 11/17/10; Town of Apple Valley is successor agency)		
CSA 18 (Cedarpines Park) (amended 1/20/11)	Road	Road maintenance as defined in Government Code Section 25213(i) which includes snow removal
	Water	Water
	Park and Recreation	Development, operation, recreation, maintenance
CSA 20 (Joshua Tree) (amended 7/1/08)	Streetlighting	Streetlighting
	Roads	Street improvements, curbs, gutters
	Park and Recreation	Development, operation, recreation
CSA 29 (Lucerne Valley) (amended 7/1/08)	Cemetery	Cemetery
	TV Translator	Television translation
	Park and Recreation	Development, operation, recreation
	Streetlighting	Streetlighting
	Water	Domestic
	Sewer	Engineering and Planning
CSA 30 (Red Mountain) (amended 4/27/10)	Streetlighting	Streetlighting
CSA 38 (District dissolved effective 7/1/08, San Bernardino County Fire Protection District is successor agency)		
CSA 40 (Elephant Mountain)	TV Translator	Television translation

DISTRICT	FUNCTIONS	SERVICES
CSA 42 (Oro Grande) (amended 12/16/08)	Park and Recreation	Park and recreation
	Water	Water distribution and treatment
	Sewer	Sewer distribution and treatment
	Streetlighting	Streetlighting
CSA 53 (Big Bear) (amended 9/29/11)	Streetlighting	Streetlighting
	Sewer	Collection and transportation
	Road	Road maintenance
	Water	Water distribution and treatment
CSA 54 (Crest Forest & Crestline)	Streetlighting	Streetlighting
CSA 56 (Wrightwood) (amended 7/1/08)	Streetlighting	Streetlighting
	Park and Recreation	Park and recreation
	Sewer	Sewer
CSA 59 (Deer Lodge Park)	Roads	Street maintenance, signs, improvements, curbs gutters
CSA 60 (Victor Valley)	Airport	Airport operation and maintenance
CSA 63 (Oak Glen/Crafton) (amended 7/1/08)	Sanitation	Sanitation
	Streetlighting	Streetlighting
	Park and Recreation	Park and recreation
	Roads	Street maintenance, signs, improvements, curbs, gutters
CSA 64 (Spring Valley Lake) (amended 1/21/09)	Water	Retail and domestic (amended 1/21/09)
	Sewer	Collection and transportation (amended 1/21/09)

DISTRICT	FUNCTIONS	SERVICES
	Roads	Acquisition, construction, improvement and maintenance of public streets, roads and any incidental works (amended 1/21/09)
	Street Sweeping	Street Sweeping (Confirmed January 21, 2004)
	Parkway Maintenance	Acquisition, construction, improvement and maintenance of landscaping on public property, rights-of-way, and easement (added 1/21/09)
CSA 69 (Lake Arrowhead)	Roads	Roads
CSA 68 (Valley of the Moon)	Roads	Road maintenance
CSA 70 (Countywide) (amended 7/1/08)	Weed abatement	Weed abatement
	Sewer	Sewer distribution and treatment
	Water	Water distribution and treatment
	Police	Police protection
	Extension of Utility Lines	Installation of electric power lines
	Streetlighting	Streetlighting
	Dam Construction	Dam construction
	Roads	Road maintenance
	Park and Recreation	Development, operation, maintenance
	Animal control	Animal control
	Pest control	Pest control
	TV Translator	Television translation
	Flood Control	Flood control
	Street Sweeping	Street sweeping

DISTRICT	FUNCTIONS	SERVICES
	Open-space and Habitat Conservation	Acquisition and preservation of land for the purpose of protecting unique, sensitive, threatened, or endangered species, or historical or culturally significant lands that are deemed to be in need of protection by the county board of supervisors (Confirmed November 17, 2004)
CSA 73 (Arrowbear lake)	Park and Recreation	Park and recreation
	Streetlighting	Streetlighting
CSA 77 (Mariana Ranchos) (District dissolved effective October 31, 2003)		
CSA 79 (Green Valley Lake) (amended 4/22/11)	Sewer	Collection, transportation
	Water	Water
	Roads	Road maintenance as defined in Government Code Section 25213(i) which includes snow removal
CSA 82 (Searles Valley) (amended 4/27/10)	Park and Recreation	Park and recreation
	Streetlighting	Streetlighting
	Cemetery	Cemetery
	Sewer	Collection, treatment
CSA 110 (I-10 Corridor) (District dissolved effective July 15, 2005.)		

DISTRICT	FUNCTIONS	SERVICES
CSA 120 (District formed 2/18/09)	Open space and habitat conservation	Open space and habitat conservation including, but not limited to, the acquisition, preservation, maintenance, and operation of land to protect unique, sensitive, threatened, or endangered species, or historical or culturally significant properties. Any setback or buffer requirements to protect open-space or habitat lands shall be owned by a public agency and maintained by the county service area so as not to infringe on the customary husbandry practices of any neighboring commercially productive agricultural, timber or livestock operations.
CSA SL-1 (Valley-wide)	Streetlighting	Streetlighting

FIRE PROTECTION DISTRICTS

Central Valley
(effective 7/1/08 became Fontana Fire Protection District, subsidiary district of the City of Fontana.)

Forest Falls
(District dissolved effective 7/1/08, San Bernardino County Fire Protection District is successor agency)

Lake Arrowhead
(District dissolved effective 7/1/08, San Bernardino County Fire Protection District is successor agency)

Monte Vista
(District dissolved effective 9/16/05; City of Montclair successor agency.)

San Bernardino County (amended 7/1/08; formerly known as Yucca Valley Fire Protection District)	Fire	Structural, watershed, prevention, inspection, suppression, weed abatement, hazardous materials services, rescue, first aid, ambulance transportation, emergency response, and disaster preparedness planning

RECREATION AND PARK DISTRICTS

DISTRICT	FUNCTIONS	SERVICES
Big Bear Valley (amended 9/29/11)	Park and Recreation	Local park development, operation, maintenance, recreation, child care, including the operation and maintenance of the Moonridge Animal Park
Bloomington	Park and Recreation	Development, operation, recreation

EXHIBIT "B"

CLASSIFICATION OF FUNCTIONS AND SERVICES

(Reference to Section 5 of Said Rules and Regulations)
(Amended April 16, 1997)

FUNCTION	SERVICES
Ambulance	
Animal Control	
Cemetery	
Dam	
Disaster Preparedness	
Drainage and Reclamation	
Electrical Production	
Electrical Transmission	
Fire	Structural, watershed, first aid, ambulance, paramedic, rescue, fire prevention and suppression
Flood Control	
Gas	
Graffiti Abatement	
Hospital	
Library	
Park and Recreation	Park development, operation, and recreation
Pest Control	
Police	

Power	General, distribution
Road	Construction and maintenance
Rodent Control	
Sewer	Collection, transportation, treatment, reclamation, disposal
Soil Conservation	
Solid Waste	Garbage, refuse
Streetlighting	
Telephone Communication	
Television	Translation
Transportation	Roads, airport, operation of bus or other public transit system
Vector Control	
Water	Wholesale, retail, agricultural, domestic, replenishment, conservation
Weed Abatement	

EXHIBIT "C"

DISTRICTS AND PRINCIPAL ACTS

(Reference to Section 14 of Said Rules and Regulations)
(Amended May 15, 1996 and April 16, 1997)

TYPE OF DISTRICTS	PRINCIPAL ACT
Airport	Public Utilities Code Section 22001-22979
Cemetery	Health and Safety Code 8890, et seq., Chapter 1 Part 4, Division 8
Community Service	Government Code 61100, Division 3, Title 5, superseded by Division 3, Title 6
County Service Area	Government Code 25210, Title 3, Division 2, Part 2, Chapter 2.2
County Water District	Water Code 30000 et seq., Division 12, Water Code Section 31575
Fire District and Fire Protection Districts	Health and Safety Code 13801, et. Seq., Part 2.7, Division 12
Hospital/Health Care	Health and Safety Code 32000, Division 23
Mosquito Abatement/Vector Control Districts	Health and Safety Code Section 2200-2395
Municipal Water Districts	Water Code, Division 20, 71000-73000, Water Code Appendix 20-1
Park District and Park and Recreation Districts	Public Resources Code 5400 and 5780, Chapter 4, Division 5, Public Resources Code 5431
Resource Conservation	Public Resources Code Section 9151 through 9962, Chapter 3, Division 9
Sanitary Districts	Health and Safety Code 6400, et seq., Part 1, Division 6

Sanitation Districts	Health and Safety Code 4700, et seq., Chapter 3, Part 3, Division 5
Water Conservation	Water Conservation Act of 1931, Water Code Appendix, Chapter 39, Sections 74000 – 76501
Special Act Water Agencies:	
Crestline-Lake Arrowhead Water Agency	CLAWA Law (338-1779) Statutes 1962, Chapter 40, Water Code Appendix Chapter 104
Mojave Water Agency	MWA Law (245-7717) Statutes 1959, Chapter 2146, Water Code Appendix, Chapter 97
Bighorn Mountain Water Agency	BMWA Law (Statutes 1969, Chapter 1175, P.2273) Water Code Appendix, Section 112-1 to 54
Odessa Water District	ODWD Law (Statutes 1991, Chapter 533) Water Code Appendix Section 132-101

FORMS ADOPTED BY LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

Initiating Documents:

- Notice of Intent to Circulate Petition
- Landowner Petition Initiating Proceedings
- Registered Voter Petition Initiating Proceedings
- Landowner Consent Form

Application Documents:

- Application and Preliminary Environmental Description Form
- Supplement - Annexation, Detachment, Reorganization Proposals
- Supplement - Sphere of Influence Change
- Supplement - City Incorporation *(not available)*
- Supplement - Formation of a Special District
- Supplement - Special District: Services – Activation or Divestiture
- Listing of Assessor's Parcel Numbers within Area Proposed for Change
- Environmental Initial Study

Forms for Submission of Protest:

- Landowner Protest Petition
- Registered Voter Protest Petition

Out of Agency Service Contract:

- Application for Extension of Service by Contract

Service Review and Sphere of Influence Update:

- Service Review and Mandatory Sphere of Influence Update

NOTICE OF INTENT TO CIRCULATE PETITION

Notice is hereby given of the intention to circulate a petition proposing

_____

_____

_____

A written statement of the reasons for the proposal, not to exceed 500 words in length is as follows:

_____

_____

_____

_____

_____

_____

Name and address of proponent:

_____

_____

_____

SIGNED BY: _____

DATED: _____

Required Attachments:

Sample Petition
Legal Description(s) and Map(s) of Changes within the Proposal

(The "Notice of Intent to Circulate Petition" must be filed with the Executive Officer of the Local Agency Formation Commission for San Bernardino County prior to circulating the petition. Upon receipt of this Notice, the Executive Officer is required to notify all affected agencies.)

LOCAL AGENCY FORMATION COMMISSION
COUNTY OF SAN BERNARDINO

215 North "D" Street, Suite 204
San Bernardino, CA 92415-0490 • (909) 383-9900 • FAX (909) 383-9901
E-MAIL: lafco@lafco.sbcounty.gov

LANDOWNER PETITION INITIATING PROCEEDINGS

We, the undersigned Landowners, do hereby petition the Local Agency Formation Commission, pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Sections 56000 et seq.), as follows:

_____

_____

_____
(List all proposed changes of organization)

To the best of our knowledge, the proposal is consistent with the adopted sphere(s) of influence for an affected agency or agencies, and we understand that this proposal cannot be considered unless and until such spheres are consistent.

We certify that we are true and legal landowners of the named property and understand that these petitions may not be circulated separately from a current legal description and a current map showing the area of review.

The names and addresses of the Chief Petitioners for this proposal are as follows (not to exceed three persons):

_____ _____ _____
_____ _____ _____
_____ _____ _____

The reason(s) for this proposal is (are):
_____
_____

The requested terms and conditions for this proposal, if any, are as follows: _____
_____

We hereby request that the Local Agency Formation Commission for San Bernardino County conduct proceedings on this proposal pursuant to the provisions of Government Code Sections 56000 et seq.

The landowner must sign his/her name, residence address, and the date of signing in his/her own handwriting. His/her parcel number must be included. If signing on behalf of a business or corporation, documentation must be attached showing ability to sign as legal representative for that enterprise.

SIGN NAME PRINT NAME	RESIDENCE ADDRESS	DATE	PARCEL NUMBER
SIGN NAME PRINT NAME	RESIDENCE ADDRESS	DATE	PARCEL NUMBER
SIGN NAME PRINT NAME	RESIDENCE ADDRESS	DATE	PARCEL NUMBER
SIGN NAME PRINT NAME	RESIDENCE ADDRESS	DATE	PARCEL NUMBER
SIGN NAME PRINT NAME	RESIDENCE ADDRESS	DATE	PARCEL NUMBER

CONTINUATION PAGE FOR LANDOWNER PETITION

SIGN NAME PRINT NAME	RESIDENCE ADDRESS	DATE	PARCEL NUMBER
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LOCAL AGENCY FORMATION COMMISSION
COUNTY OF SAN BERNARDINO

215 North "D" Street, Suite 204
San Bernardino, CA 92415-0490 • (909) 383-9900 • FAX (909) 383-9901
E-MAIL: lafco@lafco.sbcounty.gov

REGISTERED VOTER PETITION INITIATING PROCEEDINGS

We, the undersigned Registered Voters, do hereby petition the Local Agency Formation Commission, pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Sections 56000 et seq.), as follows:

_____

_____

_____
(List all proposed changes of organization)

To the best of our knowledge, the proposal is consistent with the adopted sphere(s) of influence for an affected agency or agencies, and we understand that this proposal cannot be considered unless and until such spheres are consistent.

We certify that we are registered voters of the area described and understand that these petitions may not be circulated separately from a current legal description and a current map showing the area of review.

The names and addresses of the Chief Petitioners for this proposal are as follows (not to exceed three persons):

_____ _____ _____
_____ _____ _____
_____ _____ _____

The reason(s) for this proposal is (are):
_____
_____

The requested terms and conditions for this proposal, if any, are as follows: _____
_____

We hereby request that the Local Agency Formation Commission for San Bernardino County conduct proceedings on this proposal pursuant to the provisions of Government Code Sections 56000 et seq.

The voter must sign his/her name exactly as it appears on the voter registration rolls, residence address, and the date of signing in his/her own handwriting. RESIDENCE means a number and a street address or description sufficient for the Registrar of Voters to locate property on a map. Post Office Box numbers or Route numbers CANNOT BE USED AND WILL NOT BE ACCEPTED.

SIGN NAME PRINT NAME	RESIDENCE ADDRESS	DATE	FOR ROV USE ONLY
SIGN NAME PRINT NAME	RESIDENCE ADDRESS	DATE	FOR ROV USE ONLY
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CONTINUATION PAGE FOR REGISTERED VOTER PETITION

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SIGN NAME PRINT NAME	RESIDENCE ADDRESS	DATE	FOR ROV USE ONLY

LANDOWNER CONSENT FORM

Local Agency Formation Commission
For San Bernardino County

I (We), _____, consent to the annexation/ reorganization of my (our) property located at:

_____

which is identified as Assessor's Parcel Number(s) _____

_____,

to the _____ .
(name of agency)

Signature(s): _____

Address: _____

City, State, Zip _____

Date Signed: _____

If a corporation or company owns the property, please provide with this form authorization from the entity for the signer to sign on its behalf.

_____
(FOR LAFCO USE ONLY)

SAN BERNARDINO LAFCO
APPLICATION AND PRELIMINARY
ENVIRONMENTAL DESCRIPTION FORM

INTRODUCTION: The questions on this form and its supplements are designed to obtain enough data about the proposed project site to allow the San Bernardino LAFCO, its staff and others to adequately assess the project. By taking the time to fully respond to the questions on the forms, you can reduce the processing time for your project. You may also include any additional information which you believe is pertinent. Use additional sheets where necessary, or attach any relevant documents.

GENERAL INFORMATION

1. NAME OF PROPOSAL: _____

_____

_____

2. NAME OF APPLICANT: _____

MAILING ADDRESS:

_____

_____

PHONE: (_____) _____

FAX: (_____) _____

E-MAIL ADDRESS: _____

3. GENERAL LOCATION OF PROPOSAL: _____

_____

_____

_____

4. Does the application possess 100% written consent of each landowner in the subject territory?
YES ___ NO ___ If YES, provide written authorization for change.

5. Indicate the reasons that the proposed action has been requested. _____

_____

_____

_____

6. Would the proposal create a totally or substantially surrounded island of unincorporated territory?
YES ___ NO ___ If YES, please provide a written justification for the proposed boundary configuration.

_____

_____

_____

_____
(FOR LAFCO USE ONLY)

LAND USE AND DEVELOPMENT POTENTIAL

1. Total land area (defined in acres):
_____

2. Current dwelling units in area classified by type (Single Family detached, multi-family (duplex, four-plex, 10-unit), apartments)
_____

3. Approximate current population in area:
_____

4. Indicate the General Plan designation(s) of the affected city (if any) and uses permitted by this designation(s):
_____
_____
_____

San Bernardino County General Plan designation(s) and uses permitted by this designation(s):
_____
_____
_____

5. Describe any special land use concerns expressed in the above plans. In addition, for a City Annexation or Reorganization, provide a discussion of the land use plan's consistency with the regional transportation plan as adopted pursuant to Government Code Section 65080 for the subject territory:
_____
_____
_____

6. Indicate the existing land use.
_____
_____
_____

What is the proposed land use?
_____
_____
_____

7. For a city annexation, State law requires pre-zoning of the territory proposed for annexation. Provide a response to the following:

   a. Has pre-zoning been completed? YES ___ NO ___
   b. If the response to "a" is NO, is the area in the process of pre-zoning? YES ___ NO ___

Identify below the pre-zoning classification, title, and densities permitted. If the pre-zoning process is underway, identify the timing for completion of the process.

_____

_____

_____

8. Will the proposal require public services from any agency or district which is currently operating at or near capacity (including sewer, water, police, fire, or schools)? YES ___ NO ___ If YES, please explain.

_____

_____

_____

9. On the following list, indicate if any portion of the territory contains the following by placing a checkmark next to the item:

☐ Agricultural Land Uses ☐ Agricultural Preserve Designation

☐ Williamson Act Contract ☐ Area where Special Permits are Required

☐ Any other unusual features of the area or permits required: _____

_____

10. If a Williamson Act Contract(s) exists within the area proposed for annexation to a City, please provide a copy of the original contract, the notice of non-renewal (if appropriate) and any protest to the contract filed with the County by the City. Please provide an outline of the City's anticipated actions with regard to this contract.

_____

_____

_____

11. Provide a narrative response to the following factor of consideration as identified in §56668(o): *The extent to which the proposal will promote environmental justice. As used in this subdivision, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services:*

_____

_____

_____

ENVIRONMENTAL INFORMATION

1. Provide general description of topography. _____

_____

_____

_____
(FOR LAFCO USE ONLY)

2. Describe any existing improvements on the site as % of total area.

Residential	_____%	Agricultural	_____%
Commercial	_____%	Vacant	_____%
Industrial	_____%	Other	_____%

3. Describe the surrounding land uses:

NORTH _____

EAST _____

SOUTH _____

WEST _____

4. Describe site alterations that will be produced by improvement projects associated with this proposed action (installation of water facilities, sewer facilities, grading, flow channelization, etc.).

_____

_____

_____

5. Will service extensions accomplished by this proposal induce growth on this site? YES ___ NO ___ Adjacent sites? YES ___ NO ___ Unincorporated ___ Incorporated ___

_____

_____

_____

6. Are there any existing out-of-agency service contracts/agreements within the area? YES ___ NO ___ If YES, please identify.

_____

_____

_____

7. Is this project a part of a larger project or series of projects? YES ___ NO ___ If YES, please explain.

_____

_____

_____

_____
(FOR LAFCO USE ONLY)

NOTICES

Please provide the names and addresses of persons who are to be furnished mailed notice of the hearing(s) and receive copies of the agenda and staff report.

NAME _____ TELEPHONE NO. _____

ADDRESS:
_____

NAME _____ TELEPHONE NO. _____

ADDRESS:
_____

NAME _____ TELEPHONE NO. _____

ADDRESS:
_____

CERTIFICATION

As a part of this application, the city of _____, or the _____ district, _____ (the applicant) and/or the _____ (real party in interest: subject landowner and/or registered voter) agree to defend, indemnify, hold harmless, and release the San Bernardino LAFCO, its agents, officers, attorneys, and employees from any claim, action, proceeding brought against any of them, the purpose of which is to attack, set aside, void, or annul the approval of this application or adoption of the environmental document which accompanies it. This indemnification obligation shall include, but not be limited to, damages, costs, and expenses, including attorney fees. The person signing this application will be considered the proponent for the proposed action(s) and will receive all related notices and other communications. I/We understand that if this application is approved, the Commission will impose a condition requiring the applicant to indemnify, hold harmless and reimburse the Commission for all legal actions that might be initiated as a result of that approval.

As the proponent, I/We acknowledge that annexation to the city of _____ or the _____ district may result in the imposition of taxes, fees, and assessments existing within the (city or district) on the effective date of the change of organization. I hereby waive any rights I may have under Articles XIIIC and XIIID of the State Constitution (Proposition 218) to a hearing, assessment ballot processing or an election on those existing taxes, fees and assessments.

I hereby certify that the statements furnished above and in the attached supplements and exhibits present the data and information required for this initial evaluation to the best of my ability, and that the facts, statements, and information presented herein are true and correct to the best of my knowledge and belief.

DATE _____ _____
SIGNATURE OF APPLICANT

_____
PRINTED NAME OF APPLICANT

_____
TITLE

_____
(FOR LAFCO USE ONLY)

PLEASE CHECK SUPPLEMENTAL FORMS ATTACHED:

- ☐ ANNEXATION, DETACHMENT, REORGANIZATION SUPPLEMENT
- ☐ SPHERE OF INFLUENCE CHANGE SUPPLEMENT
- ☐ CITY INCORPORATION SUPPLEMENT
- ☐ FORMATION OF A SPECIAL DISTRICT SUPPLEMENT
- ☐ ACTIVATION OR DIVESTITURE OF FUNCTIONS AND/OR SERVICES FOR SPECIAL DISTRICTS SUPPLEMENT

KRM-Rev. 9/28/11

_____
(FOR LAFCO USE ONLY)

SUPPLEMENT
ANNEXATION, DETACHMENT, REORGANIZATION PROPOSALS

INTRODUCTION: The questions on this form are designed to obtain data about the specific annexation, detachment and/or reorganization proposal to allow the San Bernardino LAFCO, its staff and others to adequately assess the project. You may also include any additional information which you believe is pertinent. Use additional sheets where necessary, and/or include any relevant documents.

1. Please identify the agencies involved in the proposal by proposed action:

ANNEXED TO	DETACHED FROM
_____	_____
_____	_____
_____	_____

2. Will the territory proposed for change be subject to any new or additional special taxes, any new assessment districts, or fees?

_____
_____
_____
_____

3. Will the territory be relieved of any existing special taxes, assessments, district charges or fees required by the agencies to be detached?

_____
_____
_____
_____

4. Provide a description of how the proposed change will assist the annexing agency in achieving its fair share of regional housing needs as determined by SCAG.

_____
_____
_____
_____

5. **PLAN FOR SERVICES**:

For each item identified for a change in service provider, a narrative "Plan for Service" (required by Government Code Section 56653) must be submitted. This plan shall, at a minimum, respond to each of the following questions and be signed and certified by an official of the annexing agency or agencies.

1. A description of the level and range of each service to be provided to the affected territory.

2. An indication of when the service can be feasibly extended to the affected territory.

3. An identification of any improvement or upgrading of structures, roads, water or sewer facilities, other infrastructure, or other conditions the affected agency would impose upon the affected territory.

4. The Plan shall include a Fiscal Impact Analysis which shows the estimated cost of extending the service and a description of how the service or required improvements will be financed. The Fiscal Impact Analysis shall provide, at a minimum, a five (5)-year projection of revenues and expenditures. A narrative discussion of the sufficiency of revenues for anticipated service extensions and operations is required.

5. An indication of whether the annexing territory is, or will be, proposed for inclusion within an existing or proposed improvement zone/district, redevelopment area, assessment district, or community facilities district.

6. If retail water service is to be provided through this change, provide a description of the timely availability of water for projected needs within the area based upon factors identified in Government Code Section 65352.5 (as required by Government Code Section 56668(k)).

CERTIFICATION

As a part of this application, the city of _____, or the _____ district, _____ (the applicant) and/or the _____ (real party in interest: subject landowner and/or registered voter) agree to defend, indemnify, hold harmless, and release the San Bernardino LAFCO, its agents, officers, attorneys, and employees from any claim, action, proceeding brought against any of them, the purpose of which is to attack, set aside, void, or annul the approval of this application or adoption of the environmental document which accompanies it. This indemnification obligation shall include, but not be limited to, damages, costs, and expenses, including attorney fees. The person signing this application will be considered the proponent for the proposed action(s) and will receive all related notices and other communications. I/We understand that if this application is approved, the Commission will impose a condition requiring the applicant to indemnify, hold harmless and reimburse the Commission for all legal actions that might be initiated as a result of that approval.

As the proponent, I/We acknowledge that annexation to the city of _____ or the _____ district may result in the imposition of taxes, fees, and assessments existing within the (city or district) on the effective date of the change of organization. I hereby waive any rights I may have under Articles XIIIC and XIIID of the State Constitution (Proposition 218) to a hearing, assessment ballot processing or an election on those existing taxes, fees and assessments.

_____
(FOR LAFCO USE ONLY)

I hereby certify that the statements furnished above and the documents attached to this form present the data and information required to the best of my ability, and that the facts, statements, and information presented herein are true and correct to the best of my knowledge and belief.

DATE _____ _____
SIGNATURE OF APPLICANT

/REVISED: krm – 9/28/2011

_____
(FOR LAFCO USE ONLY)

SUPPLEMENT
SPHERE OF INFLUENCE CHANGE

INTRODUCTION: The questions on this form are designed to obtain data about the specific sphere of influence change proposal to allow the Commission, staff and others to adequately assess the project. You may also include any additional information that you believe is pertinent. Use additional sheets where necessary, and/or include any relevant documents.

1. Please provide an identification of the agencies involved in the proposed sphere of influence change(s):

SPHERE EXPANSION	SPHERE REDUCTION
_____	_____
_____	_____
_____	_____

2. Provide a narrative description of the following factors of consideration as outlined in Government Code Section 56425. (If additional room for response is necessary, please attach additional sheets to this form.)

The present and planned land uses in the area, including agricultural and open-space lands.

_____
_____
_____
_____

The present and probable need for public facilities and services in the area.

_____
_____
_____
_____

The present capacity of public facilities and adequacy of public services that the agency to be expanded provides or is authorized to provide.

_____
_____

_____

_____

The existence of any social or economic communities of interest in the area.

_____

_____

_____

_____

3. If the proposal includes a city sphere of influence change, provide a written statement of whether or not agreement on the sphere change between the city and county was achieved as required by Government Code Section 56425. In addition, provide a written statement of the elements of agreement (such as, development standards, boundaries, zoning agreements, etc.) (See Government Code Section 56425)

_____

_____

_____

_____

4. If the proposal includes a special district sphere of influence change not considered to be minor, provide a written statement: (a) specifying the function or classes of service provided by the district(s) and (b) specifying the nature, location and extent of the functions or classes of service provided by the district(s). (See Government Code Section 56425(i))

_____

_____

_____

_____

5. For any sphere of influence amendment either initiated by an agency or individual, or updated as mandated by Government Code Section 56425, the following service review information is required to be addressed in a narrative discussion, and attached to this supplemental form (See Government Code Section 56430):

   a. Growth and population projections for the affected area.

   b. Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies.

   c. Financial ability of agencies to provide services.

d. Status of, and opportunities for, shared facilities.

e. Accountability for community service needs, including governmental structure and operational efficiencies.

If additional sheet are submitted or a separate document provided to fulfill Item #5, the narrative description shall be signed and certified by an official of the agency(s) involved with the sphere of influence review as to the accuracy of the information provided. If necessary, attach copies of documents supporting statements.

CERTIFICATION

As a part of this application, the city of _____, or the _____ district, _____ (the applicant) and/or the _____ (real party in interest: subject landowner and/or registered voter) agree to defend, indemnify, hold harmless, and release the San Bernardino LAFCO, its agents, officers, attorneys, and employees from any claim, action, proceeding brought against any of them, the purpose of which is to attack, set aside, void, or annul the approval of this application or adoption of the environmental document which accompanies it. This indemnification obligation shall include, but not be limited to, damages, costs, and expenses, including attorney fees. The person signing this application will be considered the proponent for the proposed action(s) and will receive all related notices and other communications. I/We understand that if this application is approved, the Commission will impose a condition requiring the applicant to indemnify, hold harmless and reimburse the Commission for all legal actions that might be initiated as a result of that approval.

I hereby certify that the statements furnished above present the data and information required to the best of my ability, and that the facts, statements, and information presented herein are true and correct to the best of my knowledge and belief.

DATE _____

_____
SIGNATURE OF APPLICANT

_____
PRINTED NAME

_____
TITLE

Rev: krm – September 28, 2011

_____
(FOR LAFCO USE ONLY)

SUPPLEMENT
FORMATION OF A SPECIAL DISTRICT

INTRODUCTION: The questions on this form are designed to obtain data about the specific district formation proposal to allow the Commission, staff and others to adequately assess the project. You may also include any additional information which you believe is pertinent. Use additional sheets where necessary, and/or include any relevant documents.

1. Please identify the agencies involved in the proposal by proposed action:

   NAME OF SPECIAL DISTRICT TO BE FORMED:

   _____

   _____

AGENCIES TO BE DISSOLVED	AGENCIES TO BE DETACHED
_____	_____
_____	_____
_____	_____

2. Under what principal act will the district be formed?

   _____

   _____

3. Provide a listing of the services and functions to be provided by the new agency.

   _____

   _____

   _____

   _____

4. Will the territory be relieved of any existing special taxes, assessments, district charges or fees required by the agencies to be detached?

   _____

   _____

   _____

   _____

5. If the district proposed to be formed is a single-purpose entity (such as a fire protection district, or a water district formed only to provide water), provide an identification of other

multiple purpose districts within the area and a description as to why a single entity is the preferred choice.

_____

_____

_____

_____

6. PLAN FOR SERVICES:

For each item identified for a change in service provider, a narrative “Plan for Service” (required by Government Code Section 56653) will be required. This plan shall, at a minimum, respond to each of the following questions and be signed by the proponents of the change.

1. A description of the level and range of each service to be provided to the territory through the formation process.

2. An indication of when the service can be feasibly extended to the territory.

3. An identification of any improvement or upgrading of structures, roads, water or sewer facilities, other infrastructure, or other conditions the new district would need to impose upon the territory.

4. The estimated cost of extending the service and a description of how the service or required improvements will be financed. A discussion about the sufficiency of revenues to fund the anticipated service is also required.

5. An indication of whether the territory is or will be proposed for inclusion within a proposed improvement zone/district, assessment district, or community facilities district.

6. If retail water service is to be provided through this change, provide a description of the timely availability of water for projected needs within the area based upon factors identified in Government Code Section 65352.5 (as required by Government Code Section 56668(k)).

7. Copies of the feasibility study for the formation of the District. The feasibility study must outline the anticipated structure of the governing body and provide, at a minimum, a projected five-year budget for revenues and expenditures. The budget presented will need to indicate the source and amount of revenues and expenditures based upon services to be provided. Please note that the new district may receive a "share" of the property tax revenues generated within the boundaries but that share depends on the types of services to be offered by the District, the previous sources of those services if any, and the historic cost to provide the services to be absorbed. No new taxes can be imposed by the creation of the District unless two-thirds of the voters approve the proposal.

_____
(FOR LAFCO USE ONLY)

CERTIFICATION

As a part of this application, the city of _____, or the _____ district, _____ (the applicant) and/or the _____ (real party in interest: subject landowner and/or registered voter) agree to defend, indemnify, hold harmless, and release the San Bernardino LAFCO, its agents, officers, attorneys, and employees from any claim, action, proceeding brought against any of them, the purpose of which is to attack, set aside, void, or annul the approval of this application or adoption of the environmental document which accompanies it. This indemnification obligation shall include, but not be limited to, damages, costs, and expenses, including attorney fees. The person signing this application will be considered the proponent for the proposed action(s) and will receive all related notices and other communications. I/We understand that if this application is approved, the Commission will impose a condition requiring the proponent to indemnify, hold harmless and reimburse the Commission for all legal actions that might be initiated as a result of that approval.

I hereby certify that the statements furnished above present the data and information required to the best of my ability, and that the facts, statements, and information presented herein are true and correct to the best of my knowledge and belief.

DATE _____ _____

SIGNATURE OF APPLICANT

/krm – 9/28/2011

_____
(FOR LAFCO USE ONLY)

SUPPLEMENT
SPECIAL DISTRICT SERVICES
ACTIVIATION OR DIVESTITURE OF FUNCTION/SERVICE

INTRODUCTION: The questions on this form are designed to obtain data about the specific service(s) requested to be authorized for the district. The purpose is to allow the Commission, staff and others to adequately assess the project. You may also include any additional information which you believe is pertinent, using additional sheets, where necessary, and including any relevant documents to support the project.

1. Please identify the function(s)/service(s) proposed for activation:

Example: *(function) Water* *(Service) Retail, wholesale, domestic, industrial, irrigation, fire protection, sanitation*

FUNCTION	SERVICE
_____	_____
_____	_____
_____	_____

2. Provide a statement of the reason(s) for the proposal which shall include, but not be limited to, a description of any existing service deficiency, general plan determinations (existing or anticipated change necessitating service), anticipated growth rate (please identify source of data), topography, etc.

_____
_____
_____
_____

3. What service(s) was the District authorized to provide at the time of its formation? (Would be identified in final resolution approving formation or included in election decision – a copy of this document may be attached to fulfill this requirement.)

_____
_____
_____
_____

4. Provide an identification of any multiple purpose districts within the area authorized to provide the identified function/service activation. Include a description as to why the preferred choice has been made.

_____
_____
_____

5. PLAN FOR SERVICES:

The requirements for the Plan for Service are outlined in Government Code Section 56824.12 and are summarized below:

1. The total estimated cost to provide the new or different function or class of service within the District's boundaries. This projection shall be, at a minimum, for a five-year period.

2. The estimated cost of the new or different function or service to existing customers within the district's jurisdictional boundaries. (The cost can be identified by customer class).

3. An identification of existing providers, if any, of the function(s)/service(s) and the potential fiscal impact of this activation to the customers of those providers.

4. A plan for financing the establishment of the new or different function/service within the district's jurisdictional boundaries. A five-year projection of revenues (at a minimum) with discussion about the sufficiency of revenues to fund the anticipated ongoing maintenance and operation of the service is required. This plan should include:

    a. An indication of whether territory is or will be proposed for inclusion within a proposed improvement zone/district, assessment district, or community facilities district to fund the service.

    b. If retail water service is proposed to be activated through this action, provide a description of the timely availability of water for projected needs within the area. (The response should be patterned after the factors identified in Government Code Section 65352.5 related to an Urban Water Management Plan.)

5. A discussion of the alternatives to the establishment of the new or different service within the District's boundaries/service area.

This plan shall, at a minimum, respond to each of the items identified above and shall be signed and certified as to its completeness and accuracy by an official of the requesting agency.

CERTIFICATION

As a part of this application, the _____ district agrees to defend, indemnify, hold harmless, and release the San Bernardino LAFCO, its agents, officers, attorneys, and employees from any claim, action, proceeding brought against any of them, the purpose of which is to attack, set aside, void, or annul the approval of this application or adoption of the environmental document which accompanies it. This indemnification obligation shall include, but not be limited to, damages, costs, and expenses, including attorney fees. The district signing this application will be considered the proponent for the proposed action(s) and will receive all related notices and other communications. I/We understand that if this application is approved, the Commission will impose a condition requiring the proponent to indemnify, hold harmless and reimburse the Commission for all legal actions that might be initiated as a result of that approval.

_____
(FOR LAFCO USE ONLY)

I hereby certify that the statements furnished above and in any attachments and exhibits hereto present the data and information required to the best of my ability, and that the facts, statements, and information presented herein are true and correct to the best of my knowledge and belief

DATE _____

_____
SIGNATURE OF APPLICANT

_____
PRINTED NAME

_____
TITLE

/Revised: krm September 28, 2011

(FOR LAFCO USE ONLY)

LISTING OF ASSESSOR PARCEL NUMBER(S) WITHIN AREA PROPOSED FOR CHANGE

This form is submitted in compliance with requirements for filing proposals with the Local Agency Formation Commission (LAFCO). The information on this form will assist LAFCO in certifying the Assessor Parcel Number(s) within the area proposed for change to allow for the preparation of individual notices required by State law and LAFCO policy. **(List multiple parcel numbers in ascending order. Only include parcels within the proposal area.)**

SAMPLE FORMAT:

Assessor Parcel Number (APN)	Parcel Address (optional)					
	Situs Number	Situs Name	Situs Type	Situs City	Situs State	Situs Zip Code
011111111	10	Main	Ave.	San Bernardino	CA	92415
011111112	12	Main	Ave.	San Bernardino	CA	92415
311111111		n/a				

LISTING OF ASSESSOR PARCEL NUMBERS

Assessor Parcel Number (APN)	Parcel Address (optional)					
	Situs Number	Situs Name	Situs Type	Situs City	Situs State	Situs Zip Code

_____
(FOR LAFCO USE ONLY)

Assessor Parcel Number (APN)	Parcel Address (optional)					
	Situs Number	Situs Name	Situs Type	Situs City	Situs State	Situs Zip Code

(FOR LAFCO USE ONLY)

Assessor Parcel Number (APN)	Parcel Address (optional)					
	Situs Number	Situs Name	Situs Type	Situs City	Situs State	Situs Zip Code

SAN BERNARDINO LAFCO
ENVIRONMENTAL CHECKLIST FORM

NOTE: The following is a sample form and may be tailored to satisfy individual agencies' needs and project circumstances. It may be used to meet the requirements for an initial study when the criteria set forth in CEQA Guidelines have been met. Substantial evidence of potential impacts that are not listed on this form must also be considered. The sample questions in this form are intended to encourage thoughtful assessment of impacts, and do not necessarily represent thresholds of significance.

1. Project title: _____
2. Lead agency name and address:
   _____
   _____
   _____
3. Contact person and phone number: _____
4. Project location: _____
5. Project sponsor's name and address:
   _____
   _____
   _____
6. General plan designation: _____ 7. Zoning: _____
8. Description of project: (Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support, or off-site features necessary for its implementation. Attach additional sheets if necessary.)
   _____
   _____
   _____
   _____
9. Surrounding land uses and setting: Briefly describe the project's surroundings:
   _____
   _____
   _____
   _____
10. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.)
    _____
    _____
    _____
    _____

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

☐ Aesthetics	☐ Agriculture and Forestry Resources	☐ Air Quality
☐ Biological Resources	☐ Cultural Resources	☐ Geology /Soils
☐ Greenhouse Gas Emissions	☐ Hazards & Hazardous Materials	☐ Hydrology / Water Quality
☐ Land Use / Planning	☐ Mineral Resources	☐ Noise
☐ Population / Housing	☐ Public Services	☐ Recreation
☐ Transportation/Traffic	☐ Utilities / Service Systems	☐ Mandatory Findings of Significance

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

☐ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

☐ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

☐ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature	Date
Signature	Date

EVALUATION OF ENVIRONMENTAL IMPACTS:

1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).

2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.

3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.

4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from "Earlier Analyses," as described in (5) below, may be cross-referenced).

5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:

   a) Earlier Analysis Used. Identify and state where they are available for review.

   b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.

   c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.

7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.

8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.

9) The explanation of each issue should identify:

a) the significance criteria or threshold, if any, used to evaluate each question; and

b) the mitigation measure identified, if any, to reduce the impact to less than significance

SAMPLE QUESTION

Issues:

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
I. AESTHETICS. Would the project:				
a) Have a substantial adverse effect on a scenic vista?	☐	☐	☐	☐
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	☐	☐	☐	☐
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	☐	☐	☐	☐
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	☐	☐	☐	☐
II. AGRICULTURE AND FORESTRY RESOURCES. In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the project:				

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	☐	☐	☐	☐
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	☐	☐	☐	☐
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?	☐	☐	☐	☐
d) Result in the loss of forest land or conversion of forest land to non-forest use?	☐	☐	☐	☐
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	☐	☐	☐	☐
III. AIR QUALITY. Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	☐	☐	☐	☐
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	☐	☐	☐	☐
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	☐	☐	☐	☐
d) Expose sensitive receptors to substantial	☐	☐	☐	☐

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
pollutant concentrations?				
e) Create objectionable odors affecting a substantial number of people?	☐	☐	☐	☐
IV. BIOLOGICAL RESOURCES: Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	☐	☐	☐	☐
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	☐	☐	☐	☐
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	☐	☐	☐	☐
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	☐	☐	☐	☐
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	☐	☐	☐	☐
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	☐	☐	☐	☐

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
V. CULTURAL RESOURCES. Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5?	☐	☐	☐	☐
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?	☐	☐	☐	☐
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	☐	☐	☐	☐
d) Disturb any human remains, including those interred outside of formal cemeteries?	☐	☐	☐	☐
VI. GEOLOGY AND SOILS. Would the project:				
a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:	☐	☐	☐	☐
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	☐	☐	☐	☐
ii) Strong seismic ground shaking?	☐	☐	☐	☐
iii) Seismic-related ground failure, including liquefaction?	☐	☐	☐	☐
iv) Landslides?	☐	☐	☐	☐
b) Result in substantial soil erosion or the loss of topsoil?	☐	☐	☐	☐
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	☐	☐	☐	☐

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	☐	☐	☐	☐
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	☐	☐	☐	☐
VII. GREENHOUSE GAS EMISSIONS. Would the project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	☐	☐	☐	☐
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	☐	☐	☐	☐
VIII. HAZARDS AND HAZARDOUS MATERIALS. Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	☐	☐	☐	☐
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	☐	☐	☐	☐
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	☐	☐	☐	☐
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	☐	☐	☐	☐

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☐
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	☐	☐	☐	☐
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	☐	☐	☐	☐
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	☐	☐	☐	☐
<u>IX. HYDROLOGY AND WATER QUALITY.</u> Would the project:				
a) Violate any water quality standards or waste discharge requirements?	☐	☐	☐	☐
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	☐	☐	☐	☐
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	☐	☐	☐	☐

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	☐	☐	☐	☐
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	☐	☐	☐	☐
f) Otherwise substantially degrade water quality?	☐	☐	☐	☐
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	☐	☐	☐	☐
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	☐	☐	☐	☐
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	☐	☐	☐	☐
j) Inundation by seiche, tsunami, or mudflow?	☐	☐	☐	☐
X. LAND USE AND PLANNING. Would the project:				
a) Physically divide an established community?	☐	☐	☐	☐
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	☐	☐	☐	☐

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	☐	☐	☐	☐
XI. MINERAL RESOURCES. Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	☐	☐	☐	☐
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	☐	☐	☐	☐
XII. NOISE -- Would the project result in:				
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	☐	☐	☐	☐
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	☐	☐	☐	☐
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☐
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	☐	☐	☐
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☐
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	☐	☐	☐	☐

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XIII. POPULATION AND HOUSING. Would the project:				
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	☐	☐	☐	☐
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☐
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	☐	☐	☐	☐
XIV. PUBLIC SERVICES.				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:	☐	☐	☐	☐
Fire protection?	☐	☐	☐	☐
Police protection?	☐	☐	☐	☐
Schools?	☐	☐	☐	☐
Parks?	☐	☐	☐	☐
Other public facilities?	☐	☐	☐	☐
XV. RECREATION.				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	☐	☐	☐	☐

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	☐	☐	☐	☐
<u>XVI. TRANSPORTATION/TRAFFIC.</u> Would the project:				
a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	☐	☐	☐	☐
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	☐	☐	☐	☐
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	☐	☐	☐	☐
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	☐	☐	☐	☐
e) Result in inadequate emergency access?	☐	☐	☐	☐
f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	☐	☐	☐	☐

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
XVII. UTILITIES AND SERVICE SYSTEMS. Would the project:				
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	☐	☐	☐	☐
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☐
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	☐	☐	☐	☐
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	☐	☐	☐	☐
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	☐	☐	☐	☐
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	☐	☐	☐	☐
g) Comply with federal, state, and local statutes and regulations related to solid waste?	☐	☐	☐	☐
XVIII. MANDATORY FINDINGS OF SIGNIFICANCE.				
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	☐	☐	☐	☐

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	☐	☐	☐	☐
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	☐	☐	☐	☐

Note: Authority cited: Sections 21083 and 21083.05, Public Resources Code. Reference: Section 65088.4, Gov. Code; Sections 21080(c), 21080.1, 21080.3, 21083, 21083.05, 21083.3, 21093, 21094, 21095, and 21151, Public Resources Code; *Sundstrom v. County of Mendocino,*(1988) 202 Cal.App.3d 296; *Leonoff v. Monterey Board of Supervisors,* (1990) 222 Cal.App.3d 1337; *Eureka Citizens for Responsible Govt. v. City of Eureka* (2007) 147 Cal.App.4th 357; *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal.App.4th at 1109; *San Franciscans Upholding the Downtown Plan v. City and County of San Francisco* (2002) 102 Cal.App.4th 656.

Revised 2009

LANDOWNER PROTEST PETITION

I, (We), the undersigned Landowner(s) in accordance with the provisions of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, commencing with Government Code Section 56000, do hereby protest:

LAFCO #_____

_____

_____

_____

(LIST PROPOSAL TITLE)

Each of the Undersigned states:

1. I personally signed this protest petition.
2. I am a landowner within the affected territory.
3. I personally affixed hereto the date of my signing and the Assessor's Parcel Number(s) such that the location of the property is readily ascertainable.

The landowner must sign his/her name, provide the residence address, and the date of signing in his/her own handwriting. The parcel number of the land included within the proposal for which protest is provided must be included. If signing on behalf of a business or corporation, documentation must be attached showing ability to sign as legal representative for that enterprise.

SIGN NAME PRINT NAME	RESIDENCE ADDRESS	DATE	PARCEL NUMBER
SIGN NAME PRINT NAME	RESIDENCE ADDRESS	DATE	PARCEL NUMBER
SIGN NAME PRINT NAME	RESIDENCE ADDRESS	DATE	PARCEL NUMBER
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SIGN NAME PRINT NAME	RESIDENCE ADDRESS	DATE	PARCEL NUMBER

CONTINUATION PAGE FOR LANDOWNER PROTEST PETITION

SIGN NAME PRINT NAME	RESIDENCE ADDRESS	DATE	PARCEL NUMBER
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SIGN NAME PRINT NAME	RESIDENCE ADDRESS	DATE	PARCEL NUMBER

REGISTERED VOTER PROTEST PETITION

I (We), the undersigned registered voter(s), in accordance with the provisions of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, commencing with Government Code Section 56000, do hereby protest :

LAFCO #_____

_____

_____

_____

(List proposal title)

Each of the Undersigned states:

1. I personally signed this protest petition.
2. I am a registered voter within the affected territory.
3. I personally affixed hereto the date of my signing and my residence address on this petition.

The voter must sign his/her name exactly as it appears on the voter registration rolls, residence address, and the date of signing in his/her own handwriting. RESIDENCE means a number and a street address or description sufficient for the Registrar of Voters to locate property on a map. Post Office Box numbers or Route numbers CANNOT BE USED AND WILL NOT BE ACCEPTED.

_____ _____	ADDRESS		USE ONLY
_____ _____	ADDRESS		USE ONLY
_____ _____	ADDRESS		USE ONLY
_____ _____	ADDRESS		USE ONLY
_____ _____	ADDRESS		USE ONLY
_____ _____	ADDRESS		USE ONLY
_____ _____	ADDRESS		USE ONLY
_____ _____	ADDRESS		USE ONLY
_____ _____	ADDRESS		USE ONLY
_____ _____	ADDRESS		USE ONLY

CONTINUATION PAGE FOR REGISTERED VOTER PROTEST PETITION

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_____
(FOR LAFCO USE ONLY)

SAN BERNARDINO LAFCO
APPLICATION FOR
EXTENSION OF SERVICE BY CONTRACT

(A certified copy of the City Council/District Board of Directors resolution or a letter from the City Manager/General Manager requesting approval for an out-of-agency service agreement must be submitted together with this application form.)

AGENCY TO EXTEND SERVICE:

AGENCY NAME: _____

CONTACT PERSON: _____

ADDRESS: _____

_____

PHONE: _____

EMAIL: _____

CONTRACTING PARTY:

NAME OF
PROPERTY OWNER: _____

CONTACT PERSON: _____

MAILING ADDRESS: _____

_____

PHONE: _____

EMAIL: _____

ADDRESS OF PROPERTY
PROPOSED FOR CONTRACT: _____

_____

CONTRACT NUMBER/IDENTIFICATION: _____

PARCEL NUMBER(S): _____

ACREAGE: _____

_____
(FOR LAFCO USE ONLY)

The following questions are designed to obtain information related to the proposed agreement/contract to allow the Commission and staff to adequately assess the proposed service extension. You may include any additional information which you believe is pertinent. Please use additional sheets where necessary.

1. (a) List the type or types of service(s) to be provided by this agreement/contract.

_____

_____

_____

(b) Are any of the services identified above "new" services to be offered by the agency? ☐ YES ☐ NO. If yes, please provide explanation on how the agency is able to provide the service.

_____

_____

_____

2. Is the property to be served within the agency's sphere of influence? ☐ YES ☐ NO

3. Please provide a description of the service agreement/contract.

_____

_____

_____

4. (a) Is annexation of the territory by your agency anticipated at some point in the future? ☐ YES ☐ NO. If yes, please provide a projected timeframe when it anticipates filing an application for annexation of territory that would include the area to be served. If no, please provide an explanation as to why a jurisdictional change is not possible at this time.

_____

_____

_____

(b) Is the property to be served contiguous to the agency's boundary?
☐ YES ☐ NO. If yes, please provide explanation on why annexation to the agency is not being contemplated.

_____

_____

_____

5. Is the service agreement/contract outside the Agency's sphere of influence in response to a threat to the public health and safety of the existing residents as defined by Government Code Section 56133(c)?
☐ YES ☐ NO. If yes, please provide documentation regarding the circumstance (i.e. letter from Environmental Health Services or the Regional Water Quality Control Board).

_____

_____

_____

6. (a) What is the existing use of the property?

_____

_____

(b) Is a change in use proposed for the property? ☐ YES ☐ NO. If yes, please provide a description of the land use change.

_____

_____

7. If the service agreement/contract is for development purposes, please provide a complete description of the project to be served and its approval status.

_____

_____

_____

8. Are there any land use entitlements/permits involved in the agreement/contract? ☐ YES ☐ NO. If yes, please provide documentation for this entitlement including the conditions of approval and environmental assessment that are being processed together with the project. Please check and attach copies of those documents that apply:

Tentative Tract Map / Parcel Map	☐
Permit (Conditional Use Permit, General Plan Amendment, etc.)	☐
Conditions of Approval	☐
Negative Declaration (Initial Study)	☐
Notice of Determination (NOD)/Notice of Exemption (NOE)	☐
Department of Fish and Game (DFG) Receipt	☐
Others (please identify below)	☐

_____

_____

9. Has the agency proposing to extend service conducted any CEQA review for this contract? ☐ YES ☐ NO. If yes, please provide a copy of the agency's environmental assessment including a copy of the filed NOD/NOE and a copy of the DFG Receipt.

10. <u>Plan for Service</u>:

(a) Please provide a detailed description of how services are to be extended to the property. The response should include, but not be limited to, a description of: 1) capacity of existing infrastructure, 2) type of infrastructure to be extended or added to serve the area, 3) location of existing infrastructure in relation to the area to be served, 4) distance of infrastructure to be extended to serve the area, and 5) other permits required to move forward with the service extension.

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

(b) Please provide a detailed description of the overall cost to serve the property. The response should include the costs to provide the service (i.e. fees, connection charges, etc.) and also the costs of all improvements necessary to serve the area (i.e. material/equipment costs, construction/installation costs, etc.).

Description of Fees/Charges	*Cost*	*Total*
Total Costs		

(c) Please identify any unique costs related to the service agreement such as premium outside City/District rates or additional 3rd-party user fees and charges (i.e. fees/charges attributable to other agencies).

_____

_____

_____

(d) If financing is to occur, please provide any special financial arrangement between the agency and the property owner, including a discussion of any later repayment or reimbursement (If available, a copy of the agreement for repayment/reimbursement is to be provided).

_____

_____

_____

11 Does the City/District have any policies related to extending service(s) outside its boundary? ☐ YES ☐ NO. If yes, has a copy been provided to LAFCO? ☐ YES ☐ NO. If not, please include a copy of the policy or policies (i.e. resolution, municipal code section, etc.) as part of the application.

_____

_____

_____

CERTIFICATION

As a part of this application, the city of _____, or the _____ district agree to defend, indemnify, hold harmless, and release the San Bernardino LAFCO, its agents, officers, attorneys, and employees from any claim, action, proceeding brought against any of them, the purpose of which is to attack, set aside, void, or annul the approval of this application or adoption of the environmental document which accompanies it. This indemnification obligation shall include, but not be limited to, damages, costs, and expenses, including attorney fees. The agency signing this application will be considered the proponent for the proposed action(s) and will receive all related notices and other communications. I/We understand that if this application is approved, the Commission will impose a condition requiring

the applicant to indemnify, hold harmless and reimburse the Commission for all legal actions that might be initiated as a result of that approval.

I hereby certify that the statements furnished above and in the attached exhibits present the data and information required for this evaluation of service extension to the best of my ability, and that the facts, statement and information presented herein are true and correct to the best of my knowledge and belief.

SIGNED _____

NAME: _____

POSITION TITLE: _____

DATE: _____

REQUIRED EXHIBITS TO THIS APPLICATION:

1. Copy of the agreement/contract.
2. Map(s) showing the property to be served, existing agency boundary, the location of the existing infrastructure, and the proposed location of the infrastructure to be extended.
3. Certified Plan for Service (if submitted as a separate document) including financing arrangements for service.

Please forward the completed form and related information to:

Local Agency Formation Commission
215 North D Street, Suite 204
San Bernardino, CA 92415-0490
PHONE: (909) 383-9900 ● FAX: (909) 383-9901

SAN BERNARDINO LAFCO
SERVICE REVIEW AND MANDATORY
SPHERE OF INFLUENCE UPDATE

INTRODUCTION: The questions on this form are designed to obtain data about the entity's existing sphere of influence to allow the Commission and its staff to begin to assess the mandated sphere update process. You are encouraged to include any additional information that you believe is pertinent to the process. Use additional sheets where necessary and/or include any relevant documents.

1. NAME OF AGENCY: _____

2. Provide an identification of the entities that provide service to your agency. Please indicate whether they are public or private entities and include subsidiary districts in this description. Please include a description of City or District-governed agencies (i.e., redevelopment agency, development corporations, joint powers authorities, improvement districts, etc.):

_____
_____
_____
_____
_____
_____

3. Provide a narrative description of anticipated alterations in the agency's current sphere of influence that should be considered in this review. This identification should include any potential development that would require a sphere of influence amendment for implementation, etc. (If additional room for response is necessary, please attach additional sheets to this form.)

_____
_____
_____
_____
_____
_____
_____
_____

4. **CITIES:** Provide an outline of negotiations with the County of San Bernardino related to any sphere update. Please include an outline of agreements on boundaries, development standards, zoning requirements, if any. This is required pursuant to Government Code Section 56425(b).

_____
_____
_____
_____
_____
_____

5. **CITIES:** Provide an outline of the dates for adoption and plans for update, if any, for:

General Plan _____
Elements if adopted separately

NAME	DATE OF ADOPTION/UPDATE PLANS
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

6. **CITIES/SPECIAL DISTRICTS:** For the services provided by the agency identify the appropriate document below and provide an outline of the date of adoption, schedule for update, copy of the document (in electronic format), and copy of environmental document, if applicable:

Master Plan for Water Utility	_____
Master Plan for Sewer Utility	_____
Master Plan for Fire Service	_____
Master Plan for Park Service	_____
Urban Water Management Plan	_____
Other (Please name):	
_____	_____
_____	_____
_____	_____

7. **SPECIAL DISTRICTS:** Provide an outline of the following items related to the services provided by the District. This response is specifically required by Government Code Section 56425(i) et seq.

a) Provide a written statement specifying the functions and/or classes of service provided by your District.

_____
_____
_____
_____
_____
_____
_____

b) Provide a written description of the nature, location and extent of the functions and/or classes of service outlined above. Where the service area is less than the boundaries of the District provide a map depiction of the location.

_____
_____
_____
_____
_____
_____
_____

8. Provide a response to the four factors outlined in Government Code Section 56425 as follows:

a) The present and planned land uses in the area, including agricultural and open-space lands.

_____
_____
_____
_____
_____

b) The present and probable need for public facilities and services in the area.

_____
_____
_____
_____
_____

c) The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.

_____
_____
_____
_____
_____

d) The existence of any social or economic communities of interest in the area.

_____
_____
_____
_____
_____

CERTIFICATION

I hereby certify that the statements furnished above and in the attached supplements, exhibits, and documents present the data and information required for this mandatory review to the best of my ability, and that the facts, statements, and information presented herein are true and correct to the best of my knowledge and belief.

DATE: _____

_____
Signature of Official

_____
Printed Name

_____
Title

krm -- /09/28/2011

Gray Davis
GOVERNOR

State of California

Tal Finney
INTERIM DIRECTOR

A GUIDE TO THE LAFCO PROCESS FOR INCORPORATIONS

Governor's Office of Planning and Research

October 2003

LAFCO Incorporation Guidelines

The Governor's Office of Planning and Research

1400 Tenth Street, Sacramento, CA 95812-3044, 916/322-2318, www.opr.ca.gov

Tal Finney, Interim Director

Development Team:

Toni Symonds - Project Manager, Community Vitalization Unit Director
Terry Roberts - Project Manager, State Clearinghouse Director
Kathryn Winter - Incorporation Task Force Chairperson
Doreen Updike - Administrative Analyst
Julia Ouellette - Administrative Analyst

October 2003

The Governor's Office of Planning and Research (OPR) would like to acknowledge and thank the members of the Incorporation Task Force for their invaluable assistance in identifying key issues and for providing input into the development of LAFCO Incorporation Guidelines.

INCORPORATION TASK FORCE MEMBERS

- Chairperson, Kathryn Winter, Office of Planning and Research (OPR)
- Terry Roberts, Project Manager, State Clearinghouse Director, Office of Planning and Research (OPR)
- Toni Symonds, Project Manager, Senior Policy Advisor, Office of Planning and Research (OPR)
- Robert Braitman, Santa Barbara LAFCO
- Greg Brummels, State Controller's Office
- Tim Campbell, Santa Barbara LAFCO
- Christopher Carlisle, Speaker Hertzberg's Office
- Tony Carstens, County of Riverside Executive Office
- Phil Carter, Pacific Municipal Consultants and City of Elk Grove
- William Chiat, County of Santa Barbara
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- Harry Ehrlich, Olivenhain Municipal Water District and California Special District Association
- Carolina Jimenez-Hogg, Fresno County Planning & Resource Management Department
- Bill Mahoney, Orange County
- Anthony Manzanetti, Kronick, Moskovitz, Tiedemann, & Girard and City Attorney for the City of Elk Grove
- Jerry McClain, State Controller's Office
- Michael Oliver, City of Oakley
- Michael Ott, San Diego LAFCO
- Catherine Smith, California Special Districts Association
- Chris Tooker, Sacramento LAFCO
- Rita Velasquez, Elk Grove Community Services District

OPR would also like to acknowledge and thank Joyce Crosthwaite, Project Design Consultants and her excellent consultant team that assisted OPR in the development and implementation of the extensive public outreach and stakeholder consultation process and the writing of the final draft of the guidelines. Other members of her team included:

- Dan Miller, Rosenow Spevacek Group
- Charon Browning, SMB Associates
- Robert Ewing, Services Commodities Consulting

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Executive Summary

The Incorporation Guidelines are a result of legislation signed in 2000, which established a process for the creation of statewide guidelines. While the Cortese-Knox Act, the law governing Local Agency Formation Commissions (LAFCOs), had always specified minimum procedures and requirements for incorporation proposals, there were variations among the 58 LAFCOs in processing, content and requirements. Many LAFCOs and incorporation proponents developed a set of "best practices" which, while shared as much as possible, were not always widely disseminated. The intent of the guidelines is to gather these best practices and summarize existing legal requirements into minimum statewide guidelines. The Incorporation Guidelines are advisory and each LAFCO may adopt supplemental policies and procedures.

One of the biggest challenges to any incorporation proposal is readily available information. The Incorporation Guidelines provide easy to read information for citizens, for agencies and for proponents about the incorporation process, its timelines, and likely costs. A short "Primer" is included in the appendices to the Incorporation Guidelines, which provides a generalized overview of the entire incorporation process with common sense suggestions gathered from incorporation veterans. The Primer is short enough for LAFCOs and incorporation proponents to easily copy, fax and/or email.

However, incorporation is a complex process that must meet legal requirements. Therefore, the main body of the Incorporation Guidelines provides a step-by-step process, with hyperlinks to the relevant Government Code Sections, for those groups and individuals actively engaged in an incorporation. In particular, the Incorporation Guidelines include detailed information and examples about the type of information that should be included in the comprehensive fiscal analysis (CFA). The Incorporation Guidelines also include a suggested process to address the legal requirement of ensuring that incorporations are "revenue neutral".

Thorough preparation is essential for an incorporation. The first section of the Incorporation Guidelines includes recommendations gathered from the workshops and Task Force meetings for potential incorporation proponents, for LAFCOs, and for other affected agencies regarding the efforts that must precede initiating an incorporation proposal. It includes information for proponents about consulting with LAFCO to avoid potential pitfalls, the use of consultants and investigating alternatives to an incorporation. LAFCOs are encouraged to begin their preparation for an incorporation before a proposal is even submitted.

The determination of the possible fiscal feasibility of an incorporation has also been a challenge. Preparation of a CFA is expensive and if the proposed incorporation is infeasible, many proponents feel their efforts and money have been wasted. The Incorporation Guidelines contain a recommended "initial fiscal feasibility review" which is designed to help incorporation proponents decide whether to continue with an incorporation effort. The initial fiscal feasibility review only provides a one-year "snapshot" of some of a community's financial assets and liabilities—it should never be used as a basis for a CFA which includes more comprehensive analysis of potential revenues and expenditures.

Initiating an incorporation is, in itself, a complex process with tight time limits and various legal requirements for processing and collecting signatures. The process, legal requirements and time limits for initiating an incorporation are described in Section III. As throughout the entire Incorporation Guidelines, hints from incorporation veterans have been included to help make the initiation process easier.

All incorporation proponents must prepare an application and while the specific requirements of various LAFCOs differ, there are certain basic requirements for all incorporation applications. Preparing an application to be submitted to LAFCO also requires payment of fees and the Incorporation Guidelines, Section IV, includes information regarding the probable costs of an incorporation application.

The review and analysis by LAFCO staff of an incorporation application is detailed and exhaustive as required by law. Section V, "Reviewing the Application: LAFCO Staff Analysis," contains detailed descriptions of the financial information which needs to be included in a CFA. This section of the Incorporation Guidelines also includes information about revenue neutrality, recommends a sample process and discusses what data should be included (or not) in the ensuing revenue neutrality calculations. Section V also discusses the environmental review process for an incorporation.

All incorporations must be heard in public hearings and, if approved, must follow a legally defined process for a Conducting Authority hearing, elections and the final steps in the creation of a new city. These steps are also described in the last sections of the Incorporation Guidelines.

Finally, the Incorporation Guidelines also contain some basic information and sources of help for newly incorporated cities. LAFCO's involvement in incorporation ends after a successful election but some information has been included to assist newly incorporated cities in making a transition to full municipal status. However, new cities should rely on their legal counsel and staff for more complete and updated information.

The Appendices (Section XI) contain sample forms and notices as well as the Primer.

Existing law requires each LAFCO to adopt written policies and procedures which may augment and supplement these Incorporation Guidelines. Incorporation proponents are strongly urged to consult with LAFCO in their own county to get copies of local policies and procedures.

The Incorporation Guidelines are available in PDF format that contains electronic links to the appropriate California Government Code sections. Clicking on the links will move the user to the appropriate section of the Government Code. The entire electronic file containing the Incorporation Guidelines may overwhelm some email servers. If you encounter problems downloading the guidelines it is recommended that you contact LAFCO in their county for a copy of the Incorporation Guidelines or go to your neighborhood library where computers are generally available for public use.

I. INTRODUCTION

This section provides the background to the development of the Incorporation Guidelines, an explanation of their purposes and information about the overall structure and how to use this document.

A. BACKGROUND OF INCORPORATION GUIDELINES

On September 26, 2000, Governor Gray Davis signed into law AB 2838 (Chapter 761, Statutes of 2000), authored by Assembly Speaker Robert M. Hertzberg. This legislation, titled the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 and codified as California Government Code Sections 56000 et seq., marked the most significant reform to local government reorganization law since the 1963 statute that created Local Agency Formation Commissions (LAFCOs) in each county.

The legislation resulted from the recommendations of the Commission on Local Governance for the 21st Century, created by 1997 legislation. The Commission's recommendations were included in its final report, *Growth Within Bounds*, issued on January 20, 2000.

Pursuant to the new requirements in Government Code Section 56815.2, the Governor's Office of Planning and Research (OPR) was required to convene a task force composed of representatives of cities, counties, special districts, and local agency formation commissions for the purpose of creating statewide guidelines for the incorporation process.

Existing law further specifies that the guidelines serve as minimum statewide guidelines for the incorporation process. OPR recommends that LAFCO adopt supplemental policies and procedures that reflect local conditions to further assist the public and affected agencies in understanding the incorporation process.

The guidelines are required by law to include:

- Information to assist incorporation proponents to understand the incorporation process, its timelines, and likely costs.
- Direction to affected agencies regarding the type of information that should be included in the comprehensive fiscal analysis of incorporation, as well as suggestions for alternative ways to achieve fiscally neutral incorporations.

These guidelines were the result of an extensive public participation process. Three workshops were held in San Diego, Sacramento and Bakersfield in the fall of 2001 to gather public input into the content of the Incorporation Guidelines. A draft copy of the Incorporation Guidelines was posted on the OPR website for a 30-day public review period. During the public review period, three additional workshops were held in Ukiah, Tracy and Van Nuys to receive comments from interested parties regarding the draft document. In addition, an Incorporation Task Force was formed, comprised of members of LAFCOs, the State Controller, cities, counties, special districts and other interested parties, to identify key issues and provide input into technical content of the Incorporation Guidelines. The Task Force met three times and submitted numerous recommendations that have been incorporated into this document.

The Incorporation Guidelines reflect the Cortese-Knox-Hertzberg Act and related laws as were in effect on that date. Since state law may be amended periodically, it is critical that users of these Guidelines consult with the State of California, OPR, LAFCO staff and/or legal counsel to ensure that they are aware of the latest amendments to the relevant Government Code sections. In addition, each LAFCO may have policies, procedures and regulations that should be consulted before starting any incorporation effort.

B. PURPOSES OF THE INCORPORATION GUIDELINES

The Incorporation Guidelines are permissive and intended to be used as a framework for the consistent processing of incorporation proposals by LAFCO, by other affected local governments and by proponents. They are intended to serve as the minimum statewide guidelines for the incorporation process. The Guidelines are advisory to LAFCOs in the review of incorporation proposals (§56815.2) and are consistent with the existing Government Code.

C. HOW TO USE THE INCORPORATION GUIDELINES

The Incorporation Guidelines are available in hard copy (paper), CD-ROM and PDF format. The PDF and CD-ROM versions contain electronic links to the appropriate California Government Code sections. Clicking on the links will move the user to the appropriate section of the Government Code. The Guidelines are organized in the following manner.

ACRONYMS USED IN THE GUIDELINES

LAFCO—Local Agency Formation Commission

CFA—Comprehensive Fiscal Analysis

SOI—Sphere of Influence

CEQA—California Environmental Quality Act

Acronyms are both defined in the text of the document and in a Glossary in Appendix C. These definitions are provided to assist the reader in understanding the text. For a complete definition of terms, the reader should always refer to the definition section (§56010) of the Cortese-Knox-Hertzberg Act, the law governing LAFCOs, for complete definitions.

Section I contains the Introduction including information about the background, purposes and use of the Incorporation Guidelines.

Sections II through IX contain a step-by-step guide for processing an incorporation proposal. It is advised that users of these Guidelines read the entire document first to gain an understanding of all the steps in incorporation. Government Code sections are included in parentheses so that readers can refer directly to the appropriate section of the law. Templates, exhibits and sample forms are provided where appropriate.

Section X contains a brief discussion of the responsibilities of a new city immediately following incorporation. While LAFCO's involvement in incorporation generally ends soon after a successful election, this section has been included to assist newly incorporated cities in making a transition to full municipal status. However, new cities should rely on their legal counsel and staff for more complete and updated information.

Appendices A through G contain a timeline for the incorporation process, the Incorporation Primer, a Glossary, sample forms and notices, an initial fiscal feasibility review spreadsheet which can be used by proponents to conduct a preliminary fiscal review of the proposed incorporation, and an example of an agenda from a new city's first city council meeting. If the initial fiscal feasibility review indicates potential problems, incorporation proponents can use that information as a basis for future decisions. The initial fiscal feasibility review spreadsheet can be used for a one-year budget but is not a substitute for a LAFCO application or a comprehensive fiscal analysis (CFA). CFAs include more detailed and specific revenues/expenditures for multiple years which are not included in the initial feasibility review spreadsheet. Use of the initial feasibility review spreadsheet as a CFA may result in inadequate financial information which can lead to longer processing times at LAFCO and ultimately more expense for incorporation proponents.

II. GETTING READY: PRE-INITIATION

The work of research and planning before initiating an incorporation is critical to the process. The following sections include a discussion of pre-initiation steps for LAFCO and incorporation proponents. OPR recommends that LAFCOs and proponents refer to Appendix A to review the steps in the overall process and Appendix C to review key terms used in these Guidelines before getting started.

A. BEFORE INCORPORATION STARTS: LAFCO'S ROLE

WRITTEN POLICIES

LAFCO is required to review, approve/disapprove proposals for changes of organization and reorganization consistent with written policies, procedures and guidelines adopted by the Commission (§56375).

In order to ensure a fair and equitable deliberation by LAFCO on incorporation proposals it is important that LAFCO adopt policies and procedures prior to the submittal of any specific incorporation proposal. At a minimum, LAFCO should take a comprehensive view of its existing rules related to incorporations, determine whether modifications are warranted and make the information available to LAFCO's Commission, local governments, special districts and the public. The following is a list of preparatory activities a LAFCO should consider:

- Review and update LAFCO general policies and procedures which relate to or affect incorporation.
- Review and update any specific incorporation policies, procedures, and guidelines.
- Establish a standard application form.
- Establish a schedule of fees.
- Establish standards for appropriate incorporation boundaries and alternatives.
- Establish a policy regarding the adoption of the Sphere(s) of Influence.
- Establish a process for triggering LAFCO facilitation in the revenue neutrality agreement process.

- Review LAFCO's and the State's rules and procedures related to financial contributions to incorporation efforts.
- Identify the County Auditor's ratio.

The public, in particular, should have access to comprehensive information on the incorporation process, application forms, requirements, processing times, fee schedules, standards of review for incorporations and other relevant information.

LAFCO plays several roles in the incorporation process including educating the public on the incorporation process, facilitating communication between affected local government parties and community groups and reviewing/approving the proposal. When developing incorporation policies and procedures LAFCO should address each of these roles.

OPR recommends that LAFCOs consider developing a formal pre-application process which includes having community members meet early in the process with LAFCO staff to become better educated on the process and form a cooperative working relationship with LAFCO.

At a minimum the pre-application process should include the following procedures:

- An internal tracking system to maintain updated information on changes in incorporation law, contacts with potential incorporation groups/individuals and a mailing list of potential incorporation proponents.
- Development of an information packet on the incorporation process and procedures which LAFCO will follow in reviewing the proposal.
- A meeting and consultation among incorporation proponents, LAFCO and affected local agencies to clarify expectations of the incorporation process.
- A review of the draft application including boundaries, alternative boundaries, descriptions and other application requirements.

B. BEFORE INCORPORATION STARTS: THE PROPONENTS' ROLE

1. Alternatives to Incorporation

LAFCO'S ROLE IN AN INCORPORATION

Incorporation proposals are often motivated by dissatisfaction with the status quo.

One of LAFCO's roles is to be an intermediary and facilitator that is required, by law, to identify issues and to resolve them in an equitable manner.

LAFCO staff must communicate clearly the standard of review, the requirements, the estimated cost and the probable timing of an incorporation proposal.

Approximately 6,500,000 people, or 18% of California's population, live in unincorporated communities. While these communities vary in size and character, they have the same range of challenges that cities face—changes in the character of their community, housing/jobs balance, provision of services, increased traffic and growth. Sometimes these communities see incorporation as the only means to acquire the political visibility and credibility to address their problems and they may be unaware of other alternatives.

OPR recommends that proponents investigate alternatives to incorporation prior to initiating an incorporation. As an example, a special district may be a more cost effective means for obtaining services than incorporation. "*Choices for the Unincorporated Community: A Guide to Local Government Alternatives in California*" (Institute of Governmental Affairs, University of California at Davis, September 1981) contains a comprehensive discussion of alternatives to incorporations for unincorporated areas.

Below is an excerpt from "*Choices for the Unincorporated Community*". Residents considering incorporation, should consider the following questions before making a formal proposal to LAFCO:

- What is the problem, if any, driving the desire for change in the existing governmental structure? Can the problem be addressed by other means?
- What is the role of the County government in the community? Is the County willing or able to address the identified problems?
- What is the community's relationship to other adjacent communities?
- What would the proposed boundaries look like and how would that affect other agencies and communities?
- What is the past history of local efforts to incorporate?
- How is the community changing?
- What is the community's capacity for self-governance?
- How are services currently provided and how would they change? Does the area have the ability to provide municipal level services if incorporated?
- Who is likely to benefit from a change and who is likely to lose?

Once these questions are answered, residents may have a better understanding of why they want to incorporate and whether incorporation will actually solve the problem(s) which concern them.

2. Consult with LAFCO

INCORPORATIONS CAN BE EXPENSIVE

Proponents are generally required to pay for LAFCO fees and staff costs, consultant costs, preparation of the CFA, application, map and legal descriptions as well as environmental review. It is not unusual for an incorporation to cost more than $100,000.

Of all the actions incorporation proponents can take to help ensure a successful incorporation process, early and frequent consultation with LAFCO, and with other affected agencies, such as the County and special districts, is the most important. Proponents can often become overwhelmed by the technical, legal and procedural requirements of incorporation.

LAFCO staff should be available to assist proponents in understanding the process, in facilitating communication among all the affected agencies and in helping all parties avoid the most common pitfalls in an incorporation.

a. Assist in Identifying Logical Boundaries

Developing a logical incorporation boundary is the first and most fundamental step in an incorporation effort. It is strongly recommended that proponents develop the boundary in conjunction with LAFCO staff early in the process—even before deciding to move forward with any incorporation efforts. Developing logical boundaries and alternatives early in the process with LAFCO staff can save time and money for proponents. See Exhibit 1, Example: An Incorporation Boundary and Alternative Boundaries.

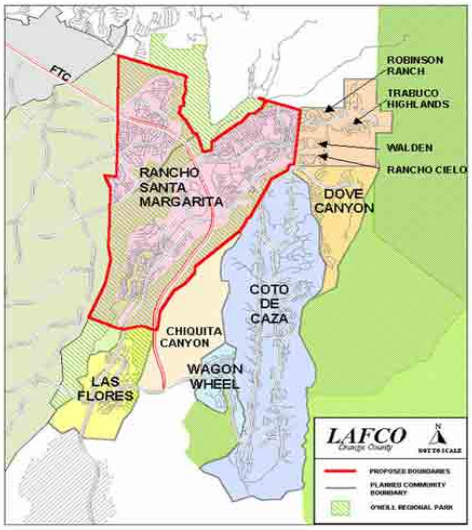
LAFCO's policies and procedures on incorporations should include a list of criteria which LAFCO will use in evaluating boundaries and should reference items such as the existing boundaries and spheres of influence of existing cities and special districts, flood plains, communities of interest and the readiness of the area to incorporate.

b. Facilitate Early Discussions with Affected Agencies

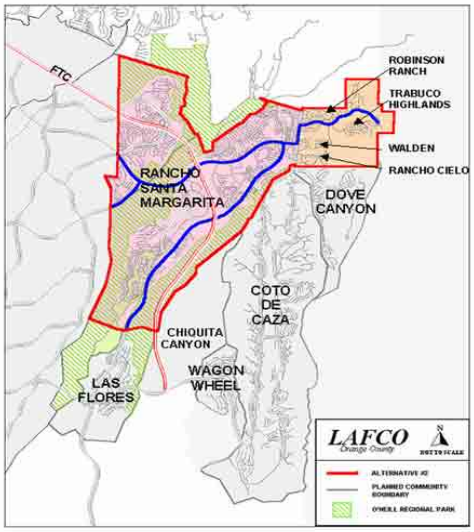
LAFCO staff should be available to convene a meeting of representatives from affected agencies and other interested parties to ensure early input into the proposed incorporation proposal and boundaries.

EXHIBIT 1
EXAMPLE: INCORPORATION BOUNDARY AND ALTERNATIVE BOUNDARIES

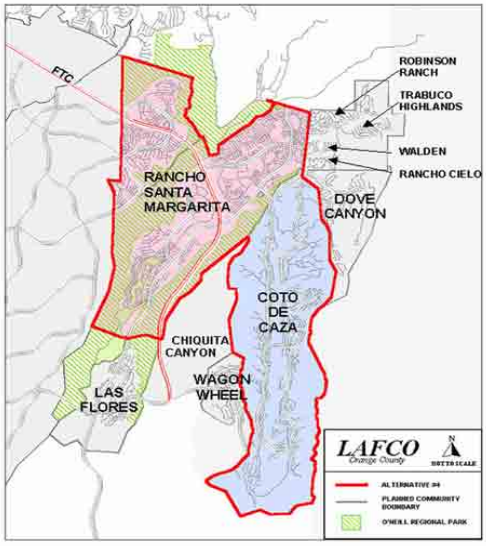
RANCHO SANTA MARGARITA



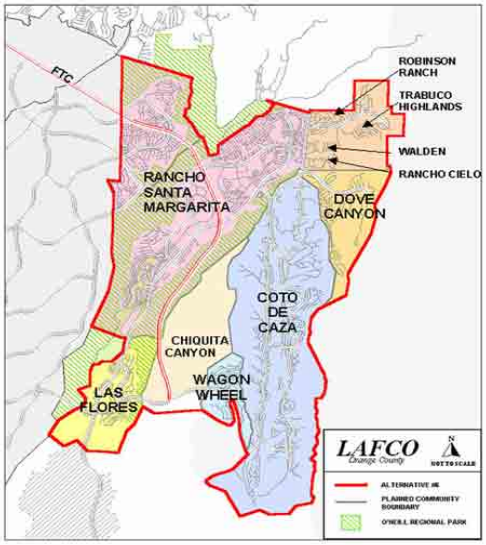
Proposed Incorporation Boundary



Alternative Boundary #2



Alternative Boundary #4



Alternative Boundary #6

Maps Courtesy of Orange County LAFCO

(Not all alternatives are displayed.)

3. Use of Consultants

LAFCO is legally responsible for the information in the Executive Officer's report and must ensure that it is accurate, complete and objective. LAFCO may need assistance in meeting those requirements and may contract for an outside consultant. If LAFCO requires additional assistance, it may require that the proponents pay for the costs of hiring a consultant. Even if the proponents have already prepared an incorporation application, LAFCO may need to contract for an independent consultant to verify information and review the conclusions presented in the application.

Consultants are typically used for a variety of tasks. They may have the comprehensive and current knowledge of local government financing needed to prepare a CFA, of local government structure, of LAFCO polices and procedures and of incorporation processes. Consultants are often responsible for helping in establishing logical boundaries in conjunction with LAFCO; preparing and developing the CFA including revenue neutrality negotiations; preparing the application, reports, petitions and other forms as needed; monitoring the proposal; and providing technical assistance.

The manner in which consultants are used varies but generally matches one of the two following models:

- LAFCO hires the consultant. The proponents deposit money with LAFCO to cover consultant costs. The consultant works for and is paid by LAFCO with the funds deposited by the proponents. Proponents do not have control over the consultant's work, timing or end product.
- Incorporation proponents hire the consultant. The consultant works for and is paid by the proponents. The proponents have more control over the preparation of the application and related studies.

Both methods can be successful. Proponents should discuss the use of consultants with LAFCO early in the process.

4. Initial Fiscal Feasibility Review

PREPARING A CFA

The preparation of a CFA is the legal responsibility of LAFCO. In practical terms, that means that LAFCO will determine who prepares the CFA and when the CFA shall be prepared. It is recommended that proponents discuss the method of preparation of the CFA with LAFCO prior to beginning any incorporation efforts. Failure to do so may result in the processing of the application being delayed and in additional costs to the proponents. **Proponents are typically required to pay for the costs of the CFA.**

If proponents decide to take a closer look at incorporation, it may be helpful to perform a preliminary assessment of the fiscal resources available to a potential new city. The preliminary assessment, or initial fiscal feasibility review, is designed to help community groups conduct a quick appraisal of the potential for incorporation. An initial fiscal feasibility review spreadsheet, provided in Appendix D, can be used by incorporation proponents to determine if revenues will be available to support municipal level services. The initial fiscal feasibility spreadsheet is NOT intended to be used as a substitute for a CFA. It is only intended to be used as a means to educate proponents regarding the fiscal potential for incorporation.

III. INITIATING THE INCORPORATION

The Cortese-Knox-Hertzberg Act requires that areas proposed for incorporation include at least 500 registered voters (§56043).

The legal process for incorporating a new city can be initiated (§56047), or started, in three ways. They are:

- Registered Voters: A petition signed by at least 25% of the registered voters residing in the proposed incorporation area is submitted to LAFCO. The Registrar of Voters must verify the number of valid signatures on petitions of registered voters.
- Land Owners: A petition signed by at least 25% of the landowners owning at least 25% of the assessed value of land within the proposed incorporation area. The County Assessor's Office must verify the petitions of landowners.
- Legislative Body: The legislative body of an affected agency (§56014) can adopt a resolution of application. An affected agency is any city, special district or county which contains territory, including a sphere of influence, within the proposed incorporation boundaries. If the territory identified in the resolution is within the boundaries of a city the "incorporation" process would follow under the procedures for a special reorganization rather than the change of organization process.

Each method of initiation is described in detail in the following sections. Proponents are encouraged to check with LAFCO regarding local policies, procedures and guidelines. Sample forms are provided in Appendix E.

A. INITIATION BY PETITION OF REGISTERED VOTERS

Most incorporations are initiated through a registered voter petition. The process of explaining the goals of an incorporation effort to potential signers of petitions is an important step in the education of a community about the issues involved in and the purpose of incorporation. The process of gathering signatures on petitions is also a means of determining the level of support for incorporation and of gathering feedback from residents. If the incorporation is to ultimately succeed at the polls, it must have a high degree of community consensus and the petition effort is part of the process to develop that consensus.

A registered voter petition for incorporation requires the signatures of not less than 25% of the total number of registered voters residing in the area to be incorporated (§56764(a)). A sample petition is included in Appendix E.

Petitions must be prepared and processed in accordance with the legal requirements of the Cortese-Knox-Hertzberg Act. The legal requirements for the process, form and content of incorporation petitions are specific and complex. LAFCO's Executive Officer and LAFCO legal counsel should review all registered voter petition forms when the proponents file a "Notice of Intent" (§56700.4) to circulate petitions with LAFCO. This preliminary review can lessen the possibility that petitions will be rejected for errors after the proponents have gathered signatures.

Existing law states that the signatures on an incorporation petition shall be verified by the elections official of the county and that the costs of verification of the signatures shall be provided for in the same manner and by the same agencies which bear the costs of verifying signatures for an initiative petition in the same county (§56383(e)). Proponents are strongly encouraged to check with LAFCO staff, the county and the Registrar of Voters in their own county to determine the costs of verification.

LAFCOs may adopt regulations governing contributors, expenditures and other activities relating to the petition process (§56700.1). Proponents should check with LAFCO about these regulations prior to circulating petitions.

B. Initiation by Petition of Landowners

Incorporations may also be initiated by petition of landowners (§56048). This type of initiation requires the signatures of not less than 25% of the total number of landowners who own property valued at a minimum of 25% of the total assessed value of land in the proposed incorporating area (§56764(b)). Landowner petitions are usually verified by the County's Assessor's Office which uses the most recent assessment rolls (§56708). However, in some California counties, the Registrar of Voters may verify landowner petitions as well as registered voter petitions. While infrequently used, this type of initiation may be more useful when less densely populated communities want to form a new city.

Except for the type of signatures collected and the agency which verifies the petitions, the requirements for the form, the content and the processing of an incorporation initiated by landowners is the same as for registered voters. The incorporation must still ultimately be voted on in an election and must ensure that it has the support of registered voters. The proponents among the landowners assume the leadership role in the incorporation process and are responsible for completion of all application requirements including the payment of fees.

C. Initiation by Resolution of an Affected Agency

Any affected agency in the area proposed for incorporation may become the applicant by adopting a Resolution of Application (§56654). The resolution may also be preceded by a "Notice of Intent" and must include all of the same components as incorporation initiated by petition except for the signature requirements (§56654(c)). The agency board assumes the leadership role in the incorporation process and is responsible for completion of all application requirements including the payment of fees.

D. Processing of Petitions

The following sections explain the processing of petitions initiating incorporation. Exhibit 2 provides a Typical Timeline for Processing Petitions.

EXHIBIT 2
TYPICAL TIMELINE FOR
PROCESSING INCORPORATION PETITIONS

Notice of Intent to Circulate Petition
(§56700.4)

↓

Date of First Signature on Petition
(§56705(a))

↓

180 days

↓

Date of Last Signature on Petition
(§56705(a), §56706(2))

↓

30 days
(law prohibits more than 60 days)

↓

LAFCO Submits Petition for Verification
(§56706)

↓

Petition Sufficient:
LAFCO Issues Certificate of Sufficiency
(§56706(a))

↓

INCORPORATION PROPOSAL PROCEEDS

↓

Petition Insufficient
(§56709)

↓

Additional Signature Collection
(§56706(2))

↓

15 days

↓

LAFCO Certifies Results
(§56706(c))

↓

Petition Insufficient

↓

PROPOSAL TERMINATED

1. Notice of Intent to Circulate a Petition

Before circulating a petition for incorporation, incorporation proponents must file a "Notice of Intent" (§56700.4) to circulate a petition or to adopt a Resolution of Application. Although recommended by OPR, affected local agencies are not required to circulate a Notice of Intent to LAFCO and other affected and interested agencies prior to the adoption of the resolution (56654). The Notice of Intent must include the name, mailing address and signature of the proponents (§56068) and a written statement (not exceeding 500 words) stating the reasons for the proposed incorporation. The Notice of Intent must be filed with LAFCO. A sample Notice of Intent form is included in Appendix E.

Only after filing the Notice of Intent with LAFCO may the petition be circulated. LAFCO's Executive Officer is required, upon receiving the Notice of Intent, to notify affected agencies and jurisdictions (§56658).

2. Form and Content of a Petition or Resolution

The text of a petition or resolution of application is similar for all three types of initiation. Sample petition forms and notices are included in Appendix E. The text of a petition or resolution of application must include the following (§56700):

REVIEW OF PETITIONS

A petition is a legal document and must be prepared in accordance with the requirements of the law. It is strongly recommended that the proponents and LAFCO use the "Notice of Intent" filing as an opportunity to review the petition to ensure legal conformance.

- A statement that the proposal is made pursuant to Government Code Section 56000 et seq.
- A brief statement of the nature of the proposal and listing of other changes of organization. This could include the special districts that are proposed for reorganization as a result of the incorporation, detachment or annexation of territory and or changes in applicable governmental boundaries.
- A map and description of the proposed incorporation boundaries and alternatives.
- Proposed terms and conditions. Although LAFCO has the ability to add, delete or modify proposed terms and conditions, the incorporation proponents should include some terms and conditions to ensure that petitions signers understand the consequences of incorporation.
- A statement of the reason(s) for the proposed incorporation. A clear statement of the reasons for incorporation is critical for the education of petition signers.

COLLECT MORE THAN YOU NEED

In collecting signatures on a petition incorporation proponents should plan on collecting at least 10% to 15% more signatures than the minimum requirement to compensate for signatures found to be invalid. Each circulator of a petition should review the map of the incorporation area with each signer of the petition to confirm his/her residence. This helps reduce the number of invalid signatures.

- A statement as to whether the petition is signed by registered voters or landowners.
- The names of three proponents who will be the main contacts for the proposal.

- A request that further proceedings be taken by LAFCO pursuant to the Cortese-Knox-Hertzberg Act.
- A statement of whether the proposed incorporation is consistent with the spheres of influence previously adopted by LAFCO.

The petition can also propose a name for the new city or town (§56722), and provisions for appointment of a city manager and other city officials (§56723).

The form of the petition must provide for each signer's printed name, street address (post office boxes are not sufficient), signature and the date of signature (§56704). Each signer of the petition must be either a registered voter or landowner, depending on which type of petition is being circulated, within the boundaries of the proposed incorporation. For landowner petitions, each signature must be accompanied by a description of property owned within the incorporation area, such as an assessor's parcel number.

3. Timing of Petitions

All signatures must be gathered within a six-month (6) period from the date of the first signature (§56705). Incorporation petitions must be submitted to LAFCO for filing within 60 days of the date of the last signature on the petition. The total number of valid signatures necessary to meet the 25% requirement for a petition of registered voters will be established as of the date of the last voter registration report prior to the date of the first signature on the petition (§56071, §56706) and Election Code 9113-9115). It is important that incorporation proponents plan the timing of their petition drive carefully to meet these statutory requirements. Within 30 days after the date a petition is received by LAFCO, the Executive Officer shall cause the petition to be examined and shall issue a "Certificate of Sufficiency" or "Notice of Insufficiency" (§56706(a)) after the results of the examination are received. The County's Registrar of Voters examines registered voter petitions to determine the number of valid signatures (§56707). Landowner petitions are examined based on a comparison of signatures and the "most recent assessment roll" (§56708).

If the petition is determined to be insufficient based upon the number of signers, LAFCO's Executive Officer will notify the proponents by certified mail. The proponents have 15 days after the date of this notice to submit a supplemental petition to LAFCO's Executive Officer (§56706(b)(1)). It is important to note that this 15-day period is the only chance to collect the additional number of required signatures if the original number of signatures is insufficient.

Within 10 days of the date the supplemental petition is filed, LAFCO's Executive Officer will have the petition examined and certify in writing the result of his/her examination. If the petition is found to be insufficient, it will be filed as a public record "without prejudice" to any future incorporation effort in the same area (§56709). Without prejudice means that proponents can begin the process of initiating another incorporation without waiting a specified period of time.

IV. PREPARING AN INCORPORATION APPLICATION

Incorporation applications must include a variety of information and studies. LAFCO should develop and publish a standard list of information which is to be included in the application. The minimum information (§56652) which must be submitted to LAFCO includes:

- A petition or resolution of application initiating the proposal;
- A description of the incorporation proposal;
- A map and legal description of the proposed incorporation area.
- The names of the officers or persons, not to exceed three in number, who are to be furnished with copies of the Executive Officer's report and who are to be furnished with mailed notices and copies of the Executive Officer's report.

LAFCO is also authorized to require other data and information necessary for the analysis of the application.

While some incorporation applications may also include a CFA, it is strongly recommended by these guidelines that the preparation of CFAs be started after submittal of an incorporation application to LAFCO.

The Cortese-Knox-Hertzberg Act's timelines for submittal of petitions, noticing and other requirements related to an incorporation application are mandatory. However, the timelines for review and processing are generally advisory. Proponents should consult with LAFCO to determine a schedule for processing an incorporation application which will be consistent with the requirements of the individual LAFCO and the law (§56106).

Subsections (d) and (e) of Section 56652 provide LAFCO's Commission and its Executive Officer with the authority to require additional information as needed to process the incorporation proposal. State law also empowers each LAFCO to adopt additional written procedures for the evaluation of proposals (§56375(g)). Incorporation proponents are strongly encouraged to check with LAFCO staff in their county to obtain an application and to determine if there are specific procedures or policies adopted by that LAFCO which may affect the incorporation.

A. DESCRIPTION OF INCORPORATION PROPOSAL

Existing law requires each incorporation proposal to include information relative to the "nature" of the proposal (§56652(b)). OPR recommends that the nature of the proposal be described in the following manner.

- The reasons for proposing incorporation. The reasons for incorporation vary and include, but are not limited to: improving local public services; capturing existing or accessing new revenues to support local services; giving a community local control over land use planning; creating a locally accountable governing body; and, pursuing local policy.

INCORPORATION PROPOSAL

While capturing existing or accessing new revenues may be a motivating factor for proposing incorporation, the Cortese-Knox-Hertzberg Act states that incorporations should not occur primarily for financial reasons (§56815).

- A clear statement of concerns, issues or problems, if any, with the existing governmental structure.
- Any changes proposed from the way public services are currently being provided. For example, if the incorporation proposes the reorganization of special districts as part of the incorporation, those governmental changes should be included in the description of the incorporation proposal.
- A brief history of the incorporation area including the results of any previous incorporation efforts.
- Demographic, geographic and economic data which describe the incorporation area. This information can be readily obtained from the United States Census Bureau or other public agencies.

B. Timing of the Comprehensive Fiscal Analysis (CFA)

Following submission of an incorporation application, LAFCO's Executive Officer will prepare, or cause to be prepared by contract, a CFA and will release that analysis for public review (§56800).

PREPARING A CFA

The preparation of a CFA is the legal responsibility of LAFCO. In practical terms, that means that LAFCO will determine who prepares the CFA and when the CFA shall be prepared. It is recommended that proponents discuss the method of preparation of the CFA with LAFCO prior to beginning any incorporation efforts. Failure to do so may result in the processing of the application being delayed and in additional costs to the proponents. **Proponents are typically required to pay for the costs of the CFA.**

While some incorporation proponents may prepare their own CFAs and submit them to LAFCO with their application, LAFCO has the ultimate responsibility for ensuring that the information is accurate, complete and objective. Some LAFCOs may require that the proponents pay for the costs of hiring an independent consultant to verify or supplement the work of the proponent's consultant. This can increase the processing time for incorporations and add to the costs. OPR recommends that preparation of the CFA not begin until after a successful initiation of the incorporation and after submittal of an application to LAFCO.

COMMUNICATION AMONG LOCAL GOVERNMENT ENTITIES

LAFCOs are encouraged to work closely with counties and incorporation proponents to facilitate the preparation of the CFA and a revenue neutrality agreement.

LAFCOs are encouraged to adopt written policies and procedures for a pre-initiation review of an incorporation proposal, preparation of a CFA (§56300(a)), a schedule of fees and clear and consistent standards of review for a CFA and an incorporation proposal. LAFCOs are also encouraged to work closely with counties and incorporation proponents to facilitate the preparation of the CFA and a revenue neutrality agreement. The steps in the preparation of a CFA are described below under Section V. A, Preparation of the Comprehensive Fiscal Analysis.

The CFA becomes a part of the Executive Officer's Report and is submitted to the Commission prior to their consideration of the incorporation proposal (§56665).

C. Service Plan

All incorporation applications must be accompanied by a service plan. A service plan is a proposal submitted by the incorporation proponents detailing which municipal services, after incorporation, will be provided by the new city or by other agencies (§56653). A service plan should include, at a minimum, the following:

- A description of the local public agencies presently serving the area including maps of service areas;
- The range and level of services currently provided;
- Proposed changes in the governmental structure (e.g., districts proposed to be dissolved and/or merged with the new city); and
- Increased or decreased range and level of services potentially available in the community if incorporated and how the difference, if any, will be financed.

WHO PROVIDES WHAT SERVICES AFTER INCORPORATION?

Services Which A New City May Assume

- Law enforcement
- Fire protection and paramedics (some cases)
- Water and sewer (some cases)
- Planning (land use, environmental review, zoning, building inspection, etc.)
- Public works (streets, engineering, traffic signals, streetlights, drainage, etc.)
- Local parks and recreation
- Libraries (in some cases)
- Animal control

Services that the County Must Continue to Provide

- Special services (welfare, child protective services, etc.)
- Health services (medical care, mental health, public health)
- Criminal justice (courts, prosecution, jails, probation, etc.)
- Regional parks (in some cases)
- Elections and voters services
- General government (assessor, treasurer, recorder, tax collector, etc.)
- Planning and environmental services

Special Districts may also be formed and/or expanded to provide a wide variety of serves.

D. Map and Legal Description of Boundaries

All incorporation applications must include a map and legal description of the proposed incorporation boundaries including a rationale for the boundaries proposed and a description of possible boundary alternatives. Since LAFCO has the legal responsibility to consider, among other items, the effect of the proposed incorporation on the provision of services, its social and economic impact on the county and proposed city, and its conformity with LAFCO's policies on orderly development (GC 56668), incorporation proponents are strongly encouraged to work with LAFCO staff early in the process to develop a logical incorporation boundary..

OPR recommends that an incorporation boundary recognize other local agencies' boundaries and SOIs; include a variety of land uses; consider topography and transportation routes;

recognize communities of interest especially if environmental justice communities may be affected; and not create islands of unincorporated territory.

Government Code Section §56668(f) states that one factor to be considered when reviewing a proposal is the "…definiteness and certainty of the boundaries of the territory, the nonconformance of the boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory and other similar matters affecting the proposed boundaries". To ensure consistency with this requirement, incorporation applications should include a metes and bounds legal description. However, individual LAFCOs may require the preparation of a metes and bounds description at different stages during the process. Incorporation proponents are responsible for the cost of preparation of both the map and the metes and bounds legal description. Please refer to Section II, B-2 for a more complete list of factors which determine a logical incorporation boundary and alternatives.

Existing law requires LAFCO to consider alternative boundaries (§56668). OPR recommends that incorporation proponents begin consultation with LAFCO as early as possible to reduce the likelihood of having to pay for the development and analysis of additional boundary alternatives after the application is filed.

E. Sphere of Influence (SOI) and Municipal Service Review

A Sphere of Influence (SOI) is defined as the "…probable physical boundaries and service area…" (§56076) of an agency. An SOI includes territory not within the corporate limits of the agency but which is expected to be annexed at some time in the future. There may be communities or territory closely connected with a proposed incorporation area which are not ready to be included in the new city but need to be acknowledged for future planning. The impacts of incorporation on the proposed SOI should be considered as part of the incorporation application and may, although not required to, be included in the CFA.

DETERMINING A NEW SPHERE OF INFLUENCE

LAFCO may either approve a SOI for a new city at the time of LAFCO's Commission hearing or delay consideration of the SOI for up to one year after voter approval (§56426.5).

It is recommended that incorporation proponents develop a proposed SOI together with the proposed incorporation boundary and alternatives. LAFCO may either approve a SOI for a new city at the time of LAFCO's Commission hearing or postpone consideration of the SOI for up to one year (§56426.5) after voter approval. One advantage of deferring the SOI decision for the full year is that the new city council has time to consider the SOI in connection with the new city's general plan process.

Beginning in January of 2001, LAFCOs are required to undertake a municipal service review prior to the adoption or update of an SOI (§56430). Incorporation proponents need to consult with LAFCO to determine how and when a service review will be prepared for an incorporation proposal or a newly incorporated city. OPR recommends that LAFCO develop a policy that clearly states when a service review for an incorporation proposal or a newly incorporated city will be conducted. The policy should also clearly state when a service review will be prepared for other agencies whose boundaries or SOIs may change as a result of incorporation.

F. PAYING FOR THE INCORPORATION APPLICATION.

Fees for incorporation proposals vary and are set by each LAFCO. All LAFCOs should adopt general fee schedules to allow potential applicants the ability to estimate the potential incorporation costs.

Incorporation proposals can be charged on an actual cost-recovery basis, on a deposit system, as a set fee or by other methods. Proponents are required to fund the incorporation effort, including the costs of LAFCO to develop information and process the application. The cost of incorporations has ranged from $50,000 to $150,000 based on the experience of several incorporation efforts over the past 5 years.

LOAN FROM THE STATE

For an incorporation that has been initiated by a successful petition, LAFCO (§56383(g)) may forward a request for a loan from the Controller of the State of California. The State, not LAFCO, can approve the loan which then becomes an obligation of the new city. Repayment of the loan must be made within 2 years of the effective date of the incorporation.

Since incorporation is almost always a volunteer effort, raising the necessary funds can be a challenge. For incorporation proceedings that have been initiated by a successful petition, LAFCO may, upon receipt of substantial proof submitted by the proponents that they are unable to raise sufficient funds, take no action on the proposal and forward a written request for a loan to the Controller of the State of California (§56383(g)). This is a new provision of the Cortese-Knox-Hertzberg Act. The proponent's written request should state the amount requested and should be sufficient to cover incorporation expenses. The written request may also include, but is not limited to, the following:

- Bank statements of incorporation accounts
- Audit of funds of incorporation accounts
- Affidavits signed by the proponents
- Information as necessary to verify that the incorporation proponents are unable to raise sufficient funds

LAFCO shall forward the loan request, along with the certification of insufficient funds as supplied by the proponents, to the State Controller by registered mail. State funds are NOT automatically granted to an incorporation effort and are subject to availability and other budgetary limitations of the State. It should be noted that LAFCO has no discretion or authority over the State funds or incorporation loans; LAFCO's role is to simply forward the request and certification to the State Controller for consideration.

If the loan is approved, repayment of the loan shall be made a term and condition of LAFCO approval and may be included as part of the ballot measure when incorporation goes to the voters. If the incorporation is successful, the loan shall become a legal obligation of the newly formed city and shall be shown as an expense in the budget projections of the CFA for the proposed city. Repayment of the loan must be made within two years of the effective date of incorporation. If the incorporation proposal is denied by the Commission or defeated at an election, the loan shall be forgiven.

V. REVIEWING THE APPLICATION: LAFCO STAFF ANALYSIS

After the incorporation application and fees have been submitted, LAFCO staff will mail a notice of receipt of the application to all interested and affected agencies and the proponents (§56658).

LAFCO staff then has 30 days to review the application for completeness. If the application is considered complete, LAFCO's Executive Officer will issue a Certificate of Filing (§56651) which indicates that the application is ready for a public hearing. LAFCO must then set a public hearing for the incorporation within 90 days. However, if the application is not complete, LAFCO's Executive Officer must notify the applicants within 30 days of submittal if the application is incomplete and must specify those parts of the application which need additional information (§56658(g)) to be deemed complete.

Once the application is complete, LAFCO staff must analyze the merits of the proposal, evaluate it for consistency with existing laws and adopted LAFCO policies and procedures, conduct the environmental review, prepare or cause to be prepared the CFA, complete the revenue neutrality process and prepare the Executive Officer's report. As necessary and as provided in the Cortese-Knox-Hertzberg Act (§56652), LAFCO's Executive Officer can also request additional information to process the incorporation application. The staff review may take up to a year depending on the completeness of application, the complexity of the proposal and the experience and staffing level of LAFCO.

A. ENVIRONMENTAL JUSTICE CONSIDERATIONS IN INCORPORATIONS

In analyzing the merits of the proposal, LAFCO staff should consider their responsibilities under federal and state civil rights and environmental justice laws. This chapter describes the framework for developing an effective review process which reflects the laws and policies related to civil rights and environmental justice.

Factors that are required to be considered in the review of the proposal and that may have significant civil rights and environmental justice implications include, among other items, population, per capita assessed valuation, the need for organized community services including the present cost and adequacy of existing services and the probably effect of the incorporation on the area and adjacent areas (§ 56668). Further, LAFCO is required to specifically identify the effect of the proposed action on social and economic interests in the proposed new city and the county government structure.

In order for civil rights and environmental justice to be properly considered, OPR recommends that relevant information collected during municipal service reviews as well as other local studies on social and economic indicators in the region be used in considering the incorporation proposal.

In general, federal and state civil rights laws prohibit actions by public entities which disproportionately affect one category of individuals including, but not limited to, race, creed, ethnicity, disability, family status, sexual orientation and income.

Environmental justice is defined in state law as the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies (GC §65040.12(e)).

Environmental justice has particular implications for review of incorporation proposals, as LAFCO will be considering boundaries and service plans that directly address who will be included and who will excluded from the new city and what impact the inclusion and exclusion will have on the both the residents of the new city and the surrounding community including those that may have been historically undeserved and/or environmentally overburdened.

Staff and Board Training

OPR recommends that LAFCOs provide for ongoing training of staff and board members relative to the application of federal and state civil rights statutes that apply to local government entities.

The 2000 amendments to CKH Act also recognize the potential impact of LAFCO decisions on environmental justice. (GC §56001):

> "Encourage orderly growth and development which are essential to the social, fiscal, and economic well-being of the state… The Legislature also recognizes that providing housing for persons and families of all incomes is an important factor in promoting orderly development. Therefore, the Legislature further finds and declares that this policy should be effected by the logical formation and modification of the boundaries of local agencies, with a preference granted to accommodating additional growth within, or through the expansion of, the boundaries of those local agencies which can best accommodate and provide necessary governmental services and housing for persons and families of all incomes in the most efficient manner feasible. "

Other sections of these guidelines provide guidance on boundaries, service plans and adoption of sphere's of influence. Appendix H includes additional background on LAFCO's civil rights and environmental justice responsibilities.

These guidelines include a number of recommendations which encourage broad public participation and incorporation proposal analysis which would affirmatively support the civil rights and environmental justice responsibilities of LAFCO including:

- Educate the public on the role of LAFCOs and the incorporation review process. Appendix A includes a "Primer on Incorporations" that was developed to assist LAFCO with this purpose.
- Adopt general policies and procedures relative to the undertaking of the review of incorporation applications. This will avoid any appearance of an unequal review of some applications.
- Develop and publish a schedule for review and Commission consideration to maximize the ability of the public to participate in the process.
- Convene stakeholders and facilitate collaborative efforts to address issues and challenges that are identified during the early consultation with the proposal proponents which may, ultimately, eliminate the need for the incorporation of a new city.

Consider the impacts of the proposed incorporation across county lines if that would more appropriately address the community of interest.

- Publish the Draft Executive Director's Report and provide for a 21-day public review period before scheduling the report to be considered by LAFCO.
- Hold meetings and public documents in language other than English, where affected populations are reasonably expected to be non-English speakers.
- Sponsor public workshops prior to the hearing at which the incorporation proposal will be considered.

B. Preparation of the Comprehensive Fiscal Analysis (CFA)

The CFA (§56800) is a critical part of LAFCO's Executive Officer's report. It includes several legally required components and is usually prepared and processed in a series of sequential steps. Those steps are described in the following sections.

OPR recommends that preparation of the CFA begin after submittal of an application to LAFCO to ensure that multiple versions of the CFA do not have to be prepared. This will help to keep costs and preparation time at a minimum.

As previously mentioned, it is important in the preparation of the CFA to have identified alternative boundary scenarios early in the incorporation process. The early identification of alternative boundaries will allow greater efficiency in the collection and segregation of related costs and revenues. Adding or excluding areas can have a significant impact on the CFA, on revenue neutrality, and on the amount of property tax transfer. The revenue neutrality impact analysis of the CFA should also incorporate alternative boundary scenarios so that any agreement on a revenue neutrality mitigation payment plan can be adjusted to reflect the financial impacts of alternative boundaries.

The CFA must also address revenue neutrality. Incorporations should not occur primarily for financial reasons (§56815) and, under the Cortese-Knox-Hertzberg Act, should result in a similar exchange of both revenue and responsibility for service delivery among affected agencies. Negative financial impacts to affected agencies must be identified and mitigation measures proposed. A suggested process for determining revenue neutrality impacts and mitigation is also described in a subsequent section of these Incorporation Guidelines.

1. Gather Financial and Service Level Data

Existing law requires LAFCO to prepare the CFA (§56800) from data provided by affected public agencies, franchise agencies and the county. Data collection should be coordinated by LAFCO to ensure that it is efficient and cost-effective.

The data collection begins with a data request letter mailed, generally by LAFCO, to all agencies with territory within or currently serving the proposed area of incorporation. The data request letter must also be sent to the county committee on school district organization and each school district within the proposed incorporation boundary. The data request letter should also include a provision that the agency both acknowledge receipt of the letter within 15 days and that it respond to the content of the letter within a specified and reasonable time frame as established by LAFCO's Executive Officer (§56658(b)). In the case of state agencies needing to provide data, the Executive Officer is encouraged to communicate with the agency to establish a reasonable timeframe.

> **PLAN AHEAD**
>
> Close coordination is critical in the preparation of a CFA. Often LAFCO and incorporation proponents begin working with agencies and the county a full year ahead of the submittal of the application to ensure efficient timing of data collection.

In the data request letter, the affected agencies should be asked to verify existing levels of service, associated costs, and revenues associated with the provision of service(s) to the proposed incorporation area. This information is used to establish the base year costs and revenues (§56810).

Data used for the CFA must be from the most recent fiscal year for which data are available preceding the issuance of the Certificate of Filing (§56800). When the prior fiscal year data requested by LAFCO is unavailable, the responses to LAFCO's data request letters and/or the CFA shall document the source and methodology of the data used.

Counties end their fiscal year on June 30th; however, the final financial data may not be available until August or September due to the length of time needed to assemble and prepare the financial information. The Executive Officer's report and CFA must be completed and heard at a public hearing by LAFCO's Commission within the same fiscal year or the data must be updated and/or a new CFA prepared. Therefore, the timing of data collection is critical to an incorporation. OPR recommends that data request letters be sent to all agencies and county departments at the start of a fiscal year (July 1) although data may not be available until August or September. Responses should be received by October or November if the CFA and LAFCO Executive Officer's reports are to be completed during the current fiscal year.

If precise cost figures and levels of service are not available or if the reporting agency does not collect data specific to the proposed incorporation area, the reporting agency must document the source of information and the method used to extrapolate the data. Projected general government costs are frequently based on staffing levels, salaries, and associated costs for cities of similar size. LAFCOs and proponents can use the data gathered from affected agencies to establish a service plan.

2. Establish a Service Plan

The CFA must analyze the fiscal implications of proposed changes in services (§56810).

Cities can provide services through one of two models. A municipality can be a "full-service" city which means that it provides all municipal level services (such as fire, police, garbage collection, water, sewer, etc.) through city employees in departments governed by the city council. Alternatively, a city can be a contract city, providing many of these services through contract(s) with service providers such as special districts, the county or private companies providing contract municipal services. Either model can be successful but has different impacts on data collection and ultimately on the CFA.

To determine which agencies or county service departments must be contacted to provide data, it is necessary to know what services are proposed in the service plan to be transferred to the new city. California cities are ***required*** to provide only a limited number of municipal services, including:

- General legislative functions.
- Land use planning and control over land use and development. (May also be provided by means of a contract with other entities such as the county or private firms.)
- Law enforcement (May be provided by means of a contract with other entities).
- Animal control (May also be provided by contract).
- Maintenance of public roads and other public property owned by the city. (May also be provided by means of a contract with other entities such as the county or private firms.)

The agencies, special districts and/or county departments providing these services should receive a data request letter.

The following are services that a city **may** provide and, if it does, then data needs to be collected to analyze the costs associated with providing these services:

- Fire protection and suppression
- Libraries
- Parks and recreational services
- Street lighting
- Street median maintenance
- Domestic water
- Wastewater treatment and disposal
- Solid waste management
- Flood control
- Social services or community services

Existing law requires any public agency to furnish LAFCO's Executive Officer with any records or information that are needed for the preparation of the CFA or Executive Officer's Report (§56658(b)(2)).

OPR recommends that all agencies or departments providing these services be sent data request letters if changes in the provision of services are part of the incorporation proposal.

Time and money can be saved in the data gathering process if LAFCO maintains a consistent schedule for undertaking municipal service reviews.

Exhibit 3 is a hypothetical example of which services might be transferred to a new city and would therefore have to be analyzed as part of the CFA.

EXHIBIT 3

EXAMPLE

TRANSFER OF SERVICE RESPONSIBILITY

Public Service	Current Provider	Post-Incorporation Provider	Level of Service	Funding Source
Animal Control	County	New City (contract with County	No Change	User Fees, General Fund
Administrative Services (§56650-56668.5)	County	New City	Likely Increase	General Fund
Wastewater	Water District	Water District	No Change	User Fees, Property Tax
Water	Water District	Water District	No Change	User Fees, Property Tax
Emergency Medical	County Fire District	County Fire District	No Change	User Fees, Fire Fund, Property Tax
Fire Protection	County Fire District	County Fire District	No Change	Fire Fund
Drainage/Flood Control	County	New City (local) and County Flood Control District (regional)	No Change	County Flood Control Property Tax, General Fund
Land Use Regulation	County	New City	No Change (demand-based)	User Fees, General Fund
Libraries	County Library District	County Library District	No Change	District Property Taxes, Fines and Fees, State Aid
Building Inspection	County	New City	No Change (demand-based)	User Fees
Police Protection	County	New City (contract with public agency)	Likely Increase	General Fund
Trash Collection and Disposal (public)	County (franchise with private firm)	New City (franchise with private firm)	No Change	User Fees
Road Maintenance, Public Works	County	New City	Likely Increase	Fuel Taxes, General Fund
Public Transit	County Transportation Authority	County Transportation Authority	No Change	User Fees, Grants, Subventions and Property Taxes
Parks and Recreation	County Service Area or Community Services District	New City	Likely Increase	User Fees, General Fund
Street Lighting	County	New City	No Change	General Fund

3. Establish Base Year Costs

Once data gathering is complete, LAFCO will develop an estimate of the base year costs (§56800(a)). Base year costs are the costs to provide municipal level services if the incorporation area had been a city during the base year. The primary examples of identifiable base year costs include law enforcement, animal control, public works administration (not funded by gas tax revenues), code enforcement and the net cost of land use planning and regulation.

WHAT IS NOT INCLUDED IN BASE YEAR COSTS

- Revenues that were not realized, received or collected during the base year.
- Project specific revenues, such as development impact fees.
- Special revenues used to cover costs such as federal grants or CDBG funds.
- Revenue from development currently under construction. For example, a new commercial development, which would not go on the tax rolls and did not produce sales tax or user tax revenues until the fiscal year following the base year, would not be included.

Base year costs are used to determine a base year budget as well as the property tax revenue transferring to the new city and ultimately, the new city's ability to provide adequate municipal services. Base year costs (and revenues) are also used to calculate revenue neutrality (§56810).

When determining base year costs, LAFCO must include all direct and indirect costs associated with the current provision of existing services in the proposed incorporation boundary. These costs should reflect the actual or estimated costs at which the existing level of services could be provided by the proposed city and should include any general fund expenditures necessary to support or subsidize a fee-supported service if the costs of providing the service are not fully recovered through fees.

LAFCO must identify the costs being transferred to the new city that will result in an administrative cost reduction to other agencies. LAFCO should also compare the costs of any existing services to the costs of services provided in cities with similar populations and geographic size that provide a similar level and range of services. This may help to determine a reasonable estimate of the costs expected to be borne by the new city.

Revenues should not be included in the base year budget unless they were realized, received or collected during the base year. Revenues, which were project-specific or are used to cover, either partially or wholly, costs are usually not included. These offsetting revenues might include federal monies used for specific projects. Finally, revenue resulting from development currently under construction is excluded from the base year costs. For example, a new commercial development, which would not go on the tax rolls and did not produce sales tax or user tax revenues until the following fiscal year, would not be included.

4. Calculate Property Tax Transfer

An important component of the CFA is the calculation of the estimated transfer of property tax from the county and any affected special districts to the new city. The property tax transfer calculation results in the county and affected special districts transferring property tax revenues to the new city in proportion to the services responsibilities assumed by the new city.

The Cortese-Knox-Hertzberg Act (§56810) provides a formula by which a share of the property taxes is transferred from the county and special districts to a newly incorporated city. The property tax transfer, or allocation, to the new city is calculated by LAFCO by multiplying the total net cost of transferred services by the Auditor's ratio, as described below and shown in Exhibit 4, Calculation of Property Tax Transfer. LAFCO determines the total net cost, based on information supplied by the county and other affected local agencies as described during data gathering, of all services to be transferred to the new city.

NET COSTS

Net cost includes both direct costs and overhead (indirect costs) funded by general-purpose revenues. The total net cost excludes any portion of the total costs funded by special purpose revenue, federal revenues, and revenues derived from fees, charges or assessments. Examples of these revenues include land use planning fees, building permit fees, gas tax revenues, landscape and lighting assessments, and animal licensing fees.

The total amount of revenue from all sources available for general purposes means the total amount of revenue, which an affected local agency may use on a discretionary basis for any purpose. The total amount of revenue does not include revenue (§56810(a-c)) which, by statute, is required to be used for a special purpose; revenue from fees, charges, or assessments which are levied to specifically offset the cost of particular services and do not exceed the cost reasonably borne in providing these services; and revenue received from the federal government which is required to be used for a specific purpose. Revenues that were project specific or were used to either partially or wholly cover costs for a specific project are also usually not included.

The total net cost is multiplied by the Auditor's ratio to produce the base property tax allocation, or the amount to be transferred to the new city. The Auditor's ratio is the ratio of property taxes allocated to the general fund of the county and each affected agency during the prior fiscal year to all revenues received by the county and affected agencies for general purposes during the prior fiscal year. The Auditor-Controller of the affected county determines the ratio.

The Auditor-Controller establishes the ratio each year pursuant to Section 93 of the Revenue and Taxation Code. Auditor-Controllers from different counties may determine the ratio by different methods. LAFCO, the county and the proponents should review the methodology of the Auditor-Controller to determine if the ratio is consistent with existing law and the recommendations of these guidelines. LAFCO's Commission uses the Auditor's ratio and the net cost of services to determine the amount of property tax revenue to be transferred to the new city. (See Exhibit 4, Calculation of Property Tax Transfer and Exhibit 5, Example: County Property Tax as a Percentage of Revenue Available for General Purpose.)

The formula used by LAFCO to determine the base property tax transfer as established in Government Code Section 56810 is depicted below.

Total Net Cost of Transferred Services x Auditor's Ratio = Base Property Tax Allocation

EXHIBIT 4

EXAMPLE

CALCULATION OF PROPERTY TAX TRANSFER

A. 2000-01 County Cost Estimates

	Net County Cost
Sheriff Department	$2,929,347
Animal Control	74,480
Code Enforcement	53,829
Street Lighting	116,878
Total Expenditures – General Fund	**$3,174,534**

B. Transfer of Tax Base

Total Expenditures Subject to Transfer	$3,174,534
County Auditor's Ratio 2000-01	28.84%
Property Tax Base Transferred from County	$915,560

C. Calculation of Tax Allocation Factor (TAF)*

Assessed Value (FY 2002/2003)	$4,051,833,786
Total Property Tax Collected @1% AV	40,518,338
Property Tax Base Transferred from County	$915,560
Tax Allocation Factor	2.26%

*Please note that this is a simplified version of the calculation of TAF. This calculation can be more complex and the tax rate may vary within the new city.

EXHIBIT 5

EXAMPLE

COUNTY PROPERTY TAX AS A PERCENTAGE OF REVENUE AVAILABLE FOR GENERAL PURPOSES

Item	2000-01 Revenues
PROPERTY TAX REVENUE	
Current Secured	$47,064,968
Current Unsecured	2,489,979
Prior Unsecured	62,117
Supplemental – Secured	791,623
Supplemental – Unsecured	14,107
Penalties & Cost Delinquencies	3,307,826
Airplane	210,462
Timber	95,059
Racehorse	10,381
Total	**$54,046,522**
OTHER GENERAL PURPOSE REVENUE	
Redemption Fees	$111,446
Deed Fees	2,870
Sales Tax	12,409,401
Property Transfer Fee	1,558,301
AB 1661 – ERAF	1,457,906
Franchise Fee	2,514,174
Interest Income	12,264,030
Commissions	12,175
Rental Income	182,969
Motor Vehicle-In-Lieu	47,845,516
Other State in-lieu taxes	15,469
Tobacco Tax	10,453,426
Homeowners In-Lieu	1,084,732
Williamson Act	5,813,928
State Other	2,837,000
Net Revenue Available for General Purposes	**$98,563,343**
TOTAL GENERAL PURPOSE REVENUES	**$152,609,865**
Property Tax as % of General Purpose Revenues	**36.32%**

5. Develop Budget Projections

Using the financial data gathered from agencies providing services during the prior fiscal year, the base year costs/revenues and the property tax transfer as determined by LAFCO, the CFA must include budget projections for the proposed new city (§56800(a-c)). Budget projections must include:

- The costs to the proposed city of providing services during the three fiscal years following incorporation.
- The revenues of the proposed city during the three fiscal years following incorporation.
- The effects of the costs and revenues on any affected local agency during the three fiscal years following incorporation.
- Any other information needed to make the findings as required for an incorporation proposal.

TESTING LONG-TERM FINANCIAL FEASIBILITY

To accurately analyze the long-term financial feasibility of a proposed incorporation, OPR recommends that the CFA provide budget projections for ten (10) years to reflect the drop in revenues collected by the new city after the state revenues decrease in the eighth year.

Existing law requires budget projections for only the first three (3) years after incorporation. However, during the first seven (7) years after incorporation, a city receives some state revenues based on a formula of three (3) times the number of registered voters. After the seventh year, revenues, such as Motor Vehicle In-Lieu fees and State Gas taxes, are subject to a formula based on the actual population of the city. The revenues received during the first seven years after incorporation may represent a significant but impermanent level of funding for any new city. A ten-year projection allows for a more accurate estimate of a new city's long-term financial feasibility. Generally, the budget projections should reflect a reasonable cost of living increase or inflationary factors.

A CFA must also include in its budget projections a transition period budget. A transition period is the time between the effective date of the incorporation and the date on which the new city must assume full service responsibility. The effective date is significant because the flow of revenue to the new city is affected by that date. For example, third quarter sales tax revenues are generally not received by a city until the end of the fourth quarter. Please refer to the section site chapter and section on Effective Date for a more complete discussion of this issue.

During the transition period, the new city receives certain revenues but services are still provided by the county. This allows the city time to organize its operations in anticipation of full city-hood. The new city receives certain revenues during this period, such as motor vehicle in-lieu fees and sales taxes that may allow it to create a fund balance to carry over into the first full fiscal year. To make this calculation, the CFA needs to assume an effective date and the length of the transition period. The effective date should be established by LAFCO working with the incorporation proponents.

Finally, the CFA's budget projections should be presented on a cash basis. New cities must operate on a cash basis since they have no initial fund balances on which to depend for cash flow. Further, the cash basis approach provides a more realistic picture of both the year-end surpluses (or deficits), which will be experienced by the new city. See Appendix G for information on typical sources and uses of municipal funding.

a. Establish Budget Projections: Revenues

The new city's general fund and special purpose revenues usually come from a variety of revenue sources. A CFA, at a minimum, should provide estimates of revenue from the following revenue sources:

i. Base Property Tax Allocation

As discussed above, the Cortese-Knox-Hertzberg Act provides a formula by which a share of the property taxes is transferred from the county and other affected local agencies to the new city. The process requires LAFCO to determine the total net cost of transferred services based on information supplied by the affected local agencies, during the prior fiscal year. The net cost includes both direct and indirect costs funded by the general fund. The total net cost is multiplied by the Auditor's ratio. LAFCO uses the Auditor's ratio and the net cost of transferred services to determine the annual amount of property tax for the new city. The base property tax can increase each year as allowed per statute and by any change of ownership and new development.

PROPERTY TAXES

As a result of Proposition 13, the property tax rate is constitutionally limited to 1% of assessed value. Cities must share the 1% revenue with other agencies providing services such as schools, counties and special districts. On a statewide basis cities currently receive an average of 11% of total property tax revenues. Counties receive - 13%.

Besides establishing the maximum property tax rate, Proposition 13 also limits the rate at which the assessed values of individual properties may increase. Specifically, the assessed value may increase by an annual rate of no more than 2% when held in the same ownership, and is increased to market value at the time of sale. The total property tax collected will increase as property ownership changes and new development takes place.

ii. Special District Property Taxes

Current property tax revenues of certain special districts that are dissolved (see Service Plan) or have territory detached as a result of incorporation would be transferred to the new city upon incorporation. The new city may also receive the current fund balance (reserves) of the affected dependent special district upon dissolution or a proportionate share of the fund balance and service liabilities upon detachment of territory from the district. Redevelopment agencies and Mello-Roos districts may not be affected by incorporations but proponents should work closely with the county and LAFCO to determine any impacts of incorporation on these agencies.

iii. Property Transfer Taxes

The amount of Property Transfer Tax received by the new city will depend upon the level of resale activity and new development within the incorporation area. A conservative annual property turnover rate should be assumed, based upon information from the county, land developers, and/or real estate agents in the area.

iv. Sales Taxes

Upon incorporation, the new city will be eligible to receive a percentage of the sales tax charged on qualifying retail sales from businesses within the proposed incorporation area. The estimated sales revenues should be based on data from the State Board of Equalization.

v. Transient Occupancy Taxes (TOT)

If the proposed incorporation area contains hotels, motels or other facilities that provide short-term and/or overnight accommodations, a similar amount of TOT revenues previously collected by the county can be assumed to be available to the new city to the extent that the new city imposes, at least initially, a similar level of TOT. This data can obtained from the county and is based on the approved TOT rate, average daily room rates, and estimated daily occupancy rates.

SAMPLE CITY BUDGETS AVAILABLE FROM LEAGUE OF CALIFORNIA CITIES

Through a joint service of the California Society of Municipal Finance Officers (CSFMO) and the League, more than 100 city budgets are available through the League library. (www.cacities.org)

CSMFO encourages members to develop budgets that are useful as both a management and communication tool. To this end, CSMFO offers a budget review and awards program that recognizes city budgets that meet specific presentation criteria. One copy of each budget is submitted as a loan copy for the League library.

Incorporation proponents may be interested in examining budgets from a similar region or cities with a comparable size population.

vi. State Revenues

Upon incorporation, the new city will be eligible to receive Motor Vehicle In-Lieu Fees and off-highway vehicle license taxes. These revenues are collected by the State's Department of Motor Vehicles and allocated to cities on a per capita basis. These revenue sources are based on three (3) times the number of registered voters during the first seven years after incorporation. At the beginning of the eighth year, the State will recalculate these revenues based upon the actual population of the city.

vii. Franchise Fees

Upon incorporation, the new city will receive franchise fees currently paid to the county by the affected utilities including gas, electric and cable television providers. Additional franchise fees may also be received from the new city's solid waste disposal/recycling service if applicable. The estimated annual franchise fees can be obtained directly from the county or utilities during the data-gathering phase of the CFA preparation.

viii. Road Related Revenues

A significant portion of road fund revenues are calculated and allocated to cities on a per capita basis. Similar to other state revenues, road fund revenues are initially based on three times the registered voter population. In the eighth year following incorporation, these revenues would be adjusted to account for the actual population rather than three times the registered voter population. Revenues derived from these gasoline taxes are restricted to use on road maintenance and improvement.

ix. Transportation Related Local Sales Taxes

Voters in many urban counties impose an additional sales tax levy through a ballot measure to fund transportation improvements. Apportionment of these sales tax revenues may be based on a formula using population, miles of public roads and taxable sales.

x. Other Revenues

Estimates for other revenues can be obtained from the county and include land use related, planning, permit and inspection fees, motor vehicle code fines and forfeitures, and other miscellaneous revenues including DMV abandoned vehicle reimbursement, parking fines, non-planning related charges for services, regulatory fees, applicable parcel taxes and assessments, and other charges.

b. Establish Budget Projections: Expenditures

In general, the new city's level of expenditures will be based on the cost of transferred services currently provided by the county and other local agencies. However existing law does not provide an exact formula for establishing the first year's expenditures for a new city. Budget projections are based on a series of judgment decisions related to other established cities, past experience and the type and levels of services. In addition, the level of services provided and the type of provider (either the new city or a contract entity) will impact the annual projection of cost. OPR recommends that LAFCO clearly identify the assumptions underlying the projections of costs. These projected costs can also be based on a review of the budgets of similar sized cities. The types of expenditures usually include:

- General governmental administrative functions such as: city manager, city clerk, city attorney, and finance director.
- General governmental administrative operations and facilities such as: telephones, computers, photocopy machines, office space and council meeting location.
- Community development such as land use planning and regulation, permit issuance, and code enforcement.
- Public safety such as law enforcement, fire protection, emergency medical and animal control.
- Public works such as street maintenance and repair, street lighting, landscape and park maintenance, storm drain maintenance and repair, local flood control, and public facility maintenance and repair.
- Community services such as parks, open space, libraries, cultural arts, senior citizens and adult and youth recreation programs.
- Non-departmental costs such as lease/rent for office space, utilities, liability insurance costs, communication and computer expenses, custodial services, and miscellaneous supplies.
- Water and sewer and other utility services.
- Transition year repayment, is the reimbursement to the county for the net cost of services provided during the transition year.

A contingency fund based on a percentage of estimated expenditures should be reflected in the CFA projections to cover unforeseeable expenses. Most cities attempt to reserve a minimum percentage of the operating budget in unappropriated reserves as prudent fiscal policy. OPR recommends that a contingency fund in the range of 10-20% of estimated expenditures be included in the CFA.

THE GANN LIMIT

Proposition 4, the Gann Initiative approved by the California voters in 1979, sets a constitutional appropriations limit on governmental agencies.

The appropriations limit is simply the amount of money that a governmental agency can spend in a fiscal year. The appropriations limit is determined provisionally by LAFCO during the incorporation process.

The voters at the first municipal election held following the first fiscal year after incorporation set a permanent appropriations limit. See Section V. (A.5.c) and Exhibit 6 for an example of the calculation for the Gann limit.

It is important to note that the CFA may show a cumulative funding surplus, but that funding surplus should not be directly identified as an operating reserve. A reasonable unappropriated reserve fund, in addition to a contingency fund, is necessary. Although the preferred level of a reserve fund can vary and should be based on the past experience of comparable new cities, a minimum reserve of at least 10% is recommended. A reserve fund, in addition to a contingency fund, is required because:

- A new city has no historical track record on the cost or level of services required to meet the expectations of the newly incorporated community.
- Unanticipated expenditures could occur due to major disasters, emergencies, liability claims, and litigation settlements.
- Local finances may be subject to changes based on the State's budget.
- Changing economic conditions could result in a decrease in general fund revenues.
- Funds may have to be budgeted for non-road-related capital improvement projects. As the new city grows in staffing and assumes services from the county and outside contractors, there will be a need for new facilities, vehicles and other major equipment.

c. Determine An Appropriations Limit

The next step in preparing the CFA is the determination of an appropriations limit for the proposed city (§56812). LAFCO estimates the amount of revenue anticipated to be received by the new city in its first full year of operations from the "proceeds of taxes." These are revenues from taxes rather than from fees, assessments or service charges.

The second step is adjusting the amount of the "proceeds of taxes" to reflect an increase in the cost of living and to establish the provisional limit by projecting the second full operating year costs (including the impact of inflation and population changes). The inflation rate is assumed to be based on current accepted cost of living indices with an anticipated percentage population increase. Exhibit 6 depicts a hypothetical example of a calculation of a provisional appropriations limit.

The new city council shall determine the proposed permanent appropriations limit of the city that will be submitted to the voters. This limit is based on the amount of revenue actually received by the new city during the first full fiscal year of operation, adjusted for an increase in the cost of living and population during the next full fiscal year of operation. The permanent appropriations limit of the new city shall be set at the first municipal election, which is held following the first full fiscal year of operation.

EXHIBIT 6

EXAMPLE

DETERMINATION OF PROVISIONAL APPROPRIATIONS LIMIT

Proceeds of Taxes*

Property Tax	$1,087,018
Sales Tax	3,094,801
Motor Vehicle In Lieu	2,550,481
Property Transfer Tax	337,118
Section 2105	405,810
Section 2106	291,336
Section 2107	545,469
Section 2107.5	6,000
Transportation Sales Taxes	381,810
Subtotal	**$8,699,843**
Interest Earnings	521,991
Total Proceeds of Taxes	$9,221,834
Cost of Living Factor	3.00%
Population Growth	1.90%
Provisional Limit	$9,673,703

**These are estimates of revenues anticipated during the first full year of incorporation.*

d. Effective Date and Transition Period

LAFCOs must establish an effective date of incorporation. The effective date is the date upon which the new city is deemed organized or incorporated. During the period between the incorporation election and the effective date, the new city does not have legal standing but the newly elected city council can meet as a city council-elect. These meetings are primarily focused on getting organized for the effective date of incorporation. Activities usually include preparing the required legal documents to be adopted by the new city council on its effective date, securing a location to conduct city business and hold city council meetings, hiring of key interim staff, securing of interim insurance coverage and other administrative activities.

SELECTING AN EFFECTIVE DATE

The effective date of a new city can significantly impact the cash flow of a new city. Revenues received on a quarterly, bi-annual or annual basis (property and sales taxes and franchise fees) may be delayed and not immediately available to a new city based upon the effective date and the timely filing of the required documents to receive these revenues. It is strongly recommended that incorporation proponents coordinate the effective date carefully with LAFCO, the county and the State.

All city council-elect meetings are subject to the Ralph M. Brown Act. The legislative intent of the Brown Act is that public agencies conduct their business and make their decisions in open public meetings. Each board, commission, committee, or other body of a local agency created by charter, resolution or formal action of a legislative body is a legislative body itself and is covered by the requirements of the Brown Act. This includes the city council of a newly incorporated city.

On the effective date set by LAFCO (and following a positive vote in the election), the new city council begins to organize the new city's administrative structure at its first meeting by adopting the existing ordinances of the county. These ordinances will remain in full force for at least 120 days following incorporation or until the new city council adopts ordinances superseding the county ordinances, whichever occurs first.

Under State law, the new city does not assume direct responsibility for providing services during the transition period between the effective date of incorporation and July 1 following the effective date. The county and other affected agencies continue to provide municipal level services during the transition period while the new city prepares to take over this responsibility.

Following the transition period, the new city must provide the services that it is authorized to provide. The responsibility for police protection, accident investigation, animal control, land use planning, building and safety, and public streets, among other services, are transferred from the county and other affected agencies to the new city. The new city is then operational in all respects.

To ensure equity between costs and revenues for the county during the transition period, the county can request reimbursement for the net cost of services provided during the transition period (§57384). If the county requests reimbursement, LAFCO is required to impose it as a term of approval. The new city has up to five years to reimburse the county for the net cost, unless waived by the county (See Exhibit 7, Calculation of Repayment To County).

EXHIBIT 7

EXAMPLE

CALCULATION OF REPAYMENT TO COUNTY

A. Expenditures

Sheriff Department	$3,200, 977
Animal Control	90,269
Code Enforcement	58,821
Street Lighting	123,996
Gross Cost of Transition Year Services	3,474,062

B. Revenues

Property Tax	$915,560
Sales Tax	758,530
Franchise Fees	51,483
Fines and Forfeitures	11,300
Less Transition Year Revenues Received by County	1,736,872

C. Net Transition Repayment Amount	1,737,190
D. Annual Repayment for Five Years ($1,737,190 ÷ 5)	$347,438

Government Code Section 56810 defines net cost of services as:

- The total direct and indirect expenses to the county of providing services;
- Adjusted by any subsequent change in the Consumer Price Index, and
- Less any revenues, which the county retains, that was generated from the formerly unincorporated territory during the period of time the services were provided by the county.

e. Financial Feasibility

LAFCO must make a determination that the proposed city is expected to receive revenues sufficient to provide public services and facilities and ensure reasonable reserves during the three fiscal years following incorporation. Although it is assumed that it is the intention of all new cities to improve services, feasibility is best determined by comparing existing costs, revenues and levels of service to those expected after incorporation.

One of the key issues weighed in the evaluation of incorporation is the proposed city's fiscal feasibility and its impact on neighboring cities and communities. "Feasible" is broadly defined under the Cortese-Knox-Hertzberg Act as capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, legal, social and technological factors (§56038.5).

C. Revenue Neutrality

In 1992, the State enacted legislation designed to reduce the negative fiscal impact incorporations can have on counties and other affected agencies, termed "revenue neutrality." Under the revenue neutrality law (§56815) LAFCO cannot approve a proposal for incorporation unless it finds that the amount of revenues the new city receives from the county and affected agencies after incorporation would be substantially equal to the amount of savings the county or the affected agencies would attain from no longer providing services to the proposed incorporation area. A broad range of mitigation measures is permitted as is a less-than-substantially equal exchange if the county and affected agencies agree to the transaction.

WAYS TO ACHIEVE REVENUE NEUTRALITY

A broad range of mitigation measures to achieve revenue neutrality is permitted. These may include tax sharing agreements, lump-sum payments, payments over a fixed period of time, modification of incorporation boundaries or any other terms which are acceptable to all the parties involved. A less than substantially equal exchange of revenues and expenditures is also possible **if** the county and affected agencies agree to it.

1. Background

During the 1980s, unincorporated communities with high levels of revenue through sales tax and property tax were usually the first to successfully incorporate in the Post Proposition 13 period. Because sales and property taxes are generated on a geographic or situs basis, while municipal and countywide (regional) services are provided on an as-needed basis, it was possible to "capture" sales and property taxes by incorporating high tax generators into a new city. Doing so, however, deprived counties of necessary tax revenues, which, prior to the incorporation, had been available to pay for countywide services.

After Proposition 13, local agencies could no longer alter the property tax rate to compensate for lost revenue when a new city incorporated and started receiving sales and other tax revenue. Other communities in the unincorporated area who had relied on the county to provide municipal level services found their revenue sources reduced. Counties, facing revenue losses due to the incorporation, were forced to reduce services simply because there were no practical alternatives such as raising additional revenue.

The revenue neutrality law was an attempt to make the tax allocation more equitable by requiring LAFCO to ensure that counties and districts are held harmless from new incorporations. Counties have dual responsibilities for services. The County is the provider of law enforcement services in the unincorporated area. It often provides fire protection as well. Additionally, it is the county that provides for the rest of the criminal justice system to all county residents—services such as the District Attorney, correctional facilities, Probation, and Public Defender. In addition, the social services and public health care systems are almost exclusively provided by counties. These services are provided regardless of where people live and are funded by the same revenue stream that previously could be diverted to an incorporating city. Revenue neutrality has generally removed the financial incentive for communities to incorporate as counties do not lose more revenues over and above the costs associated with services to be transferred. However, counties may still have strong financial incentive to facilitate incorporations especially if there is strong citizen sentiment to create the new city, the county's financial base is assured, and the county may avoid the long-term costs of providing municipal level services to rapidly developing communities.

Funding the New City

Due to the revenue neutrality provisions in existing law, the new city may have approximately the same revenue base to provide services that the county or district had prior to incorporation.

If new fees or taxes are included in the ballot question, approval of the incorporation may require a two-thirds vote under Proposition 218.

The financial viability of the proposed new city is the primary fundamental question before LAFCO.

The incorporation of a new city usually requires additional expenditures for executive staff and governance cost for which there is no transfer of revenue from the county or district. Additional revenues that are provided to new cities by the State may offset some of these costs. Over time, the new city will be able to make land use decisions, reorder fiscal priorities and otherwise influence the future revenue streams of the city.

Incorporations that have occurred since the passage of the revenue neutral provisions have generally resulted in additional revenues or terms that are designed to facilitate the new city's fiscal health, particularly in the first years following the incorporation.

2. Revenue Neutrality Process

The revenue neutral standard in law (§56815(a)) is: "that any proposal that includes an incorporation should result in a similar exchange of both revenue and responsibility for service delivery among the county, the proposed city and other subject agencies". Section 56815(b) prohibits LAFCO's approval of an incorporation proposal unless it finds that revenues and expenditures are "substantially equal". Section 56815 thus favors neither the new city nor the county or district. Section 56815(c)(1) does provide authority for LAFCO to approve a proposal that is not revenue neutral if both (all) parties agree to the proposal's fiscal effects.

A revenue neutral process, conducted as a part of an incorporation proceeding, should serve to bring the parties affected by the incorporation proposal together for the purpose of reaching a mitigation agreement (if required) that all parties can endorse and will serve as the factual basis for the findings required by §56815. Even if agreement among the parties regarding fiscal mitigation cannot be reached, the process will still provide the factual basis for the development of potential mitigation measures that may be imposed by the Commission. Refer to Exhibit 8 for an illustration of a Typical Revenue Neutrality Negotiation Process.

The purpose and intent of the revenue neutral policy is to:

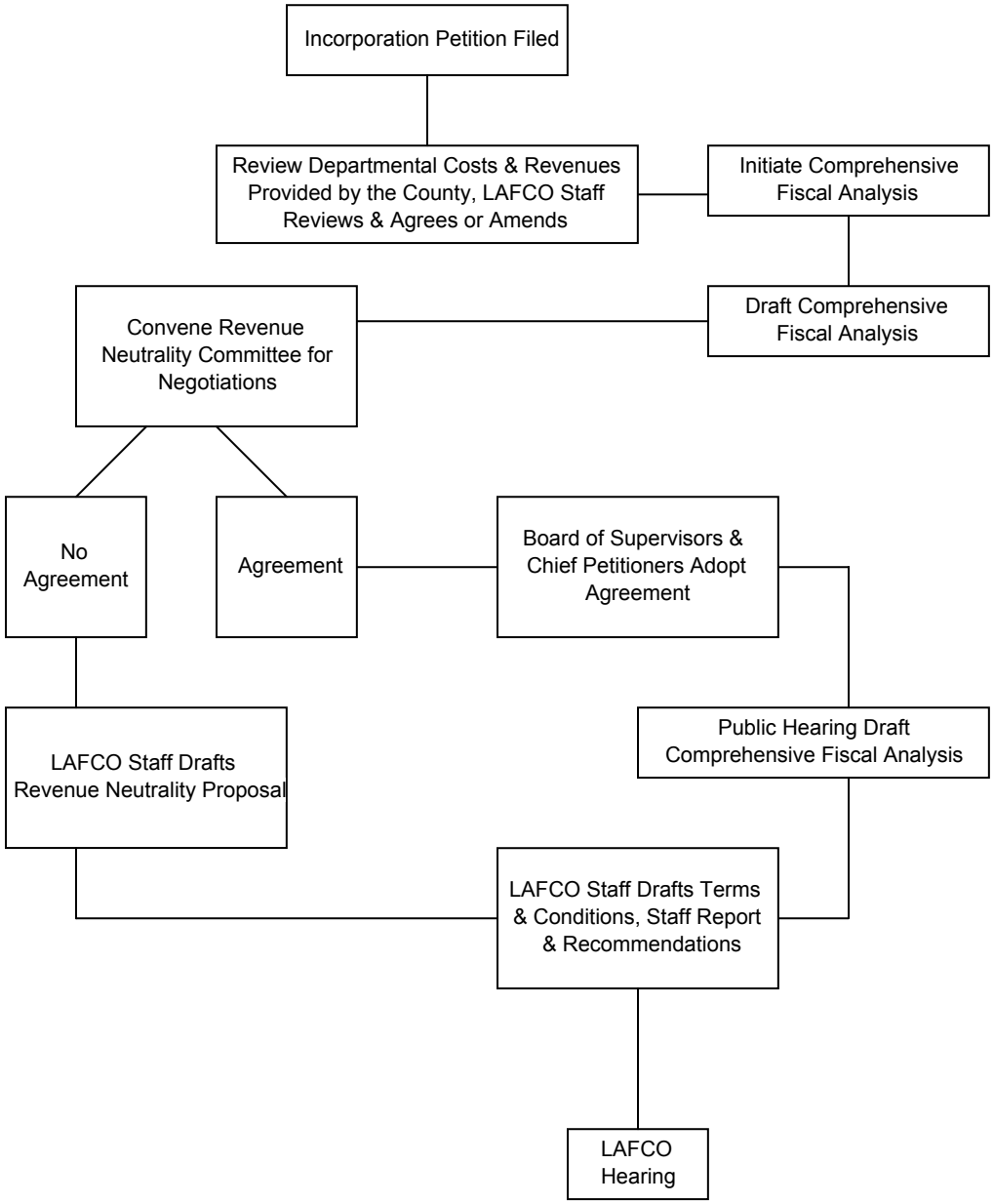
- Prescribe the process for data collection, analysis and discussion of the elements that must be included in a revenue neutral transaction.
- Assist participants in the process to develop proposed terms and conditions that will meet the standards prescribed in the law and enable LAFCO to make the necessary findings.
- Help the parties to reach a revenue neutrality agreement through a rational and predictable process by facilitating the gathering of information from affected parties or fiscal consultants, providing a forum for negotiations, and guiding LAFCO staff when serving as an intermediary to resolve conflicts in the negotiations.
- Develop a basis for a default revenue neutral finding/agreement if one is not forthcoming in the negotiation process.

OPR recommends LAFCOs develop policies for the purpose of implementing revenue neutrality requirements (§56815). The following process is suggested for determining and resolving the issue of revenue neutrality. It is intended to be a model only; individual LAFCOs should either adopt this policy or a revenue neutrality process tailored to unique local conditions. All revenue neutrality policies should be reviewed by legal counsel to ensure compliance with existing law and to ensure that any terms and conditions are legally enforceable.

EXHIBIT 8

EXAMPLE

TYPICAL REVENUE NEUTRALITY NEGOTIATION PROCESS



a. General Requirements for Revenue Neutrality

Any proposal that includes incorporation should provide for a similar exchange of both revenue and responsibility for service delivery among the county, the proposed city, and other affected agencies. LAFCO may not approve a proposal that includes an incorporation unless it finds that the following two quantities are substantially equal §56815(b):

- Revenues currently received by the local agency transferring the affected territory that, but for the operation of revenue neutrality, would accrue to the local agency receiving the affected territory,
- Expenditures, including direct and indirect expenditures, currently made by the local agency transferring the affected territory for those services that will be assumed by the local agency receiving the affected territory.

LAFCO may approve a proposal that includes an incorporation if it finds either of the following:

- The county and all of the subject agencies agree to the proposed transfer (§56815(c)), or
- The negative fiscal effect has been adequately mitigated by tax sharing agreements, lump-sum payments, payments over a fixed period of time, or any other terms and conditions pursuant to §56886.

The terms of a revenue neutrality agreement must be negotiated between the proponents, county and special district officials in accordance with a policy adopted by the local LAFCO. The agreement may be in the form of revenue sharing, lump sum payments, payments over a fixed period of time, or any other term and condition (§56815(c)(2)).

Revenue neutrality negotiations are initiated during the preparation of the CFA. After the preliminary results of the CFA are compiled, the county, proponents and LAFCO use the information to structure payments for revenue neutrality. The negotiated terms of the agreement are then used to create the public hearing draft of the CFA for consideration by LAFCO during the public hearing on incorporation.

b. Method of Calculation

The calculation of revenue neutrality should be based on the following standards (see Exhibit 9, Calculation of Revenue Neutrality Payment) and agreements should be negotiated pursuant to the following policies:

- Revenue neutrality agreements should be based on county costs and revenues for the most recent prior year for which data are available.
- Only identifiable and recurring revenues and expenditures should be evaluated for purposes of determining revenue neutrality. Generally, anticipated or projected revenue growth should not be included.
- Expenditures for services transferred to a new city should be evaluated on a "net cost" basis. Services funded on a full cost recovery basis (such as building inspection) are by definition revenue neutral and should not be included in the analysis.

- Costs of capital improvements are nonrecurring costs and should not be included in the calculation.
- Countywide costs for regional services and administrative functions including Chief Administrative Officer, Clerk of the Board, Auditor-Controller, Board of Supervisors and other administrative functions, which are required to support county governance of both incorporated and unincorporated areas, should not be included in defining services transferred to the new city.
- Inflationary factors should not be included in the analysis of revenue neutrality unless the resulting agreement provides for annual adjustment of mitigation payments based on actual data.
- Restricted and unrestricted revenues should be evaluated separately. An agency could pay a portion of its annual revenue neutrality payment with restricted funds if both agencies agree and a legally enforceable mechanism for payment can be created.

EXHIBIT 9

EXAMPLE

CALCULATION OF REVENUE NEUTRALITY PAYMENT

REVENUE NEUTRALITY – GENERAL FUND

Revenues Transferred

Property Taxes	$915,560
Sales Tax	2,916,300
Real Property Transfer Tax	111,425
Franchise Fees	582,339
Total Revenues Transferred	**$4,525,624**

Expenses (Net of Rev. Offsets)

Sheriff Department	$2,929,347
Animal Control	74,480
Code Enforcement	53,829
Street Lighting	116,878
Total Expenses Transferred	**$3,174,534**

Additional Future Revenues to County (Property Tax Administration Fees, .25%)	**2,289**
County Surplus or (Deficit)	**($1,348,800)**

c. Negotiation Process

CONSENSUS BUILDING

Understanding the process of negotiation is critical to a successful revenue neutrality negotiation process. The following steps are taken from "Breaking the Impasse" by Susskind and Cruikshank:

Pre-negotiation

- Get started
- Decide the representatives
- Draft protocols/agenda
- Conduct joint fact-finding

Negotiation

- Invent options for mutual gain
- Produce a written agreement
- Bind parties to the agreement
- Ratify the agreement

Implementation

- Link the agreement to approval
- Monitor
- Create a context for renegotiation

The role of LAFCO staff in the revenue neutrality process is to facilitate discussions and to ensure compliance with the revenue neutrality requirements.

After completion of the Draft CFA, LAFCO staff should convene a revenue neutrality negotiating committee composed of representatives of the county, other affected agencies and the proponents of the proposed incorporation during preparation of the CFA. The role of the revenue neutrality committee is to develop a mitigation agreement.

Due to the schedule of most incorporations, it is recommended that the revenue neutrality committee complete negotiation of the agreement within 90 days; however, this should remain flexible as long as the schedule and progress toward an agreement is being maintained. At the conclusion of the negotiating period, LAFCO's Executive Officer will certify that an agreement has been reached or has not been reached.

If an agreement is reached, ratification will be by resolution of the County Board of Supervisors and by letter from the incorporation proponents. The documents demonstrating an agreement to the provisions should be returned to LAFCO staff for inclusion in the comprehensive fiscal analysis, staff report and recommendations to be presented at the public hearing. The terms of the revenue neutrality agreement will also be included as terms and conditions in LAFCO's resolution, if the incorporation is approved. Revenue neutrality agreements should include a description of methodology and assumptions underlying the terms of the agreement.

It is recommended that agreements which involve revenue neutrality mitigation payments should establish terms based on the following agreed upon provisions:

- The annual net revenue loss to the county and other affected agencies resulting from the proposed incorporation.
- The duration of mitigation payments.
- The cumulative revenue neutrality impact based on the annual net revenue loss and the duration of the mitigation payments, including annual inflationary factors and discount rates if applied.
- The specific annual mitigation amount to be paid by the new city, including the annual payment amount, and variations to reflect cash flow, expenditure levels and other agreed upon variables
- In instances in which the revenue neutrality agreement requires tax sharing between the new city and the county, payment should be effected as directly from the revenue source as permitted by State law.

The effective date of incorporation and the anticipated lead-time for receipt of revenues can also be considered in revenue neutrality agreements. The effective date should be set to establish adequate initial account balances for the new city as it assumes service responsibilities, but should not otherwise conflict with the intent of fiscal neutrality.

Revenue neutrality agreements should also provide for a process of adjustment after incorporation in order to account for unforeseen economic or legislative events significantly affecting the flow of local revenue.

If the negotiating parties do not reach agreement, the status of the negotiations should be referred to LAFCO for discussion of outstanding issues at the first available meeting as determined by the Executive Officer. If revenue neutrality issues are not resolved, OPR recommends that LAFCO staff draft proposed terms and conditions dictating revenue neutrality terms for use in the comprehensive fiscal analysis and for recommendation to LAFCO at its public hearing.

d. Terms and Conditions

Terms and conditions for implementation of revenue neutrality may include provisions for tax sharing agreements, lump-sum payments, payments over a fixed period of time, modification of incorporation boundaries or any other terms and conditions permitted by law (§56815).

The term of mitigation payments may be either ongoing or limited to a specific number of years. Revenue neutrality agreements that provide for ongoing payments may provide for the permanent sharing of revenues between the new city and affected agencies if agreed to by the parties involved and if a means of adjustment after incorporation is included. Any terms and conditions that mitigate the negative fiscal effect of a proposal that contains incorporation shall be included in LAFCO's resolution.

D. Integrating CEQA with the Incorporation Process

The Public Resources Code, §21000 et sequitur, also known as the California Environmental Quality Act (CEQA), requires public agencies to evaluate the potential environmental effects of their actions. Only discretionary actions that are defined as projects are subject to CEQA. A project is the whole of an action that has the potential for resulting in either a direct physical change to the environment, or a reasonably foreseeable indirect physical change to the environment (CEQA Guidelines §15378). CEQA's procedural requirements encourage citizen participation in the environmental review process.

Incorporations are projects subject to CEQA and require environmental review (CEQA Guidelines §15378). LAFCO, as the lead agency for the environmental review, must prepare the required documentation and may charge the incorporation proponent (the applicant) fees to cover costs. The environmental documentation must address the possible environmental impacts resulting from the incorporation but does not need to speculate on impacts which may result from unknown future city council actions.

The timing of the environmental review is critical to incorporation and should be started as soon as possible after submittal of the incorporation application. The environmental review process must be completed before LAFCO can make a final decision on an incorporation proposal.

LAFCO may make one of three environmental determinations with respect to the potential environmental effects of an incorporation. The project may qualify for an exemption from CEQA, which requires no further analysis. If an exemption is not appropriate, LAFCO should prepare an Initial Study to determine whether a Negative Declaration or an Environmental Impact Report (EIR) must be prepared (CEQA Guidelines §15063). If the project will not result in potentially significant environmental effects, LAFCO may prepare a Negative Declaration. If the project has the potential to result in one or more significant environmental effects, an EIR must be prepared. These three basic determinations are described in more detail below:

- The incorporation is exempt under §15320 of the CEQA Guidelines. A notice of exemption should be filed with the County Clerk upon approval of the incorporation.
- The incorporation does not have the potential to result in significant environmental impacts, based on an initial study. If an initial study shows no substantial evidence that the project may result in significant adverse environmental impacts, LAFCO may prepare and adopt a negative declaration. A notice of determination must be filed with the County Clerk upon adoption of the negative declaration and approval of the incorporation. (CEQA Guidelines Section 15075)
- The incorporation has the potential to result in significant environmental impacts, based on an initial study. If the initial study shows substantial evidence that the project may result in significant adverse environmental impacts, the preparation of an environmental impact report (EIR) is required. A notice of determination must be filed with the County Clerk upon certification of the final EIR and approval of the incorporation. (CEQA Guidelines Section 15094)

LAFCO's environmental determination must be based on the description of the proposed action. Therefore, the "project description" or the description of the proposed incorporation will be important in determining whether the incorporation may have a significant effect on the environment. Characteristics of a project that may lead to significant environmental effects include:

- The project may lead to a direct physical change in the environment, such as dust, noise, odors or traffic resulting from construction and operation of facilities.
- The project may lead to indirect physical change in the environment which is not immediately related to the project but which is caused indirectly by the project, such as new population growth or air pollution associated with new population growth.

If it is determined that an EIR is required, the EIR must discuss possible mitigation measures and alternatives to the proposed project, as means of reducing the potential significant impacts of the proposed incorporation. Therefore, LAFCOs should be prepared to consider alternatives to the proposed incorporation boundaries as one possible type of project alternative. This is consistent with LAFCO's responsibility to consider alternative incorporation boundaries for other reasons (see Section IV.B.).

CEQA review can add time and cost to the incorporation process. The CEQA statute permits public agencies to recover costs of CEQA review through fees charged to the project proponents/applicant. The cost and time for processing a CEQA exemption is negligible. The cost of preparing a Negative Declaration can range from a few hundred dollars to a few thousand dollars depending on whether mitigation measures must be developed to completely eliminate significant effects. A typical Negative Declaration can require up to three to six months to process. When an EIR is required for a project, preparation and processing time can be up to a year and costs are difficult to estimate but can be tens of thousands of dollars.

E. EXECUTIVE OFFICER'S REPORT AND RECOMMENDATION

LAFCO's Executive Officer is required to review the application and prepare a final report on the incorporation application with recommendations to approve or disapprove the incorporation (§56665).

1. Contents of Report

The Executive Officer's report must address, but not be limited to, the following sections:

- Factors which were considered in the review of the proposal (§56668).
- Incorporation Boundaries-- may also establish a sphere of influence.
- Plan for Services.
- Comprehensive Fiscal Analysis.
- Terms and Conditions.
- Recommended findings.
- Recommended determinations.

LAFCO must specify the terms and conditions which result from the revenue neutrality negotiations (§56886) and other special circumstances. These terms and conditions may include, but are not limited to, the following:

- Continuation of services following incorporation.
- Payments and taxes required by changes in service responsibilities or for revenue neutrality.
- Disposition of money, property and rights of use, such as water or utility capacity rights.
- Disposition of special district responsibilities, district governing boards and employees.
- The effective date of incorporation.

2. Distributing the Report

Existing law states that the Executive Officer's report must be completed and distributed not less than five (5) days prior to the date of LAFCO's commission's hearing (§56665). However, this is the minimum amount of time the Executive Officer's report must be made available. OPR recommends that the Executive Officer's report be made available at the same time the notice of public hearing is published (§56154) or 21 days before the hearing.

The Executive Officer is required to notify all interested parties that the incorporation report is available for public review by publishing notice in a newspaper of general circulation serving the proposed incorporation area and by mailing notice to all affected agencies, the proponents and all persons who have filed a written request for notification (§56150 and §56160). The notice shall specify the locations where the report can be reviewed and the time period in which the State Controller's review can be requested.

3. State Controller Review of CFA

Any interested person or agency may request a review of the CFA by the Office of the State Controller. This request must be made within 30 days from the date that LAFCO's Executive Officer provides notice that the Executive Officer's report is complete and available for public review (§56801). The request by an interested person or agency must specify, in writing, any element of the comprehensive fiscal analysis that the State Controller is requested to review and the reasons the State Controller is requested to review each element.

LAFCO's Executive Officer should, in consultation with the State Controller's office, prepare an estimate of the cost of the review and deliver the estimate to the requesting individual or agency. This estimate should include the charges by the State Controller, LAFCO staff costs, and costs for any consultants required to assist the State Controller with the review. The individual or agency requesting the review will be asked to deposit the estimated cost of the analysis with LAFCO's Executive Officer.

After a request for review has been made and the appropriate deposit has been submitted to LAFCO, the Executive Officer shall contract with the State Controller for review of the CFA. The contract should specify the elements to be reviewed and the estimated cost of the review. Prior to executing the contract, the parties requesting the review must deposit with LAFCO's Executive Officer, the total estimated cost of conducting the review. If the State Controller identifies a need for an additional deposit prior to executing the contract, the party or parties requesting the review shall be notified and will be responsible for depositing the additional amount with LAFCO's Executive Officer. The State Controller will not proceed with the review until sufficient funds are deposited to cover all costs.

Within 45 days of receiving the CFA (§56801(c)), the State Controller is required to issue a report to LAFCO's Executive Officer regarding the accuracy and reliability of the information, methodologies, and documentation in the CFA. Time limits imposed upon LAFCO by the Cortese-Knox-Hertzberg Act shall be tolled while the State Controller conducts its review and prepares its report.

VI. COMMISSION HEARING AND DECISION

When an application for incorporation is deemed complete, LAFCO's Executive Officer will issue a certificate of filing, with a copy to the proponents' (§56651), specifying the date of LAFCO's hearing on the proposal. The public hearing must be set within 90 days of the issuance of the certificate of filing.

A. HEARING NOTICE

All meetings must meet the legal requirements for public notice. Notice of the hearing must be sent to the proponents, the county, affected agencies and those requesting a mailed notice in writing. Notice must also be given in all the following ways:

- Notice given in electronic format on LAFCO's website (§56150); and
- Notice posted on or near the doors of the meeting room (§56158) at least 21 days prior to the date of the hearing (§56159); and
- Notice published in one or more newspapers of general circulation (§56153) at least 21 days prior to the date of the hearing (§56154); and
- Notice mailed to affected and interested parties at least 21 days prior to the date of the hearing (§56156 and §56157).

NOTICE REQUIREMENTS

LAFCO is NOT required to mail a notice to all residents living within the incorporation boundaries. Residents may request, in writing, to be placed on the appropriate mailing list for notices of incorporation hearings and/or distribution of incorporation reports. LAFCO may charge for distribution of incorporation reports or notices.

To the extent a proposed incorporation becomes controversial, multiple public hearings may need to be held. OPR recommends that LAFCOs hold at least one public hearing in the community proposing incorporation to allow residents a convenient opportunity to provide input.

LAFCO's hearing may be continued but may not be postponed more than 70 days from the date specified in the original public hearing notice. Prior to any continuance of the incorporation hearing, LAFCO must give the proponents an opportunity to address any potential impacts or hardships on the incorporation effort that may result from a delay. The Commission is required to consider the potential impacts on the incorporation proponents prior to making a decision on the duration of any continuance (§56666(c)).

B. CONFLICTING PROPOSALS

If two or more incorporation proposals pending before LAFCO conflict or are in any way inconsistent with one another (as determined by LAFCO), LAFCO may determine the relative priority for hearing the proposals (§56655). However, in the absence of a determination by LAFCO, priority is given to the proposal first filed with LAFCO.

C. Commission Actions

At the conclusion of the public hearing, but no later than 35 days after the hearing, LAFCO is required to adopt a resolution that states LAFCO's determination on the incorporation proposal. LAFCO may approve, approve with conditions or disapprove the plan for incorporation (§56880).

When considering an incorporation proposal, LAFCO is required to consider the following factors (§56668):

- The population, population density, and potential for growth.
- The need for organized community services, and effect on adequacy of services.
- The effect of the proposal on adjacent areas and local government structure.
- The conformity of the proposal with adopted LAFCO policies and priorities.
- The effect of the proposal on integrity of agricultural lands.
- The definiteness and certainty of the proposed physical boundaries.
- Consistency with county General Plan and specific plans.
- The sphere of influence of any affected local agency.
- The comments of any affected agency.
- The ability of the new city to provide services, including sufficiency of revenues.
- Timely availability of adequate water supplies.
- The extent to which the proposal helps achieve its allocation of regional housing needs.
- Comments from land owners.
- Any information relating to existing land use designations.

Incorporation proposals which would result in certain conditions are prohibited by law, including incorporations which would result in unincorporated islands (§56744) and annexation of land within a Farmland Security Zone (see exceptions, (§56749).

If LAFCO approves or conditionally approves the proposal, the resolution must contain certain information including (§57100):

- A statement of the type of change of organization or reorganization being acted on.
- A description of the exterior boundaries of the territory for each change of organization or reorganization approved by the commission.
- The name or names of any new or consolidated city or district.
- All of the terms and conditions upon the change of organization or reorganization approved by the Commission.
- The reasons for the change of organization or reorganization.

- A statement as to whether the regular county assessment roll or another assessment roll will be utilized.

- A statement that the affected territory will or will not be taxed for existing general bond indebtedness of any agency.
- Any other matters that the Commission deems material.

If LAFCO approves or conditionally approves the proposal, the resolution must also contain certain findings (§56720 and §56815) including:

- The proposed incorporation is consistent with the intent of the Cortese-Knox-Hertzberg Act (see Exhibit 10).
- The Commission has reviewed the spheres of influence of the affected local agencies and the incorporation is consistent with those spheres of influence.
- The Commission has reviewed the CFA and State Controller's Report, if any.
- The Commission has reviewed the Executive Officer's report and recommendation and the testimony presented at its public hearing.
- The proposed city is expected to receive revenues sufficient to provide public services and facilities and a reasonable reserve during the three fiscal years following incorporation.

Finally, if LAFCO approves or conditionally approves the proposal, the resolution must also do the following (§56881):

- Make the findings and determinations pursuant to §56375 including the determination of property tax revenue to be exchanged by the affected local agencies.
- Determine that public service costs are likely to be less than or substantially similar to the costs of alternative means of providing the service (only applies if the incorporation proposal was initiated by the Commission pursuant to §56375 [a]).
- Determine that the proposal promotes public access and accountability for community services needs and financial resources (only applies if the incorporation proposal was initiated by the Commission pursuant to §56375 [a]).
- Assign a temporary name, if no name has otherwise been assigned to the affected territory.
- Initiate protest proceedings (see Section VII below).

After the Commission takes action, the Executive Officer must mail a copy of the resolution to the proponents and to each affected local agency whose boundaries would be changed by the proposal. Clerical errors or mistakes in the resolution may be corrected by the Executive Officer without Commission action (§56883).

If the proposal is denied, no similar proposal for incorporation involving the same or substantially the same area shall be initiated for at least one year after the date of adoption of the resolution terminating proceedings (§56884). However, the Commission has the authority to waive this restriction if found to be detrimental to the public interest.

EXHIBIT 10

IMPACT OF THE 2000 AMENDMENTS ON FINDINGS OF CONSISTENCY

When a LAFCO considers an application for incorporation, LAFCO must make a number of findings (§56720), including that the proposed incorporation is consistent the intent of the Cortese-Knox-Hertzberg Act.

Amendments to the Act in 2000 (AB 2838, Chapter 761, Statutes of 2000) have modified and strengthened the link between approval of proposed incorporations and orderly development. AB 2838 added more specificity to the purpose of the Act by amending several intent and procedural sections including Government Code Sections 56001, 56301 and 56300.

MORE DEFINITION TO ORDERLY GROWTH AND THE ROLE OF LAFCO

While promoting orderly development has always been a fundamental purpose of LAFCO, the 2000 amendments added emphasis by stating that: the provision of affordable housing, discouraging sprawl, preserving open space and prime agricultural lands and efficiently extending government services are all important elements of promoting orderly development.

Further, the 2000 amendments included provisions that state that a preference should be granted to accommodating additional growth within or through the expansion of the boundaries of those agencies which can best accommodate and provide necessary governmental services and housing to persons and families of all incomes.

Historically, the impact of a proposed incorporation on the future development of housing affordable to lower income households did not necessarily come into question when a LAFCO was considering an application for incorporation.

The support for protecting prime agricultural lands was also enhanced in the 2000 amendments through the inclusion of language which states that one of the purposes of LAFCO is to preserve prime agricultural lands (56301).

The Act still directs LAFCO to guide development away from existing prime agricultural lands unless the development would promote the planned, orderly efficient development of the area (§56377). In practice, this could mean that once one farm was converted to residential or commercial purposes other adjacent or nearby areas could also be included in incorporation proposals with the clear intent that ultimately these lands would very likely be converted to non-agricultural uses.

Although the 2000 amendments did not change §56377, the new purpose and intent language emphasizes the responsibility of LAFCO to consider the preservation of prime agricultural land.

WRITTEN POLICIES

The 2000 amendments also require LAFCO to establish written policies and procedures that encourage and provide planned and well-ordered, efficient urban development patterns. Prior to these amendments, LAFCO was only directed to establish policies with no requirement that they be written or be implemented through specific procedures. This new requirement for written policies and accompanying procedures may challenge some LAFCOs as it will take some consensus building to draft and adopt language which a Commission can support.

OPR recommends that LAFCOs do not postpone the review and adoption of its policies and procedures on incorporations until a proposal is before the Commission. Fair and equitable procedures are best developed in the absence of a specific application. A LAFCO may want to review the incorporation policies and procedures of other LAFCOs as part of its consideration and approval process.

IMPACT OF 2000 AMENDMENTS

The requirement for written policies and procedures coupled with the changes to the purposes of LAFCO and definition of orderly growth will impact the deliberative process of the Commission. In some cases, the Executive Officer's report will be more extensive than the Commission may have previously seen.

Findings of consistency of the proposed incorporation with the adopted policies and procedures will also increase the areas in which LAFCO's decision is open to legal challenge. The Commission, in the exercise of its legislative authority is generally protected from challenges related to the specific content of the decision. Commissions are however, open to procedural challenges. To the extent that a LAFCO previously operated under unwritten policies and procedures, LAFCO will now be evaluated on how well it follows its own process.

D. REQUEST FOR RECONSIDERATION

Any person or affected agency may file a written request with LAFCO's Executive Officer requesting reconsideration of any resolution approving incorporation. The request must comply with the provisions of §56895 and policies adopted by LAFCO. There may be a fee for filing the reconsideration request.

The request must state the specific change requested and what new or different facts or applicable new law warrant the reconsideration. The request must be filed within 30 days of the adoption of a resolution by LAFCO.

If LAFCO receives a request for reconsideration, it shall not take any further action on the incorporation proposal until LAFCO Commission acts on the request. The Executive Officer must place the request on the agenda of the next LAFCO hearing for which public notice can be provided, to receive oral and written testimony. The hearing may be continued from time to time but the continuance shall not exceed 35 days from the date in the original public hearing notice. The person or agency that filed the request may withdraw it at any time prior to the conclusion of LAFCO's hearing.

At the conclusion of its consideration, LAFCO Commission may approve or disapprove with or without amendment, wholly, partially, or conditionally, the request. The determination of LAFCO is final and conclusive. No person or agency shall make any further request for the same change or a substantially similar change, as determined by LAFCO.

VII. CONDUCTING THE PROTEST HEARING

A conducting authority has the responsibility to hold a public hearing to count protests received for an incorporation proposal. LAFCO is designated by law as the "conducting authority" for city incorporations. LAFCO Commission may delegate its conducting authority function to LAFCO's Executive Officer (§57000(c)).

Within 35 days following the adoption of the Commission's resolution of approval and reconsideration period (§57002), LAFCO must issue a "Notice of Hearing" scheduling the date for the conducting authority protest hearing on the incorporation. The notice must be provided in all of the following three ways (§57025):

1) Publication in a newspaper of general circulation in the incorporating area (§56153). The publication must occur at least 21 days prior to the hearing date (§56154).
2) Posting of a notice on or near the doors of the meeting room or on any official bulletin board (§56158). The notice must be posted at least 21 days prior to the hearing (§56159).
3) Direct mailing to each affected city, county, district, proponents, landowners and to persons requesting special notice. The mailed notice must be sent by first class and deposited in the US mail at least 21 days prior to the hearing date (§56155 and §56157).

The purpose of the hearing is to collect and count written protest from registered voters within the incorporating area. LAFCO, acting as the conducting authority, does not have the discretion to modify the incorporation proposal or to terminate incorporation proceedings without sufficient protest being recorded. LAFCO's conducting authority hearing may be continued for up to 60 days.

Within 30 days of the conclusion of the hearing, the Commission shall make a finding regarding the value of the written protests and take one of the following actions (§57077):

- Terminate the proceedings if a majority protest exists (§57078); or
- Call an election on the question of incorporation if there is no majority protest.

Following the protest determination, the County Registrar of Voters begins the process of preparing the incorporation for a vote at the next general election unless a special election is requested and approved by LAFCO. If proceedings are terminated by majority protest, no substantially similar proposal for the same territory may be filed within two years of the date of adoption of the resolution terminating proceedings (§57090). However, the Commission may waive this restriction if found to be detrimental to the public interest.

VIII. VOTING: THE INCORPORATION ELECTION

Elections for incorporation are usually placed on the ballot of the next general election. Incorporation elections are considered county elections for the purpose of administering the Election Code and the Political Reform Act. If a special election is requested, the incorporation proponents may be required to pay for the costs of the special election. If the incorporation is successful, the new city will be liable for payment of election costs (§57150(b)). In the event the issue fails, the county absorbs the election costs.

LAFCO's Executive Officer must draft an impartial analysis (§56898) of the incorporation issue for inclusion in the incorporation ballot. The Commission may review the text of the impartial analysis and approve or modify it, if the Commission has instituted a review procedure. The review must be completed in sufficient time to consider and approve or modify the analysis and submit the analysis to the officials conducting the election, not later than the last day for submitting rebuttal arguments.

Existing law specifies how the ballot language is required to be stated beginning with Government Code §57133 including identification of terms and conditions which may have the effect of imposing or increasing liability for payment of taxes, assessments or service charges.

IX. CERTIFYING THE ELECTION RESULTS

Following an incorporation election, the County Board of Supervisors is required to certify the election results by adoption of a resolution and must forward a copy to LAFCO. If the election approves the incorporation, LAFCO staff must prepare a "Certificate of Completion", which signals the end of the incorporation process (§57178).

If the incorporation is disapproved by majority vote, the Commission must execute a "Certificate of Termination" (§57179). No substantially similar proposal for the same territory may be filed within two (2) years of the adoption of the Certificate of Termination (§57090).

The effective date of the new city should have been identified as part of the Commission resolution of approval. The Commission has exclusive authority to set the incorporation effective date (§57202). The Executive Officer must record the Certificate of Completion with County Recorder's office within 90 days of the election (§57203).

X. POST INCORPORATION

After incorporation, LAFCO's work is complete. However, the work of the new city has just begun.

Appendix F is an example of an agenda for the first meeting of a newly incorporated city. This is only an example; all newly incorporated cities should seek legal advice regarding the requirements for a newly incorporated city and newly elected city council.

OPR recommends that all new cities contact the League of California Cities, which offers several publications, classes and workshops for new city councils. It is also recommended that all LAFCOs obtain a copy of the League of California Cities publication, "A Guide For New Incorporated Cities" (March 1986) for distribution to newly incorporated city councils.

LEAGUE OF CALIFORNIA CITIES

It may seem for a brief moment after the incorporation results certify the creation of your new city that the hard work is over. Fortunately, it has just begun—fortunately because shepherding a new city through its formative stages is a rewarding and exciting endeavor, one that will shape the character and direction of the city for years to come. The purpose of this publication is to make this process easier by providing practical advice and guidance to new city officials as to what must typically be accomplished during the periods immediately prior to and following the first council meeting. Newly elected officials in a new city often feel somewhat at a loss as to what to do immediately following the election; this manual is intended to provide pragmatic step-by-step assistance so that new officials can devote their time not to trying to reinvent the wheel, but to consideration of the important issues facing them… It is critical that council members have a basic understanding of conflict of interest laws…After the city is officially incorporated, all meetings of the city council are to be open and public in accordance with the Brown Act…Action of a city council can be taken only at duly convened public council meetings, at a place designated by ordinance…before the city can undertake to approve any discretionary project, it must review the possible environmental impact of the project pursuant to the California Environmental Quality Act…..

From "A Guide For New Incorporated Cities" League of California Cities, March 1986.

STATE OF CALIFORNIA

Gray Davis
GOVERNOR

Tal Finney
INTERIM DIRECTOR

LOCAL AGENCY FORMATION COMMISSION MUNICIPAL SERVICE REVIEW GUIDELINES

Governor's Office of Planning and Research

AUGUST 2003

FINAL

August 2003

Message from the Director

The Governor's Office of Planning and Research is proud to announce the publication of the first *Municipal Service Review Guidelines* for Local Agency Formation Commissions (LAFCOs). These advisory *Guidelines* provide LAFCOs with an additional tool to fulfill their statutory responsibilities of promoting orderly growth and development, preserving the state's finite open space and agricultural land resources, and working to ensure that high quality public services are provided to all Californians in the most efficient and effective manner.

The requirement for LAFCOs to conduct reviews of local municipal services was established with the passage of AB 2838, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. In accordance with Government Code Section 56430, OPR developed these *Guidelines* through an extensive public participation process involving numerous interested parties and the public. I trust that these *Guidelines* will be valuable to LAFCOs in developing their processes for conducting municipal service reviews and addressing all of the substantive issues required by the law. I also hope that the *Guidelines* will be of value to Californians as a tool to participate more fully in local government decision making.

In all of its work, OPR attempts to encourage more collaborative and comprehensive land use planning at the local, regional, and statewide levels to achieve sustainable development goals of protecting the environment, maintaining a healthy economy, and ensuring equitable treatment of all people. The *Municipal Service Review Guidelines* joins a family of technical assistance and policy documents published by OPR that further these goals. OPR's *General Plan Guidelines* encourages comprehensive long-range planning for sustainable development at the city and county level. The *Municipal Service Review Guidelines* addresses the delivery of municipal services at a regional level, in a manner that informs other LAFCO boundary-setting decisions. Finally, the *Environmental Goals and Policy Report*, currently under preparation, will be a statewide plan that guides infrastructure investment decisions of state government in a manner consistent with new state land use planning priorities and sustainable development goals.

I encourage LAFCOs to take their rightful place as regional leaders in the public debate on growth and development, and to collaborate with local and state planning agencies to implement a sustainable future for California.

Tal Finney
Interim Director

LAFCO MUNICIPAL SERVICE REVIEW GUIDELINES
FINAL

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The Governor's Office of Planning and Research (OPR) would like to acknowledge and thank the members of the Municipal Service Review Task Force for their invaluable assistance in identifying key issues and for providing input into the development of the LAFCO *Municipal Service Review Guidelines*.

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- Christopher Carlisle, Counsel and Legislative Director, Speaker Emeritus Robert Hertzberg
- Roseanne Chamberlain, League of Women Voters, Sacramento and Executive Officer, El Dorado County
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- Ron Wootton, Chair, California Association of Local Agency Formation Commissions and San Diego County LAFCO Commissioner

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EXECUTIVE SUMMARY

In 2003, OPR is issuing three sets of guidance documents which address how growth and development occur in California: The General Plan Guidelines, the LAFCO Municipal Service Review Guidelines and the Environmental Goals and Policy Report.

Each of these guidance documents primarily targets a single level of government: local, regional and state. However, each document promotes better integration of planning and development as a means for continual improvement of California communities.

These Guidelines are the result of legislation (Chapter 761, Statutes of 2000) signed by Governor Gray Davis relating to powers and authorities of a Local Agency Formation Commission (LAFCO).

Development of the legislation resulted from the recommendations of the Commission on Local Governance for the 21st Century. The Commission on Local Governance for the 21st Century published its recommendations in a final report, *Growth Within Bounds*, issued on January 20, 2000.

The report recommended and the legislation enacted a new process for LAFCO to review municipal services on a regular basis. As part of its review of municipal services, LAFCO is required to prepare a written statement of its determination with respect to each of the following:

GUIDELINES v. REGULATIONS

Existing law requires OPR to prepare guidelines, not regulations. This document should therefore be considered advisory and not regulatory.

1. Infrastructure needs or deficiencies;
2. Growth and population projections for the affected area;
3. Financing constraints and opportunities;
4. Cost avoidance opportunities;
5. Opportunities for rate restructuring;
6. Opportunities for shared facilities;
7. Government structure options, including advantages and disadvantages of consolidation or reorganization of service providers;
8. Evaluation of management efficiencies; and
9. Local accountability and governance.

The Governor's Office of Planning and Research (OPR) is directed by statute to prepare these Guidelines to assist LAFCO in complying with the new requirements for

municipal service reviews.

LOCAL CONDITIONS

This document provides general guidance. LAFCOs may need to modify these recommendations to reflect local conditions, circumstances and types of services which are being reviewed.

The Guidelines were developed through five public workshops; numerous meetings of an OPR appointed stakeholder task force, and three public review periods.

Throughout the Guidelines, OPR has identified those actions which are required by law and those where OPR recommends a particular process or policy when undertaking the municipal service review. The Guidelines are divided into three parts: Part I – Preparing to Undertake a Municipal Service Review, Part II – The Municipal Service Review Process, and Part III - Taking Action on the Municipal Service Review.

Part I describes the statutory framework and requirements of the municipal service review. This Part also provides guidance on how LAFCO, service providers and the public can prepare to most effectively engage in the municipal service review process including, but not limited to:

- Development of a long-term schedule of all municipal service reviews required to be undertaken by LAFCO during the five-year review cycle for Spheres of Influence (SOI).
- Development of a work plan for an individual municipal service review.
- Gathering of data and information related to undertaking a municipal service review.
- Identifying the boundary of the municipal service review study area.
- Development of a strategy for preparing a municipal service review report.

Part II includes guidance on the individual municipal service review process including integrating municipal service reviews with other LAFCO actions, application of the California Environmental Quality Act (CEQA) and federal and state anti-discrimination statutes, and the development of the nine determinations.

Part III contains information on how to draft the final individual municipal service review report, recommendations on how to ensure adequate public participation opportunities and the requirements for the meeting at which the report is accepted.

In developing the Guidelines, it is OPR's intent to provide a structure to assist LAFCOs in fulfilling their statutory responsibility of promoting orderly growth and development, preserving the state's finite open space and agricultural land resources, and working to ensure that high quality public services are provided to all California residents in the most cost effective and efficient manner.

PART I - PREPARING TO UNDERTAKE A MUNICIPAL SERVICE REVIEW

The municipal service review provides a current, formal, and comprehensive look at the provision of services within a county. Effective implementation of these reviews will depend, in a large part, on the preparations made by LAFCO prior to initiation of the individual municipal service review.

CHAPTER 1. INTRODUCTION

This Chapter provides background on the development of the Municipal Service Review Guidelines, an explanation of their purposes and information on the overall structure and use of this document.

A. STATUTORY BACKGROUND ON MUNICIPAL SERVICE REVIEW GUIDELINES

On September 26, 2000, Governor Gray Davis signed into law AB 2838 (Chapter 761, Statutes of 2000), authored by Assembly Speaker Robert M. Hertzberg. This legislation, titled the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act) and codified as California Government Code (GC) §56000 et seq, marked the most significant reform to local government reorganization law since the 1963 statute that created a LAFCO in each county.

Development of the legislation resulted from the recommendations of the Commission on Local Governance for the 21st Century. The Commission on Local Governance for the 21st Century, established through statute in 1997, published its recommendations in a final report, *Growth Within Bounds*, issued on January 20, 2000.

Pursuant to GC §56430, the Governor's Office of Planning and Research (OPR) is required to prepare guidelines for LAFCO to conduct reviews of local municipal services.

Prior to the 2000 amendments, existing law authorized LAFCOs to conduct municipal service review studies. These LAFCO service studies generally provided evaluation tools to support future LAFCO actions or were part of a reorganization committee effort.

Existing law (GC §56430), now states that in order to prepare and update a Sphere of Influence (SOI), LAFCOs are required to first conduct a municipal service review of the municipal services provided in the county or other appropriate designated area.

The term "municipal services" generally refers to the full range of services that a public agency provides or is authorized to provide. The definition is somewhat

modified under the CKH Act, however, because LAFCO is only required to review services provided by agencies with SOIs. Therefore, general county government services, such as courts and social services, are not required to be reviewed.

As part of its review of municipal services, LAFCO is required to prepare a written statement of its determination with respect to each of the following:

1. Infrastructure needs or deficiencies;
2. Growth and population projections for the affected area;
3. Financing constraints and opportunities;
4. Cost avoidance opportunities;
5. Opportunities for rate restructuring;
6. Opportunities for shared facilities;
7. Government structure options, including advantages and disadvantages of consolidation or reorganization of service providers;
8. Evaluation of management efficiencies; and
9. Local accountability and governance.

These Guidelines have been developed to assist LAFCOs through the process of making these determinations.

B. DEVELOPMENT OF GUIDELINES

Pursuant to the requirements of the CKH Act, the Municipal Service Review Guidelines have been developed in consultation with the California Association of Local Agency Formation Commissions and numerous other organizations representing service providers and the public. Participating organizations include the California Special Districts Association, the League of California Cities, the California State Association of Counties, the Association of California Water Agencies, the League of Women Voters, the Fire Districts Association of California, housing and environmental groups and dozens of representatives from cities, counties, special districts and interested parties.

Consultations and collaboration occurred during facilitated public workshops in Sacramento, Fresno, Santa Ana, Red Bluff and San Diego; five working group sessions with representatives from affected local government entities; and interviews and meetings with interested constituents.

An issues paper and draft outline of the Municipal Service Review Guidelines[1] was

[1] Prepared under contract with Graichen Consulting

published in May 2001 and subjected to a 21-day public review period. The Preliminary Draft[2] LAFCO Municipal Service Review Guidelines was issued for a 21-day review in August 2001 and comments were reviewed and incorporated into the Final Draft Municipal Service Review Guidelines as appropriate.

A 21-day public review of the Final Draft Guidelines was provided in October of 2002 with appropriate comments incorporated into the Final Municipal Service Review Guidelines.

California LAFCOs have been especially generous with their contributions of service studies, procedures, and other technical products. Special districts and cities have provided samples of model service practices. OPR wishes to recognize the contributions of the Napa County LAFCO in preparing Chapter 9 of this document. Every attempt has been made to incorporate successful procedures, processes and templates created by numerous public agencies.

C. INTEGRATED PLANNING GUIDANCE

In 2003, OPR is issuing three sets of guidance documents which address how growth and development occur in California: The General Plan Guidelines, the LAFCO Municipal Service Review Guidelines and the Environmental Goals and Policy Report. Appendix A includes a description of the Environmental Goals and Policy Report

Collectively, these guidance documents reflect best practices at the local, regional and state levels related to good governance, equitable allocation of public resources and the continuing improvement in the quality of life for all Californians.

No single government entity has exclusive authority or responsibility over growth and development. Through statute, regulations, guidelines and common practice California has developed a complex and sometimes cumbersome process for approving and managing growth.

It is OPR's belief that through better integration of planning practices, increased transparency of decision making processes, early and more meaningful consultation with the public, stakeholders and other levels of government that government entities can better meet their missions and serve the people of California.

D. HOW TO USE THE GUIDELINES

The Guidelines are organized into three parts: preparations for undertaking a municipal service review, the process of developing the municipal service review, and taking final actions on the municipal service reviews.

[2] Prepared under contract with Graichen Consulting

Part I – Preparing to Undertake a Municipal Service Review includes five chapters. Chapter 1 includes introductory comments and background on the guidelines. Chapter 2 contains a description of the basic roles and responsibilities of LAFCO, service providers and the public in the municipal service review process. Chapter 3 includes a strategy for developing an overall schedule for municipal service reviews. Chapter 4 contains information on developing a work plan for individual municipal service reviews. Chapter 5 provides guidance on determining the study area boundaries for a municipal service review.

Part II – The Municipal Service Review Process includes four chapters. Chapter 6 provides guidance on integrating a municipal service review with other LAFCO actions, as appropriate. Chapter 7 includes information on compliance with CEQA. Chapter 8 describes the relationship between municipal service reviews and environmental justice. Chapter 9 includes guidance on the development of the nine required written determinations.

Part III – Taking Action on the Municipal Service Review includes two chapters. Chapter 10 provides guidance on preparing the draft and final municipal service review report for the Commission's consideration. Chapter 11 describes the public hearing process.

CHAPTER 2. BASIC ROLES AND RESPONSIBILITIES

Beginning in January of 2001, LAFCOs became responsible for undertaking municipal service reviews prior to or in conjunction with the establishment of an entity's SOI. This chapter outlines the basic roles and responsibilities of LAFCO, the service provider and the public in implementing this requirement. Refer to **Appendix C** for general background information on the requirement for LAFCO to perform municipal service reviews.

IMPACT OF 2000 AMENDMENTS

The requirement to undertake municipal service reviews and make specified determinations is one of the most significant modifications to the role and responsibilities of LAFCO in the enacting legislation since the 1960's. OPR recommends that each LAFCO, service provider and public advocacy group take time to review and understand their roles in this new statutory environment.

A. MUNICIPAL SERVICE REVIEW: ROLE OF LAFCO

In order to ensure that deliberations by LAFCO on municipal service reviews are consistent, OPR recommends that LAFCO include in its written policies and procedures information on the process by which it will conduct service reviews.

Not all municipal services are required to be reviewed – only those services for which a SOI has been adopted by LAFCO. In reviewing services, LAFCO should attempt to include public and private service providers. Only the public service providers are required to share information; however, LAFCO should make the same requests of all providers in order to demonstrate that the review was as comprehensive as possible.

WHAT SERVICES ARE COVERED?

Existing law requires that a service review be completed in preparation of the adoption and/or update of a SOI. Therefore, any municipal service which has a service area defined by LAFCO through a SOI will need to have a municipal service review. LAFCO may include one or more services in the review and the study area may be the whole county, multiple counties or any appropriate sub-area, as determined by LAFCO (GC §56430).

As part of the municipal service review process, LAFCO should convene stakeholders as appropriate and facilitate collaborative efforts to address issues and challenges. Stakeholders may include affected and interested LAFCOs and other government agencies, other interested parties and members of the public.

Cooperatively developed municipal service reviews enable LAFCO and service providers to more effectively accomplish mutual public service objectives. To the extent possible, stakeholders should work together to evaluate existing and future service needs and determine what structures are needed to support healthy growth while preserving important agricultural and open space resources. Although LAFCO does not have direct land use authority and is not enabled to manage or operate a service provider agency, LAFCO can serve as an intermediary for the State in addressing specific growth challenges.

An effective municipal service review process should include early consultation with stakeholders, an inclusive municipal service review design, public review of municipal service review work plans and municipal service review report, and an overall collaborative process (see the process flow chart in **Appendix D**).

WHY COLLABORATE?

Through collaboration, LAFCO and interested parties can:

- Identify common goals and objectives and diffuse issues that foster competition rather than cooperation;
- Share expertise and help lower costs by assisting LAFCOs in determining what types of information need to be gathered and in what form;
- Identify information that is already available to streamline data collection;
- Develop strategies for augmenting LAFCO's technical capabilities by funding or loaning technical staff to work under LAFCO's direction;
- Develop strategies for constructively addressing overlapping service boundaries;
- Develop plans to implement recommendations developed as a result of a municipal service review.

B. MUNICIPAL SERVICE REVIEW: ROLE OF THE SERVICE PROVIDER

Service providers play an important role in the collaborative process for conducting a municipal service review. The cooperation of service providers is important to ensure that LAFCO has access to all necessary information in a timely manner, and to assist LAFCO in interpreting that information. The service provider should view the municipal service review process as an opportunity to share accurate and current data, accomplishments and information that will allow LAFCO to make sound conclusions and determinations with respect to services. LAFCOs will use the information provided by service providers to review proposals for changes in services, including SOI updates, incorporations and other boundary decisions.

JOIN THE COMMISSION

The California Special Districts Association (CSDA) encourages independent special districts to serve on LAFCOs and participate in special district committees. With LAFCOs' increased role in determining public service delivery systems through municipal service reviews, special districts cannot afford to be absent from the process.

C. MUNICIPAL SERVICE REVIEW: ROLE OF THE PUBLIC

LAFCOs should encourage and provide multiple public participation opportunities in the municipal service review process. To this end, LAFCOs should develop and maintain a list of interested parties to whom such outreach can be extended. Service providers can assist in involving the public by including municipal service review information in newsletters or billing statements. Public comments should be considered and incorporated into the municipal service review process and reports where appropriate and feasible.

The municipal service review process chart (**Appendix D**) recommends that LAFCO provide several opportunities for the public to provide input in the process. These opportunities can include stakeholder meetings, public hearings or workshops to initiate municipal service reviews, a public review period of the draft municipal service review report, and a public hearing to consider adoption of written determinations.

PUBLIC PARTICIPATION

A major goal of the CKH Act amendments was to increase public participation in public service planning and delivery. Consistent with that goal, public notice requirements for all LAFCO processes were strengthened or augmented. LAFCOs were also required to adopt service review determinations in a public forum.

CHAPTER 3. DEVELOPING A SCHEDULE OF MUNICIPAL SERVICE REVIEWS

This Chapter provides information on the development of the overall schedule of municipal reviews including the gathering and organizing of information and key decisions that LAFCO needs to make in scheduling the individual reviews.

REVIEW DEADLINES

The CKH Act's most recent amendments took effect on January 1, 2001. Although §56430 does not directly provide a specific date when all service reviews must be completed, a deadline can be inferred from §56425, which states, "Upon determination of a sphere, the commission shall adopt that sphere, and shall review and update, as necessary, the adopted sphere not less than every five years."

LAFCO should develop a schedule for undertaking municipal service reviews reflective of the individual needs of their county and as a workload management tool. Key internal and external considerations in the development of a schedule for municipal service reviews include:

- To what extent are your SOIs current?
- Are there any pending proposals involving changes to SOIs that may trigger the need for a municipal service review?
- What is the relative complexity of the service(s) being reviewed? (**Appendix E** includes information on data collection that may assist LAFCO to determine level of complexity.)
- What is the capacity of LAFCO to undertake municipal service reviews? (**Appendix F** includes information about the use of consultants for municipal service reviews and **Appendix G** includes examples of funding options.)
- What are the general operating practices of LAFCO? (i.e., frequency of meetings, length of meetings, number of items typically on the agenda)

OPR recommends that LAFCO take the time to establish a schedule and process for undertaking municipal service reviews which reflects agreement of the commission members, service providers, the public, the executive officer and LAFCO staff.

A. DEVELOPMENT OF THE SCHEDULE: LAFCO PREPARATION

Since existing law requires SOIs to be reviewed and updated, if necessary, every five years, and municipal service reviews must be completed for SOI updates, municipal service reviews should be updated at least every five years. LAFCOs have flexibility in scheduling these reviews including identifying which services will be reviewed, whether similar services will be reviewed at the same time, and what service areas/geographic regions will be reviewed within an individual municipal service review.

OPR recommends that LAFCOs develop a five-year schedule of reviews in order to ensure that all required municipal service reviews are completed in a timely manner. In developing any schedule of reviews, LAFCO should include policies and procedures on how it will handle reviews which occur due to changes in local circumstances such as proposals that may require changes to the SOI, proposed annexations, SOI amendments and incorporations.

LAFCO should also provide opportunities for service providers to be involved in the establishment of the schedule, development of the work plan for an individual municipal service review, the design of the review and consultation on the final municipal service review report for the Commission. Below are some tools to assist LAFCO in developing a schedule for individual municipal service reviews including service provider profiles, SOI status logs, maps, and matrices.

Review Service Provider Profiles: Many LAFCOs have developed service provider directories, profiles or inventories, which can be used as a resource. Service provider profiles vary from county to county but most include basic information such as service provider names, district maps, telephone numbers, key staff, size, population served, services provided, appropriate enabling legislation, authorized and latent powers, date of formation and some budget information.

GETTING PREPARED

- Notify Service Providers.
- Review service provider profiles.
- Review SOI status log.
- Obtain service provider maps.
- Create service provider matrices.
- Create five-year schedule.

Some directories only include information on service providers with SOIs. Others include data on most providers including private purveyors and districts that are not subject to SOI or other requirements.

When available, directories can also be used by cities and counties when updating plans, conducting CEQA reviews, and reviewing development projects, and by the public when seeking basic information about services in their communities.

TECHNICAL INPUT

LAFCO municipal service review procedures should include a specific process for service providers and the public to identify unique challenges to providing services to a particular area.

LAFCOs that have not compiled agency profiles should consider using information obtained during municipal service reviews and SOI examples of service provider profiles for a Community Service District (CSD), city and special district.[3]

Review SOI Status Logs: Some LAFCOs maintain a status log for all SOIs under their jurisdiction (See **Appendix K** for an example of a SOI status log). These logs identify

[3] Appendices referenced in this Chapter are provided as examples. The exact content and style are not specifically endorsed.

past actions of LAFCO relative to changes in the SOI of specific service providers. LAFCOs that have not kept status logs should consider keeping these logs and/or otherwise memorializing the information gained from the municipal service review.

Organize Your Data: Once LAFCO has assembled basic information about applicable services and service providers, it may want to use one or more of the following methods for organizing the information. Some suggestions include maps, matrices and timelines.

1. **Maps:** Countywide, regional and service area maps can be useful in identifying what geographic areas should be reviewed. Some of these maps may be obtained from existing sources such as service provider profiles. Some providers may also have GIS maps. Before creating new maps, LAFCO should check with local planning agencies to determine if they have prepared such maps as part of development reviews, EIRs or General Plan preparation. Useful maps include countywide, regional and service area maps. (**Appendix E** provides more information on how maps can assist in data collection.)

> **ADVANTAGES OF ORGANIZING INFORMATION ON SPREADSHEETS**
>
> Data organized using a spreadsheet format or other flexible software, allows each column to be sorted individually. One service provider may provide several services which may or may not be reviewed at the same time. Also, the information can be resorted by area or region.

2. **Matrices:** LAFCOs may find it useful to prepare a matrix listing all service providers by the services that they provide or are authorized to provide. (See **Table 1** below, sample template.) It may also be useful to identify latent powers either on a separate or the same matrix. (**Appendix E** includes more information on data collection.)
3. **Timeline:** LAFCO may use the data compiled to develop a draft five-year timeline for initiating and completing all municipal service reviews. (**Appendix E** includes more information on data collection.)

TABLE 1 – SERVICE PROVIDER MATRIX TEMPLATE[4]

Provider	Area or Region	Fire (FI)	Sanitation (SA)	Water (WA)	Flood Control (FC)	Solid Waste (SW)	Recreation and Parks (R&P)	Other
ARFPD		**FI***						
ARFCD					**FC**			
Arcade R&P							**R&P**	

[4] Example only

Provider	Area or Region	Fire (FI)	Sanitation (SA)	Water (WA)	Flood Control (FC)	Solid Waste (SW)	Recreation and Parks (R&P)	Other
Arcade Water				**WA**				
AM R&P							**R&P**	
Brannan-Andrus LMD					**FC**			
Citizens Utilities				**WA**				
CH ID				**WA**				
Clay Water				**WA**				
RD 369					**FC**			
Cordova R&P							**R&P**	
CSA9			**SA**					
CSD #1			**SA**					
* Using letters facilitates sorts.								

B. Development of the Schedule: Service Provider Preparation

Service providers can help shape municipal service reviews by getting involved early in the process, continuing to be available for questions and dialogue during the preparation and completion of the municipal service review report and assisting in the establishment of the overall schedule, development of the individual service review work plan, and collection of data/information.

DESIGNATE STAFF CONTACT FOR MSR

OPR recommends that service providers designate a staff contact for municipal service reviews and notify LAFCO of the relevant contact information. By streamlining its own organization, a service provider will have a better opportunity to effectively interact with LAFCO.

A municipal service review is only as good as the data on which it is based. LAFCO will need specific information on the services being provided in the region and will probably need to request this information from the service providers. The types of information will vary from agency to agency and by the type of service being reviewed.

Below is a list of the types of information a service provider may wish to gather to expedite the municipal service review process. It is not necessary to collect all types of data listed below. Select only those items that are relevant to the type of services under review.

1. A list of relevant statutory and regulatory obligations.
2. A copy of the most recent master services plan.
3. A metes and bounds legal description of the agency's boundary.
4. Service Area Maps (to the extent already prepared) including (1) A service boundary map; (2) A map indicating parcel boundaries (GIS maps may be available from the land use jurisdiction); (3) A vicinity or regional map with provider's boundary, major landmarks, freeways or highways, and adjacent or overlapping service provider boundaries (note: more than one map may need to be prepared to show all data); and (4) Maps indicating existing land uses within city or district boundaries and on adjacent properties.
5. Applicable excerpts from regional transportation, water, air quality, fair share housing allocation, airport land use, open space or agricultural plans or policies, or other environmental polices or programs.
6. Copies of regulatory and operating permits.
7. Number of acres or square miles included within the service area.
8. Type of sphere or sphere boundaries.
9. Assessed valuation.
10. Estimate of population within district boundaries.
11. As appropriate, the number of people, households, parcels or units currently receiving service, or the number of service connections.
12. Projected growth in service demand or planned new service demand/capacity.
13. Special communities of interest or neighborhoods affected by service.
14. Capital improvement plans.
15. Current service capacity.
16. Call volume.
17. Response time.
18. Annual operating budget.

Don't Reinvent the Wheel

Service providers may regularly submit reports to a regulatory or financing agency which contain the information LAFCO needs to complete the municipal service review. Use the information in these reports to respond to information requests by LAFCO.

Early consultation with LAFCO and meaningful input by the service provider can reduce the time and cost to both parties.

Share Best Practices and Unique Challenges

Service providers should take the opportunity to let LAFCOs know about best practices and other accomplishments of the agency when service information is requested.

In addition, service providers should inform LAFCO about challenges that exist in providing services to a particular area so that this may be considered by LAFCO during the municipal service review.

C. PREPARING THE SCHEDULE

Existing law does not provide for any specific schedule or order for completing reviews. It does however, require that a review be completed and available at the time that LAFCO reviews the SOI for potential revision which must occur not later than every five years.

The schedule can be as simple as a list of reviews by year, indicating the services to be reviewed, providers affected and anticipated study area boundaries. OPR recommends that LAFCO develop a multi-year schedule to provide adequate notice to service providers and the public as well as ensuring that all municipal service reviews are available when they are needed by LAFCO to review SOIs.

MENTORING LAFCOS

OPR recommends that experienced LAFCO's volunteer as "Mentor LAFCOs" to advise other LAFCOs in processing complex municipal service reviews. Completed reviews should also be shared to ensure that best practices can easily be modeled. The CALAFCO website, http://www.calafco.org/, contains a list of LAFCOs with contact information and a "Resource Page" which includes a list of completed municipal service reviews and other relevant documents.

Key Decision Points

In developing a multi-year schedule, LAFCO should begin with the list of services and providers. Chapter 3 includes recommendations on information gathering and organizing. Table 1 in Chapter 3 provides a sample of a chart which may be used for organizing basic information on services and providers. The LAFCO should review this information and any other information that has been collected including maps, service provider profiles, SOI status logs and published reports.

Scheduling for many of the municipal reviews will be obvious due to pending actions before LAFCO or lack of currency of the SOI review. After scheduling these reviews, LAFCO may choose to consider the following:

- **Growth and Service Patterns** - Determine whether there are particular patterns of development or services which need to be addressed in a more timely fashion in order to ensure that LAFCO is meeting its mission for

supporting orderly development, preservation of agricultural lands and open space and/or supporting housing for all Californians (GC §56000).

- **Single Service or Bundled Services** - Decide whether to study individual or clustered services. Services do not necessarily need to be related in order to be bundled. There may be other relevant considerations including multiple services are provided by the same provider(s) or there are unique geographic challenges to the area which all service providers share.
- **Extent of the Consultation Process** – Decide, in general terms, which services are ready to be reviewed based on existing relationships between LAFCO, regional planning staff, city and county planning staff, service providers, stakeholder groups and the public. Some reviews may need to be scheduled later to allow time for a more effective relationship to be developed between all affected parties.
- **Multi-County Review** - Decide whether the municipal service reviews affects or overlaps adjacent LAFCOs. (See **Appendix L**.) Besides a full joint multi-county review, LAFCO may consider the effectiveness of coordinating data collection on similar geographic regions or services being provided.
- **Data Assessment** – Determine to what extent existing sources of information can be used and/or augmented. (**Appendix E** includes information on data collection.)
- **Impact of Pending Proposals** – Determine if coordinating the municipal service review with other LAFCO actions would provide for a better and/or more efficient review. OPR recommends that LAFCO meet with proponents of the proposal to identify issues, funding options, timeframes, and the potential for coordination of the municipal service review with the pending proposal and any required SOI update.
- **LAFCO Capacity** – Determine LAFCO's capacity to undertake the municipal service review. Identify potential funding, staffing, mentoring or consultant arrangements or options. Simple municipal service reviews may be undertaken within LAFCO's existing budget with current staff. Other reviews may need supplemental funding from service providers or applicants for LAFCO actions that require a municipal service review. **Appendix F** includes a discussion on the use of consultants.
- **Funding Shares/Cost Sharing** – Determine how municipal service reviews will be funded. Some LAFCOs have adopted written policies including fee arrangements while other have set annual contributions to the LAFCO budget sufficient to cover all previously scheduled municipal service reviews. **Appendix G** includes several examples of funding sources for municipal service reviews.

D. PUBLISHING THE SCHEDULE

Once LAFCO has determined the schedule, OPR recommends that the schedule be posted on the LAFCO web site, distributed to individuals and organizations on its "interested parties mailing list" and to all affected service providers.

After the schedule is prepared and distributed, circumstances may arise that require it to be modified, especially if the schedule covers multiple years. OPR recommends that LAFCO review the schedule regularly and have policies which facilitate necessary modifications.

CHAPTER 4. DEVELOPING A WORK PLAN FOR INDIVIDUAL MUNICIPAL SERVICE REVIEWS

This Chapter includes guidance on developing a work plan for undertaking an individual municipal service review. Existing law does not require that a work plan be developed as part of the municipal service review process; however, OPR recommends that a plan be developed to ensure compliance with existing laws, consistency in the review process and applicability to local conditions and circumstances.

A. DEVELOPING A STRATEGY FOR PREPARATION OF THE MUNICIPAL SERVICE REVIEW REPORT

As part of its review of municipal services, LAFCO must prepare a written statement of its determinations with respect to each of the following (GC §56430):

1. Infrastructure needs or deficiencies.
2. Growth and population projections for the affected area.
3. Financing constraints and opportunities.
4. Cost avoidance opportunities.
5. Opportunities for rate restructuring.
6. Opportunities for shared facilities.
7. Government structure options, including advantages and disadvantages of consolidation or reorganization of service providers.
8. Evaluation of management efficiencies.
9. Local accountability and governance.

LAFCO will need to decide what information and level of analysis is necessary to support sound and defensible determinations. Because the Commission is responsible for making these determinations based on staff research, analysis and recommendations, it is important that the municipal service review report contain sufficiently detailed information that supports and justifies the recommended determinations. To this end, the LAFCO staff should consider how the general format will be structured to meet the content requirements of the municipal service review report.

The amount of information and analysis necessary to complete a municipal service review report will vary depending upon the particular service being reviewed, local circumstances, and any additional actions that might need to be taken based on the municipal service review. To the extent that LAFCO is aware of other proposals or pending actions that will be related to or dependent upon a particular municipal service review, LAFCO may wish to address other issues in the municipal service review report or require supplemental information and analysis in the municipal service review.

B. WRITING THE WORK PLAN

OPR recommends that each municipal service review be undertaken pursuant to a formalized work plan. This work plan does not necessarily have to be approved by the Commission, but should be developed by staff with the Commission's knowledge and input.

OPR recommends LAFCO develop a consistent format for the work plan to streamline its preparation and encourage standardization of the process for conducting municipal service reviews. Consistency should be a primary goal in LAFCO's review of municipal services, not only for the benefit of LAFCO and its staff, but also for other stakeholders who will routinely be involved in the municipal service review process.

The work plan should minimally include the following elements:

- List of Service(s) to be reviewed.
- Service Providers that will be affected/involved.
- Study Area Boundaries for the municipal service review. (Chapter 5 includes more information on how to establish study area boundaries.)
- Data Collection process. (Chapter 3 and **Appendix E** includes a discussion of data collection.)
- Public Participation process. (Chapter 2 provides additional information on the role of public participation in the review of municipal services.)

- Public hearing process. (Chapter 11 contains more information on the hearing process. **Appendix D**, the process flow chart, illustrates how the hearing process may work if LAFCO chooses to integrate the municipal service review into other LAFCO actions.)

C. REVIEWING EARLIER SCHEDULING DECISIONS

If LAFCO has previously developed a multi-year schedule of reviews based on a comprehensive and data-driven process (refer to Chapter 3), the development of the work plan will primarily consist of reviewing these early decisions to be sure that conditions have not changed as to necessitate alternative choices.

Potential changes which may have occurred include, but are not limited to:

- There are new service providers in the study area or in the county, in general.
- Due to recent events, there is now a need for inter-county coordination. (**Appendix L** includes a discussion of inter-agency coordination.)
- Due to recently proposed pending projects there is a need to integrate the municipal service review into another LAFCO action(s). (Chapter 6 includes a discussion of this issue.)
- Funding which had been proposed to be budgeted is not currently available, requiring an alternative funding process. (**Appendix G** includes additional information on funding options.)
- Permit violations, bankruptcy of affected local agencies, or service provider consolidations have occurred.

CHAPTER 5. IDENTIFYING THE MUNICIPAL SERVICE REVIEW STUDY BOUNDARY

The statutory requirement to perform a municipal service review instructs LAFCO to comprehensively review all of the agencies that provide services within a designated geographic area (GC §56430). This Chapter includes guidance on how to determine the study boundary area. Some LAFCOs may choose to identify boundaries as part of developing the schedule of individual municipal service reviews. Other LAFCOs may choose to determine boundaries as each review is undertaken.

LAFCO TO LAFCO CONSULTATION

LAFCOs should determine if consultation with other LAFCOs is appropriate when analyzing information for the establishment of the study boundary of a proposed municipal service review. This is especially important for municipal service reviews that may lead to the consideration of proposals that have the potential to cause significant environmental, fiscal or economic impacts on another county.

GC §56430 states, "the commission shall include in the area designated for municipal service review the county, the region, the sub-region, or such other geographic area as is appropriate for an analysis of the service or services to be reviewed."

A. Methods for Identifying an Appropriate Municipal Service Review Boundary

There is no single method for identifying an appropriate municipal service review boundary. Within the State, there are numerous combinations of services, and types of service regions and community service areas within counties.

Each LAFCO will need to work with affected and interested agencies and planning jurisdictions, if different, to define logical municipal service review study boundaries that respond to local conditions, geography and circumstances. This work includes:

- Selecting a service or group of services for review;
- Determining who provides, uses and is affected by that service (those services);
- Determining what topographic features, tax zones, joint powers agreements, shared facilities, resources and infrastructure, among other factors, link a service to a particular location or locations that could be studied; and
- Mapping or otherwise identifying the area for study.

TAILOR BOUNDARIES TO SERVICES AND LOCAL AREA

LAFCO should have a clear methodology for establishing boundaries based on these and other factors.

- Study boundaries should reflect local conditions and the specific service under review.
- There are widely varying local conditions including numerous types of geologic, topographical and climate zones. Some counties have isolated rural and mountain communities. Other counties are densely populated.
- Some counties have an agriculture based economy; others have urban or urban/suburban economies.
- There are large and small drainage basins, and counties with mountains or large lakes. Some districts cross county boundaries, provide regional services, or serve a single isolated town.

B. Examples of Municipal Service Review Boundary Determinations

The following are examples of municipal service review study areas based on hypothetical conditions and circumstances.

Example 1 – Using Geographic and Growth Boundaries: County A is a rural county generally bisected by a mountain range. The County's western slope contains two adjacent rapidly urbanizing communities with mainly large lot residential housing. Each of two community service districts provides parks and recreation, street lighting

and landscaping, and road maintenance services to one of the communities. Only one district provides fire protection and emergency services. There are five fire districts that surround the potential study area and are planning to serve areas that are approved for urbanization, some of which are within CSD boundaries.

All fire districts are planning to construct new facilities near or in the two communities. There are definable areas where there is little relationship between the fire service providers' boundaries and first response fire protection and emergency service responsibilities. All of the districts have substantial territory within a State Responsibility Area, and, therefore, receive fire-fighting assistance from the California Department of Forestry (CDF). The CDF provides fire protection services by contract to one of the community services district. The County provides overlapping park and open space services in the area.

Analysis: OPR suggests that this study area's boundary include the western slope of the mountain ridge with the urban limit line forming a possible southern boundary. To maximize efficiency, this municipal service review should probably include multiple services.

Example 2 – Using Geographic Boundaries: Nine sanitation service districts serve territory contained in a well-defined drainage basin. District A owns and operates a wastewater treatment plant in the basin. All districts are parties to a joint powers agreement to use the facility and share maintenance and operation costs. Other major service providers' boundaries are based on the location of urban areas and have little relationship to drainage basin boundaries.

Analysis: OPR suggests that this study area's boundaries be generally coterminous with drainage basin boundaries. Only wastewater service should be studied, although LAFCO could determine whether a similar structure exists for water providers and consider the potential for a combined water/sanitation municipal service review.

Example 3 – Using Existing Planning Areas: Two small cities are located in the southern portion of a rural county. Each city provides most of its own municipal services with the exception of water, sanitation, and mosquito abatement/vector control. Three regional districts provide those services.

Analysis: OPR suggests that this study area's boundary include the planning areas of both cities. Services to be studied would be limited to those provided by the two cities although an overview of the three regional districts could also be included. LAFCO could streamline the process by conducting joint SOI updates concurrent with the municipal service review, and a single CEQA review.

Example 4 – Using the Geo-political Boundaries: County A is a large county with substantial rural, suburban and urban areas. During the past eleven years, the number of fire districts in County A has decreased from 25 to 16 due to service

provider initiated consolidation proposals. Several fire districts are considering initiating consolidation proposals when their fire chiefs retire. Four of the service providers serve isolated rural areas. One urban/rural provider provides emergency services to smaller, adjacent rural districts. None have overlapping boundaries. All participate in mutual aid agreements. Developers on the east side of the county have been approaching fire service providers in an adjacent county for the purpose of obtaining fire service for proposed isolated senior citizen communities.

Analysis: OPR suggests that this study area's boundary include the entire county and include all fire protection service providers. The fire protection service providers from adjacent counties should be asked to participate in stakeholder meetings, and/or provide other input into the study. Providers could be clustered by geographic location, or urban/rural characteristics.

Example 5 - Using Multi-County Study Areas: One hundred thirty-five (135) flood control, drainage, land reclamation or levee maintenance service providers serve a 100 square mile drainage area with deteriorating or insufficient infrastructure. Property values in the area are depressed. Many share insurance, capital facilities, attorneys or staff. Several have no paid staff. There is significant variation in assessed service rates, which, in many cases, bears a direct relationship to levels of service. There are few overlapping boundaries. The districts are located in four counties.

Analysis: OPR suggests that study area's boundary include the entire 100 square mile area. The affected LAFCOs could develop a joint powers agreement and conduct a joint municipal service review study for flood control, drainage and levee maintenance.

PART II - THE MUNICIPAL SERVICE REVIEW PROCESS

The Municipal Service Review Process offers an opportunity for integration with other LAFCO actions including SOI creation or updates, CEQA evaluations and consideration of civil rights impacts. The early identification of potential partners, issues, recommendations and impacts of LAFCO actions on the environment and underserved communities will contribute to the successful collection of comprehensive information to enable LAFCO to make effective determinations based on the nine categories.

CHAPTER 6. INTEGRATING MUNICIPAL SERVICE REVIEWS WITH OTHER LAFCO ACTIONS

This Chapter provides guidance on how to integrate municipal service reviews with other LAFCO actions. LAFCOs are not required to review a SOI at the same time that it performs a municipal service review. Some LAFCOs may find, however, that integrating municipal service reviews with other LAFCO business proves a better context in which to review the information and streamlines both the municipal service review and SOI processes. **Appendix D** provides a flow chart, which illustrates how an integrated municipal service review may be undertaken.

WHEN TO DO MUNICIPAL SERVICE REVIEWS

The CKH Act's most recent amendments took effect on January 1, 2001. Although GC §56430 does not directly provide a specific date when all service reviews must be completed, a deadline can be inferred from GC §56425, which states, "Upon determination of a sphere, the commission shall adopt that sphere, and shall review and update, as necessary, the adopted sphere not less than every five years."

A. INTEGRATING MUNICIPAL SERVICE REVIEWS WITH SPHERE OF INFLUENCE ACTIONS

The information, recommendations and determinations, contained in a municipal service review, are intended to guide and inform SOI decisions. This includes actions to create or update an SOI. GC §56430(c) states,

> "The commission shall conduct a municipal service review before, or in conjunction with, but no later than the time it is considering an action to establish a SOI in accordance with GC §56425 or §56426.5 or to update a SOI pursuant to §56425."

Any SOI adopted prior to December 31, 2000 must be reviewed and updated, as necessary, but at least by January 1, 2006. Some updates may simply involve an

affirmation of the existing SOI boundaries or some modifications to the SOI to achieve consistency with the CKH Act. GC §56430 states that municipal service reviews must be conducted prior to, or concurrent with, those updates. Therefore all municipal service reviews must be completed by January 1, 2006.

INTEGRATE MUNICIPAL SERVICE REVIEWS WITH OTHER ACTIONS

Some LAFCOs may find that integrating service reviews with other LAFCO business proves a better context in which to review the information and streamlines both the service and SOI processes. **Appendix D** provides a flow chart which illustrates how an integrated service review may be undertaken.

A LAFCO may have several reasons for prioritizing a specific municipal service review. Perhaps there is a pending proposal to create, update or substantially amend an SOI; a pending health and safety issue; or the SOI is many years old. Whatever the reason, LAFCO should consider whether it is feasible and more efficient to combine municipal service reviews and related SOI processes. Reasons for combining municipal service reviews with SOI reviews include:

- SOI actions, staff reports, planning documents and public hearings may be consolidated to maximize the time of commission members, stakeholders, and the general public.
- Prudent clustering of SOI actions and related municipal service reviews may reduce processing costs, and enable costs to be spread among more affected or interested parties.
- CEQA encourages the consideration of multiple related actions where appropriate. It may be possible to evaluate a municipal service review and its associated SOI action(s) in a single CEQA review.
- Service review determinations and SOIs actions may be viewed from a more inclusive or regional perspective.

B. Integrating Municipal Service Reviews with Other Proposals

During the conduct of a municipal service review, LAFCO may determine that study conclusions will strongly support specific government organization or reorganization proposals or actions. In those cases, LAFCO, or affected service providers, may desire to initiate recommended actions concurrent with the municipal service review. With concurrent processing, the municipal service review report could be drafted to fully discuss the proposed recommendations or follow-up actions. This expanded report format could save LAFCO time and money by eliminating or reducing the need for future hearings. The public may benefit by having a more complete understanding of the municipal service review analysis and potential outcomes.

C. MUNICIPAL SERVICE REVIEWS IN THE REGIONAL CONTEXT

While LAFCO does not have any direct land use authority, the CHK Act assigns LAFCOs a prominent role in regional planning issues by charging it to consider a wide range of land use and growth factors when it acts on matters under its jurisdiction. LAFCO has broad statutory responsibility to consider planned, orderly, efficient patterns of urban development which may assist in preserving agricultural lands and achieving a share of the region's housing needs. (GC §56001)

LAFCOs can have a powerful influence on local land use planning decisions through participation in city and county general plan processes[5]. GC §65352(a) of state planning law requires cities and counties to refer their general plans to LAFCO before adopting or amending their general plans. This is an example of many opportunities that LAFCO has to influence local and regional land use decisions in ways that are consistent with LAFCO's charge. On one hand, LAFCO must consider consistency with local general plans when it makes boundary decisions, but LAFCO also has the ability to influence the nature of those local general plans through active participation in their development.

Regional planning initiatives are another opportunity for LAFCO to collaborate with planning agencies and encourage development of coordinated goals and policies. Examples of regional initiatives include habitat conservation plans, regional transportation plans, regional housing needs allocation and watershed management plans, to mention a few.

Service reviews occur in the larger context of county and regional planning efforts that are not always in harmony. LAFCO should use every opportunity to engage in these other planning efforts to ensure that LAFCO's concerns are reflected in land use planning decisions.

LAFCO should also take advantage of the opportunity to use its municipal service review process as a means of encouraging collaboration with planning agencies on important policy issues. By both participating in these other planning efforts and using information gained from these activities LAFCO can help improve the quality and consistency of data. Service reviews should help put into context the relationship between service options and regional issues, goals and policies.

Refer to GCs §56377, §56378, §56386, §56430, §56668, and §56668.5 for specific requirements for LAFCOs to consider regional issues or coordination with regional planning agencies.

[5] General Plan Guidelines, Governor's Office of Planning and Research, 2003, www.opr.ca.gov

CHAPTER 7. INTEGRATING MUNICIPAL SERVICE REVIEWS WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

The Public Resources Code §21000 et seq, also known as the California Environmental Quality Act (CEQA), requires public agencies to evaluate the potential environmental effects of their actions. Only discretionary actions that are defined as projects are subject to CEQA. A project is the whole of an action, which has the potential for resulting in either a direct physical change to the environment, or a reasonably foreseeable indirect physical change to the environment (CEQA Guidelines §15378).

In order for CEQA to apply to a municipal service review, it must be considered a project under CEQA. Several court cases have addressed the issue of CEQA applicability to LAFCO actions, including annexation, deannexation, adoption of a SOI, and adoption of SOI guidelines, all of which were interpreted to be projects under CEQA.[6] While there is no case law related to municipal service reviews, existing case law establishes that certain LAFCO decisions are clearly subject to CEQA when those decisions constitute a project. The main question that LAFCO must consider is whether its action may have a potential to cause significant environmental impacts, either directly of indirectly. Adoption of municipal service reviews may meet this test if the action could influence future growth patterns or otherwise affect land use in a way that impacts the environment.

A. APPLICABILITY OF CEQA

Service reviews are intended to support SOI updates, which may include expansions or reductions in SOI boundaries, the creation of new SOIs, or SOIs amendments that trigger a need to update the pertinent SOI. The language of GC §56430 of the CKH Act requires that LAFCO will:

- Consider municipal service reviews, and municipal service review recommendations, during noticed public hearings;
- Render determinations regarding a number of issues including various government options, the advantages and disadvantages of the consolidation

[6] Bozung v. Local Agency Formation Commission
(1975) 13 Cal.3d 263 [118 Cal.Rptr. 249]

City of Agoura Hills v. Local Agency Formation Commission
(2d. Dist. 1998) 198 Cal.App.3d 482 [243 Cal.Rptr. 740]

City of Livermore v. Local Agency Formation Commission
(1st Dist. 1986) 183 Cal.App.3d 681 [228 Cal.Rptr. 384]

People ex rel. Younger v. Local Agency Formation Commission
(4th Dist. 1978) 81 Cal.App.3d 464 [146 Cal.Rptr. 400]

and reorganization of service providers, and the identification of infrastructure needs; and

- Use the reviews when rendering future decisions to create, update or amend an SOI, or approve or disapprove government organization or reorganization proposals.

In some cases, a municipal service review, and its required determinations, will provide policy guidance for future LAFCO decisions that may direct or affect the location and pattern of growth. Because of the nature of the analysis required, municipal service reviews may be perceived or interpreted by some as the first step in creating, updating or amending SOIs or initiating other government organizations or reorganizations. In other cases, municipal service reviews may actually be an integral part of a larger project. Service reviews may frequently be triggered by pending applications to LAFCO for SOI amendments, or for annexations that cannot proceed without an SOI update.

To ensure compliance with CEQA, and avoid unnecessary legal challenges, OPR recommends that LAFCOs consider municipal service reviews as projects subject to CEQA. The LAFCO would be the "lead agency" responsible for complying with CEQA because it is the entity with the principal responsibility for approving or carrying out the municipal service review (i.e., the project) (Public Resources Code §21067). As the CEQA lead agency, LAFCO must ensure that all required elements of the CEQA review process are conducted consistent with the requirements of CEQA and LAFCOs' own adopted CEQA procedures.

B. CEQA DETERMINATIONS

CEQA requires a lead agency to make one of three basic environmental determinations with respect to the potential environmental effects of a project. The project may qualify for an exemption, which requires no further analysis. If the project is not exempt and there are no potentially significant environmental effects, the lead agency may prepare a Negative Declaration (ND). If the project is not exempt and there is the potential for one or more significant environmental effects, an Environmental Impact Report (EIR) must be prepared.

No two municipal service reviews will be exactly alike and each needs to be evaluated on its specific merits and characteristics. Each LAFCO should ensure that its own locally adopted CEQA procedures and guidelines are updated to account for environmental determinations on municipal service review activities.

C. EXEMPTIONS

Each lead agency must first review a project to determine if it is exempt from CEQA review. There are three types of exemptions that LAFCO could review for applicability to a specific municipal service review: statutory, categorical and "general rule" exemptions. The lead agency should support its reliance on an exemption with substantial evidence in the record.

A municipal service review may potentially qualify for a statutory exemption as a Feasibility and Planning Study:

> "A project involving only feasibility or planning studies for possible future actions which the agency, board, or commission has not approved, adopted, or funded does not require the preparation of an EIR or negative declaration but does require consideration of environmental factors. This Chapter does not apply to the adoption of a plan that will have a legally binding effect on later activities." (CEQA Guidelines §15262).

There are two categorical exemptions that might apply to a municipal service review. These are Class 6 and Class 20 categorical exemptions. Categorical exemptions may not be used if there are special circumstances that would raise the potential for the project to have a significant environmental effect (CEQA Guidelines §15300.2).

> "Class 6 consists of basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource. These may be strictly for information gathering purposes, or as part of a study leading to an action which a public agency has not yet approved, adopted or funded." (CEQA Guidelines §15306)

> "Class 20 consists of changes in the organization or reorganization of local government agencies where the changes do not change the geographical area in which previous existing powers are exercised. Examples include but are not limited to: (a) Establishment of a subsidiary district; (b) Consolidation of two or more districts having identical powers; and (c) Merger with a city of a district lying entirely within the boundaries of the city." (CEQA Guidelines §15320)

A general rule exemption may apply to a project, where it can be seen with certainty that there is no possibility that the activity in question may have a significant adverse environmental effect (CEQA Guidelines §15061(b)(3)). LAFCOs are advised to use this exemption with particular caution because legal challenges to the use of this exemption may be more difficult to defend.

If LAFCO determines that an exemption is appropriate, it is recommended that LAFCO prepare and file a Notice of Exemption (NOE) as described in §15062 of the CEQA

Guidelines. If an NOE is not filed, the statute of limitations is 180 days from the date of the lead agency's decision to approve the project, as opposed to 35 days if an NOE is filed.

D. INITIAL STUDY

If LAFCO determines that a municipal service review project is not exempt, then an Initial Study must be prepared to determine whether a Negative Declaration or an EIR is the appropriate level of review under CEQA. LAFCO is required to consult with responsible and trustee agencies prior to its determination of the appropriate environmental document to prepare (see CEQA Guidelines §15063.)

E. NEGATIVE DECLARATION

A Negative Declaration may be prepared by LAFCO for a project when the Initial Study shows that there is no substantial evidence that the project may have a significant effect on the environment (CEQA Guidelines §15070-§15075).

The Negative Declaration must be made available to the public and others who have expressed an interest in the project, not less than 20 days before the project is heard by LAFCO. Prior to approval of the project, the Commission must consider any comments received on the Negative Declaration.

If LAFCO determines to carry out or approve the project, a Notice of Determination (NOD) must be filed with the County Clerk within five working days. The County Clerk must post the NOD within 24 hours of receipt. The posting of the NOD starts a 30-day statute of limitations for challenges under CEQA. If a NOD is not filed, the statute of limitations is 180 days from the date of the lead agency's decision to approve the project.

F. ENVIRONMENTAL IMPACT REPORT

If a municipal service review is subject to an EIR process because of potentially significant effects, LAFCO should rely upon §15080-§15097 of the CEQA Guidelines for guidance on the preparation of an EIR. An EIR may be required where the municipal service review is closely tied to a larger action, such as an SOI update, that may have a significant effect on the environment.

An EIR may require up to a year to complete, and associated costs can reach $50,000 or more. Where LAFCO resources to prepare an EIR are limited, it is recommended that LAFCO consider using the services of a consultant.

CHAPTER 8. ENVIRONMENTAL JUSTICE CONSIDERATIONS IN MUNICIPAL SERVICE REVIEWS

In undertaking municipal service reviews and making the nine determinations, LAFCO commissioners should consider their responsibilities under federal and state civil rights and environmental justice laws. This chapter describes the framework for developing an effective municipal review process which reflects the laws and policies related to civil rights and environmental justice.

The purpose of the municipal service review is to undertake the comprehensive review of existing municipal services prior to the review of the sphere of influence of an individual service provider. In order for civil rights and environmental justice to be properly considered, OPR recommends that relevant information be collected at the municipal service review stage and considered when developing the nine determinations.

LAFCOs AND EJ

As the primary agency with responsibility for approving changes in boundaries, LAFCOs play an important role in coordinating growth and ensuring that proposed changes are consistent with environmental justice obligations.

In general, federal and state civil rights laws prohibit actions by public entities which disproportionately affect one category of individuals including, but not limited to, race, creed, ethnicity, disability, family status, sexual orientation and income.

Environmental justice is defined in state law as the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies (GC §65040.12(e)).

Environmental justice has particular implications for municipal service reviews, as the nine determinations relate to the provision of services to whole communities including those that may have been historically underserved and/or environmentally overburdened.

Staff and Board Training

OPR recommends that LAFCOs provide for ongoing training of staff and board members relative to the application of federal and state civil rights statutes which apply to local government entities.

In addition, the information gained in the municipal review process will be used to analyze future proposals before LAFCO. A LAFCO decision to approve an extension of a service area or a change in city boundaries could have a significant environmental justice impact especially if it results in the siting of a major industrial, residential or public works project. The 2000 amendments to CKH Act also recognize the potential impact of LAFCO decisions on environmental justice. (GC §56001):

> "Encourage orderly growth and development which are essential to the social, fiscal, and economic well-being of the state…..The Legislature also recognizes that providing housing for

> persons and families of all incomes is an important factor in promoting orderly development. Therefore, the Legislature further finds and declares that this policy should be effected by the logical formation and modification of the boundaries of local agencies, with a preference granted to accommodating additional growth within, or through the expansion of, the boundaries of those local agencies which can best accommodate and provide necessary governmental services and housing for persons and families of all incomes in the most efficient manner feasible. "

Chapter 9 provides guidance on specific issues that LAFCO may wish to consider in developing the nine determinations related to municipal service reviews, including environmental justice and civil rights issues and factors.

A. FEDERAL FRAMEWORK

The Constitutional basis for environmental justice lies in the Equal Protection Clause of the U.S. Constitution. The Fourteenth Amendment expressly provides that the states may not "deny to any person within [their] jurisdiction the equal protection of the laws" (U.S. Constitution, amend. XIV, §1).

LAFCO EJ PROGRAMS

In response to these recent federal actions, many state and local agencies that receive federal funding have initiated environmental justice programs of their own. OPR recommends that LAFCOs consider whether it would be useful to implement their own environmental justice program in order to further their responsibilities under CKH Act.

On February 11, 1994, President Clinton signed Executive Order (E.O.) 12898, titled "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations." The executive order followed a 1992 report by the U.S. Environmental Protection Agency (U.S. EPA) indicating that "racial minority and low-income populations experience higher than average exposures to selected air pollutants, hazardous waste facilities, and other forms of environmental pollution." E.O. 12898 directed federal agencies to incorporate environmental justice into their missions.

In a memorandum accompanying E.O. 12898, President Clinton underscored existing federal laws that could be used to further environment justice. These laws include Title VI of the Civil Rights Act of 1964 and the National Environmental Policy Act (NEPA), among others. Title VI prohibits any recipient (state or local entity, or public or private agency) of federal financial assistance from discriminating on the basis of race, color, or national origin in their programs or activities (42 USC §2000d to §2000d-7).

State and local agencies that receive federal funding must comply with Title VI. Under the Civil Rights Restoration Act of 1987, this requirement is not limited to the programs and activities that receive direct federal funding, but applies to all agency activities.

B. STATE FRAMEWORK

Anti-discrimination laws existed in California prior to the passage of the first environmental justice legislation in 1999. The California Constitution prohibits discrimination in the operation of public employment, public education, or public contracting (Article I, §31). State law further prohibits discrimination under any program or activity that is funded or administered by the state (§11135).

The Planning and Zoning Law prohibits any local entity from denying any individual or group of the enjoyment of residence, landownership, tenancy, or any other land use in California due to the race, sex, color, religion, ethnicity, national origin, ancestry, lawful occupation, or age of the individual or group of individuals (GC §65008).

The Fair Employment and Housing Act (FEHA) specifically prohibits housing discrimination on the basis of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, disability, or source of income (§12900, et seq)

GUIDANCE ON ENVIRONMENTAL JUSTICE

OPR has been statutorily directed to be the coordinating body for state agencies on environmental justice issues (§65040.12).

Further, OPR is required to provide guidance to cities and counties for integrating environmental justice into their general plans (§65040.12(c)).

LAFCOs may also consult with OPR on issues related to environmental justice and the approval of SOIs and annexation which may have environmental justice implementations.

In 1999, Governor Davis signed SB 115 (Solis, Chapter 690, Statutes of 1999), that defines environmental justice in statute and establishes OPR as the coordinating agency for state environmental justice programs (GC §65040.12).

As the primary agency with responsibility for approving changes in boundaries, LAFCO play an important role in coordinating growth and ensuring that proposed changes are consistent with environmental justice obligations.

C. FORMS OF INEQUITY

Problems of environmental justice can be broken down into two categories: procedural inequity and geographic inequity. In other words, unfair treatment can manifest itself in terms of process or in terms of results.

Procedural inequity occurs when the planning process is not applied uniformly. Examples of procedural inequity include:

- "Stacking" commissions or committees with certain interests while ignoring the interests of other segments of the community, such as minority and low-income residents.

- Holding meetings at times or locations that minimize public participation by certain groups or individuals.
- Using English-only written or verbal communication when a non-English speaking population will be affected by a planning decision.
- Requiring lower levels of mitigation for projects affecting low-income or minority populations.
- Unevenly enforcing environmental rules.

Geographic inequity describes a situation in which the burdens of undesirable land uses are concentrated in certain areas of the county while the benefits are received elsewhere. Municipal service reviews can play a key role in identifying these inequities. Examples of geographic inequity include:

- Certain areas of the county have a disproportionate share of industrial facilities that handle or produce hazardous waste, while the economic benefits are distributed to other areas (in the form of jobs and tax revenue).
- Certain areas have a disproportionate share of waste disposal facilities, while the benefits of such facilities are received by the community or region as a whole.
- Certain areas experience more of the environmental benefits associated with community centers, parks, and open space, while other neighborhoods have fewer such amenities.

D. INFORMATION AND ANALYSIS

As discussed throughout these guidelines, informed decisions regarding the municipal service reviews requires good information. Strategies for data collection are discussed in Chapter 3 and **Appendix E**. A clear identification of the lands, population and facilities (existing and proposed) is essential in analyzing the information for the nine determinations. When evaluating the issues identified in this chapter that relate to environmental justice, LAFCO may wish to consider the following data layers:

- Base map of the study area
- General plan designations of land use (existing and proposed)
- Current demographic data: Population (location and density); Income (distribution of very-low, low, moderate and above moderate income groups); Ethnicity (distribution of minority populations); Age (distribution of seniors and children throughout the community)
- Location of public facilities that enhance community quality of life, including open space, water quality, and fire protection.

- Location of industrial facilities with its existing and projected service needs and other uses that contain or produce materials that, because of their quantity, concentration, or physical or chemical characteristics, pose a significant hazard to human health and safety
- Location of existing and proposed schools
- Location and density of existing and proposed residential development

Preventing and reversing historical problems of procedural and geographic inequity requires accurate information in order to develop policies and prioritize implementation measures.

EJ INFORMATION HAS MANY USES

Data obtained in the municipal service review process can be used by LAFCO and other public agencies for:

- Improving the community participation process
- Identifying low-income/minority neighborhoods under-served by public facilities and services that enhance quality of life
- Considering the equitable distribution of public facilities and services
- Considering infrastructure and housing needs
- Identifying low-income/minority neighborhoods where facilities and uses that pose a significant hazard to human health and safety may be over-concentrated
- Screening of issues for potential environmental justice implications

E. PUBLIC PARTICIPATION

These guidelines include a number of recommendations which encourage broad public participation and municipal service review analysis which would affirmatively support the civil rights and environmental justice responsibilities of LAFCO including:

- Educate the public on the role of LAFCOs and the importance of municipal service reviews.
- Adopt general policies and procedures relative to the undertaking of the municipal service review. This will avoid any appearance of an unequal review of some services.
- Develop and publish a five-year schedule for municipal service reviews to maximize the ability of the public to participate in the process.
- Convene stakeholders and facilitate collaborative efforts to address issues and challenges that are identified during the municipal service review process.
- Undertake municipal service reviews across county lines if that would more appropriately address the community of interest.

- Adopt the work plan for the individual municipal service review at a public meeting.
- Incorporate the municipal service review with other LAFCO actions (such as a SOI update) for the purpose of demonstrating the context in which the information gained in the municipal service review will be used.
- Publish the Draft Municipal Service Review Report and provide for a 21-day public review period before scheduling the report to be considered by LAFCO.
- Hold meetings and public documents in language other than English, where affected populations are reasonably expected to be non-English speakers.
- Sponsor public workshops prior to the hearing at which the Final Municipal Service Review Report will be adopted.

CHAPTER 9. DEVELOPING WRITTEN DETERMINATIONS

This Chapter provides guidance for evaluating each of the nine categories for which written determinations must be rendered pursuant to GC §56430.

The tables contained in this Chapter were developed to illustrate the factors or issues LAFCO may wish to consider when making the nine mandatory municipal service review determinations pursuant to GC §56430. Each LAFCO should use the issues identified in the tables to the extent that they are appropriate to the service being reviewed and local conditions.

WORK TOGETHER TO TAILOR ISSUE LISTS

The lists of issues in this Chapter are very general and were designed to encompass a variety of services provided in all parts of the state.

LAFCOs and service providers are encouraged to work together to develop regionally appropriate and service specific lists of issues.

The individual LAFCO can then work from these more focused lists and further tailor lists to reflect the services being studied in a specific area.

For example, the review of a cemetery service will not include the complex evaluation of items applicable to an infrastructure-intensive provider such as a sanitation district. A cemetery municipal service review discussion for water supply would at most pertain to on-site drinking or irrigation water needs, not the complex water rights and water supply negotiations affecting major urban water service providers. The level of evaluation and discussion should be driven by the specific service or issues relating to that service.

The nine municipal service review determinations are interdependent. Therefore, some of the issues related to each of the nine determinations may overlap, and information about one determination may substantially affect other determinations. For example, Subsection 7, Government Structure Options, includes issues which may be pertinent to all other subsections because those categories provide input into an

evaluation of the advantages and disadvantages of various government structure options.

1. INFRASTRUCTURE NEEDS AND DEFICIENCIES

In identifying an agency's infrastructure needs and deficiencies, LAFCO may wish to address the following factors in its review:

	FACTOR / ISSUE
1.	Government restructure options to enhance and/or eliminate identified infrastructure needs and/or deficiencies.
2.	Expansion of services to eliminate duplicate infrastructure construction by other agencies.
3.	Condition of infrastructure and the availability of financial resources to make necessary changes.
4.	Level of service and condition of infrastructure in light of revenue and operating constraints.
5.	Infrastructure capabilities to accommodate future development with flexible contingency plans.
6.	Reserve capacity for properties not served within current boundaries and estimate of properties within current boundaries not eligible for service.
7.	Provisions for adequate service for properties not currently being served within current boundaries.
8.	Location of existing and/or planned facilities.
9.	Location of existing and/or planned facilities in relation to area demographics.
10.	Location of existing and/or planned infrastructure in relation to affordable housing programs.
11.	Compliance with environmental and safety standards.
12.	Income levels of existing households and earnings of businesses within the study area.
13.	Current placement of infrastructure in the county as a whole and in the study area.
14.	Applicable permit status (i.e. CEQA, etc.).
15.	Consistency with service and/or capital improvement plans and local and regional land use plans/policies.

2. GROWTH AND POPULATION PROJECTIONS FOR THE AFFECTED AREA

In identifying an agency's growth and population projections, LAFCO may wish to address the following factors in its review:

	FACTOR / ISSUE
1.	Projected growth and demographic changes in and around the agency's service areas.
2.	Historic and expected land use absorption trends.
3.	Estimate of future service needs.
4.	Impact of land use plans and growth patterns on service demands.
5.	Impact of service plans and policies on growth and/or land use patterns for adjacent areas, on mutual or regional social and economic interests, and on the local governmental structure of the county.
6.	Relationship between an agency's boundary and SOI with the projected growth in the study area.
7.	Compatibility of service plan(s) with other local agency land use/development plans.
8.	Projected household size of new and existing residential dwellings.
9.	Compatibility between agency service plans, regional growth projections and efficient urban development.

3. FINANCING CONSTRAINTS AND OPPORTUNITIES

In identifying an agency's financing constraints and opportunities, LAFCO may wish to address the following factors in its review:

	FACTOR / ISSUE
1.	Implementation of appropriate financing/funding practices.
2.	Potential for shared financing and/or joint funding applications.
3.	Combination of enterprise and/or non-enterprise financing functions.
4.	Comparative analysis of financing rates among other agencies in study area.
5.	Bond rating(s).
6.	Ability to obtain financing.
7.	Existing and/or proposed assessment district(s).
8.	Debt-to-services ratio by area and subarea incomes.
9.	Opportunities for additional revenue streams, including joint agency grant applications, untapped resources, or alternative government structures.
10.	Methods to pay down existing debt(s), including using excess revenues.

4. COST AVOIDANCE OPPORTUNITIES

In identifying an agency's cost avoidance opportunities, LAFCO may wish to address the following factors in its review:

	FACTOR / ISSUE
1.	Opportunity for joint agency practices, including shared insurance coverage opportunities.
2.	Availability of outsourcing for financial and administrative duties, and cost-benefits of outsourcing versus in-house management.
3.	Duplication of services.
4.	Impact of service practices and/or facilities in relation to land: available for infill; where excess capacity exists; planned for growth; easiest to serve; with the fewest topographic and geographic constraints; and in a manner that supports affordable housing objectives.
5.	Impact of service practices and/or facilities in relation to benefit/detriment of service cost.
6.	Impact of growth inducement measures on construction costs and near-term infrastructure deficiencies.
7.	Policies and/or plans to extend services to an area proposed for annexation or new development, particularly with respect to the impact of extending services on existing customers.
8.	Impact of service practices and/or facilities on affordable housing objectives.
9.	Impact of additional services/capacity on agency's fiscal viability, including cost and adequacy of services in existing or proposed service areas and/or areas served by other special districts, cites, or the county.
10.	Relationship between current level of service and customer needs and preferences.
11.	Opportunities for savings or augmentation in overhead, including employee salary or benefits, elected official compensation or benefits, equipment purchases, planning, etc.
12.	Pro-rata service costs for customer/ratepayer and/or taxpayer.
13.	Application and/or bid process for contractor assistance, including comparison of rates.

5. OPPORTUNITIES FOR RATE RESTRUCTURING

In identifying an agency's opportunities for rate restructuring, LAFCO may wish to address the following factors in its review:

	FACTOR / ISSUE
1.	Agency's methodology for determining rates.
2.	Availability of revenue enhancement opportunities to lessen and/or stabilize rates.
3.	Relationship between rate differences among service providers and levels of service.
4.	Rate comparison between service providers with similar service conditions.
5.	Cost of services versus fees.

	FACTOR / ISSUE
6.	Rate comparison between sub-regions based on demographic information.
7.	The services that ratepayers and/or assessed properties are receiving for which they are paying.
8.	Financial impacts on existing customers caused by the funding of infrastructure needed to support new development.
9.	Impacts of standby rates (charges assessed to under-or-undeveloped land used for rural, agricultural or open space uses) on open space and affordable housing plans.
10.	Relationship between rate and service polices and the provision of decent and affordable housing.
11.	Availability of reasonable emergency reserves.
12.	Use of annual savings.

6. OPPORTUNITIES FOR SHARED FACILITIES

In identifying an agency's opportunities for shared facilities, LAFCO may wish to address the following factors in its review:

	FACTOR / ISSUE
1.	Current shared activities with other service providers, including shared facilities and staff.
2.	Suggested existing and/or future shared facility opportunities by the agency.
3.	Opportunities for conjunctive and/or joint use projects, such as groundwater storage/parks, schools/parks, or flood detention/parks.
4.	Duplication of existing and/or planned facilities of other service providers.
5.	Availability of excess capacity to serve customers of other agencies.

7. GOVERNMENT STRUCTURE OPTIONS

In identifying an agency's government structure options, LAFCO may wish to address the following factors in its review:

	FACTOR / ISSUE
1.	Available government options to provide more logical service boundaries to the benefit of customers and regional planning goals and objectives.
2.	Recommendations by a service provider and/or an interested party for government options.
3.	Anticipated proposals to LAFCO that will affect the service provider.
4.	Prior proposals or attempts by the agency to consolidate and/or reorganize.
5.	Availability of government options that improve public participation, local accountability, and governance.
6.	Impacts of government structures on the potential for displacement of current residents.

	FACTOR / ISSUE
7.	Opportunities to create definite and certain boundaries that conform to lines of assessment or ownership and/or eliminate islands, corridors of unincorporated territory, and other difficult or illogical service areas.
8.	Existing boundary disputes.
9.	Elimination of overlapping boundaries that confuse the public, cause service inefficiencies, unnecessarily increase in the cost of infrastructure, exacerbate rates and/or undermine good planning practices.
10.	Reevaluation of boundaries, including downsizing SOI boundaries and/or approving other boundary modifications that remove important open space and agricultural lands from urban services areas.
11.	Availability of government options that stabilize, steady and/or clarify the government process in order to reduce costs or increase customer satisfaction.
12.	Availability of government options that may produce economies of scale and improve buying power in order to reduce service and housing costs.
13.	Availability of government options that allow appropriate facilities to be shared and avoid the construction of extra and/or unnecessary infrastructure.
14.	Making excess capacity available to other service users in order to eliminate duplicate infrastructure construction by multiple agencies and reduce costs to customers.
15.	Opportunities to improve the availability of water rights and/or supplies (surface, reclaimed or groundwater) to a larger customer base through a change in government organization.
16.	Availability of government options that could facilitate construction, financing and/or eliminate the need for new facility construction.
17.	Cost-benefit of restructuring current governing body and/or administration to any proposed alternative.
18.	Cost-benefit of restructuring overhead, including staff, capital outlays, allocation of reserves or savings, loaded administrative charges for grant administration, accounting, and other contracted services.
19.	Cost-benefit of restructuring the direct distribution of costs or debts from shared facilities to a larger user population.
20.	Opportunities for the sale of surplus properties through a change in government organization.
21.	Availability of excess reserves for service improvements and/or rate reductions through a change in government organization.
22.	Opportunities to enhance capital improvement plans and programs through a change in government structure.
23.	Opportunities to streamline services through the reorganization of service providers that no longer provide services for which they were formed.
24.	Opportunities for early debt repayment and related savings through a change in government structure.
25.	Elimination of rate structures that impose growth pressures on open space resources.

	FACTOR / ISSUE
26.	Identification of illogical boundaries and their effect on rates.
27.	Impact of government structure options on an agency's financial stability.
28.	Rationale for an agency's emergency and/or undesignated reserves (fund equity or balance), particularly in relation to their gross annual revenue.
29.	Changes and/or modifications in boundaries in order to promote planned, orderly, and efficient patterns of urban development.
30.	Changes and/or modifications in boundaries in order to avoid premature inducement, facilitation, or conversion of existing open space lands, including: the direction of growth away from prime agricultural and important open space lands towards infill areas or areas containing nonprime agricultural land; the development of vacant land adjacent to existing urban areas and within existing spheres of influence.
31.	Boundary adjustments in order to minimize the amount of land needed to accommodate growth in the next 5-10 years within the spheres of influence of special districts and cities.
32.	Prevention of extensions of urban services to important agriculture and open space areas not planned for growth or within the boundaries of the city or special district.
33.	Impact of a change in government structure on the implementation of regional transportation, water quality, air quality, fair share housing allocation, environmental justice, airport land use, open space, agricultural, and other environmental polices or programs.
34.	Impacts of government structures on fair housing programs.
35.	Available government options that improve the ability to provide and explain budget and financial data.
36.	Opportunities for improvement in the quality and/or levels of service through changes in government structure.
37.	Impact of investment policies on service levels and quality.
38.	Evaluation of bond rates, ability to borrow or obtain grants, budget practices and other aid.
39.	Ability to gain environmental benefits (wetland restoration, water conservation, and other conservation policies) through government structure options.
40.	Opportunities to integrate services without excessive cost.
41.	Cost-benefit analysis of potential changes in government structure through merging staff, staff reduction by attrition, phasing out of elected or appointed positions, and management staff.
42.	Opportunities for improved service delivery and/or an increase in system standards by system integration through changes in government structure.
43.	Identify prohibitions in the affected Principal Acts that would affect government structure options, including pending litigation, court judgments, other legal issues, restricted assets, financial or other constraints.
44.	Integration of debts and obligations analyses.
45.	Potential successor agencies.

	FACTOR / ISSUE
46.	Impact on existing systems (upgrades) due to government structure changes.
47.	Impact on operating cost (short and long term) due to government structure changes.
48.	Evaluation of long term savings through government structure changes versus related transition costs.
49.	Evaluation of permit status upon integration.

8. EVALUATION OF MANAGEMENT EFFICIENCIES

In evaluating an agency's management efficiencies, LAFCO may wish to address the following factors in its review:

	FACTOR / ISSUE
1.	Evaluation of agency's capacity to assist with and/or assume services provided by other agencies.
2.	Evaluation of agency's spending on mandatory programs.
3.	Comparison of agency's mission statement and published customer service goals and objectives.
4.	Availability of master service plan(s).
5.	Contingency plans for accommodating existing and planned growth.
6.	Evaluation of publicized activities.
7.	Implementation of continuous improvement plans and strategies for budgeting, managing costs, training and utilizing personnel, and customer service and involvement.
8.	Evaluation of personnel policies.
9.	Availability of resources (fiscal, manpower, equipment, adopted service or work plans) to provide adequate service.
10.	Available technology to conduct an efficient business.
11.	Collection and maintenance of pertinent data necessary to comply with state laws and provide adequate services.
12.	Opportunities for joint powers agreements, Joint Powers Authorities, and/or regional planning opportunities.
13.	Evaluation of agency's system of performance measures.
14.	Capital improvement projects as they pertain to GC §65401 and §65103c.
15.	Evaluation of accounting practices.
16.	Evaluation of maintenance of contingency reserves.
17.	Written polices regarding the accumulation and use of reserves and investment practices.
18.	Impact of agency's policies and practices on environmental objectives and affordable housing.

	FACTOR / ISSUE
19.	Review of environmental and safety compliance measures.
20.	Current litigation and/or grand jury inquiry involving the service under LAFCO review.

9. LOCAL ACCOUNTABILITY AND GOVERNANCE

In evaluating an agency's local accountability and governance structure, LAFCO may wish to address the following factors in its review:

	FACTOR / ISSUE
1.	Compliance with state disclosure laws and the Brown Act.
2.	Level of public participation (i.e. open meetings, accessible staff and elected officials, an accessible office open to the public, a phone and/or message center, a web site, customer complaint and suggestion opportunities).
3.	Agency representatives (i.e., board members, employees, and staff).
4.	Public outreach efforts (i.e. newsletters, bill inserts, TV, web site).
5.	Media involvement (i.e. meetings publicized, evening board meetings, evening or weekend public planning sessions).
6.	Accessibility of meetings (i.e. meetings publicized, evening board meetings, evening or weekend public planning sessions and translations for non-English speakers and the hearing impaired).
7.	Election process.
8.	Participation of service users in elections (i.e. elections publicized, day and evening voting).
9.	Public access to adopted budgets.
10.	Budget reports' compatibility with state law.
11.	Audits.
12.	Access to program progress reports.
13.	Current provision of service(s).

PART III - TAKING ACTION ON THE MUNICIPAL SERVICE REVIEW

CHAPTER 10. PREPARING THE MUNICIPAL SERVICE REVIEW REPORT

After collecting and evaluating municipal service review information, the LAFCO Executive Officer should prepare a written report to document the analysis and determinations.

A. DRAFT MUNICIPAL SERVICE REVIEW REPORT

OPR recommends that the report include the following:

- An Executive Summary.
- Review of baseline data and information related to the service or services being reviewed.
- A description of the public participation process.
- An analysis of services, service providers and other issues consistent with the intent of the CKH Act (GCs §56001, §56300, §56301), and including, but not limited to, factors to be considered (§56668), areas of required determination (§56430), SOI concerns (§56425, §56425.5) and environmental justice issues, if any.
- Draft Determinations. (see Section B below for more information).
- Follow-up recommendations, if any.
- Appropriate maps that identify service areas, and clearly delineate overlapping areas using GIS generated maps, if available, to ensure consistency among agencies.

B. WRITTEN DETERMINATIONS

The nine determinations that are required to be made by the Commission are critical because they represent the culmination of the municipal service review process. The CKH Act does not identify a particular format for the nine required determinations nor does it dictate the substance of these determinations.

OPR provides the following recommendations for preparation of written determinations, and recommends that each LAFCO establish its own policy or procedure for using a consistent method of preparing written determinations.

A determination is one or more declaratory statements that make a conclusion, based on all the information and evidence presented to the Commission (i.e., the administrative record), with respect to the nine factors enumerated in GC §56430.

These determinations must be supported by information placed in the record of the municipal service review process, including all of the information collected, LAFCO's analysis and interpretation of the information, verbal and written information presented by the public, and verbal and written testimony given at public meetings or hearings.

Each of the nine determinations must be adequate to bridge the gap between raw data and the final conclusion about the status or condition of the municipal service under review. OPR recommends that the determinations be written in qualitative and quantitative terms, as appropriate, and refer to specific information or examples relative to the municipal service under review and the particular factor (determination) being considered.

While the Commission is ultimately responsible for making these determinations, OPR recommends that the LAFCO staff report include proposed determinations for the Commission to consider.

C. Distribution and Comment Period

OPR recommends that LAFCO provide a formal public review period on the draft municipal service review report and hold at least one public meeting and/or workshop prior to the report being considered by LAFCO. It may be helpful to conduct a stakeholder meeting during the review period to obtain constructive input from those who helped shape the municipal service review.

D. Finalizing the Report to the Commission

Comments received during the public review period should be considered and incorporated in the final report as appropriate. Any person or entity that submits comments should receive a copy of the final municipal service review report and a mailed notice of the public meeting or hearing at which the municipal service review determinations will be considered by the Commission.

The determinations will still be draft until they are accepted/adopted by the Commission. OPR recommends that the Final Municipal Service Review Report, at a minimum, be issued 21-days in advance of the hearing or public meeting at which the determinations will be adopted/accepted. If the determinations will be adopted at a hearing, the issuance of the final report should be concurrent with the 21-day hearing notice.

OPR recommends that the Final Municipal Service Review Report be made available to affected and interested agencies for use as a resource document. Further, copies of the Final Municipal Service Review Report, including draft determinations, should be made available on LAFCO's web site and mailed to affected and interested agencies.

CHAPTER 11. ADOPTING THE MUNICIPAL SERVICE REVIEW REPORT

A. INTRODUCTION

After a Final Municipal Service Review Report is issued, the Commission will need to take steps to complete its municipal service review responsibilities. LAFCO will need to minimally conduct a meeting to consider and accept the municipal service review report that will include the draft determinations.

OPR recommends, based on the long-term application and significance of the municipal service review determinations, that the determinations be made at a fully noticed public hearing.

Well-crafted determinations, plus their supporting documentation are an information and planning resource for LAFCOs, cities, counties, special districts and regional planning agencies.

B. PUBLIC NOTICE FOR A MEETING OR A HEARING

The Final Municipal Service Review Report is required to be considered by the Commission at a noticed public meeting. GC §56150-§56160 include public notice provisions. GC §56154 and §56156 require that published and mailed notice be provided at least 21 days prior to the public hearing. All affected and interested agencies, and persons and entities requesting notice, should receive a mailed notice.

PUBLIC MEETING v. PUBLIC HEARING

Meetings and hearings have different requirements under existing law. In general, the public notice requirements for hearings are longer (21 days v. 5 days) and are more extensive (letters to interested parties v. postings in newspapers). At hearings, the Commission can take actions like adopting resolutions. At a public meeting the Commission accepts the written determinations.

The notice should include a description of the municipal service review and any actions that may be taken by the Commission at the hearing. Those actions may include approval of the report, adoption of the draft determinations and any other actions recommended by staff.

C. ACTIONS AT MEETINGS AND HEARINGS

The meeting or hearing should be conducted consistent with LAFCO's adopted written procedures. If LAFCO chooses to make its determinations at a hearing, here are some additional actions that the Commission could take:

- **Adoption of Resolution of Written Determinations**

  Service review determinations should be adopted by Resolution.

- **Adoption of Municipal Service Review Recommendations**

  The Commission may adopt staff recommendations and direct staff to take follow up actions as appropriate.

- **Adoption of City or District SOI Updates or Amendments**

  If the municipal service review supports a particular action such as an SOI update or amendment, and LAFCO has complied with required processes, those actions could be approved at the same hearing.

- **Initiation or Adoption of Other Proposals**

  If the municipal service review supports a particular action such as an initiation or adoption of an organization or reorganization proposal, and LAFCO has complied with required processes, those actions could be approved or initiated at the same hearing.

> **REMINDER**
>
> If LAFCO has initiated other proposals that are being processed concurrent with a service review, LAFCO must also comply with processing steps for those other actions before acting upon them.

If the Commission accepts the determinations at a public meeting, then existing law does not require a reconsideration process. This lack of a reconsideration process and its potential for correcting and/or modifying the determinations, is one reason OPR recommends that the determinations be formally adopted at a public hearing.

D. RECONSIDERATION

The CKH Act includes a process for interested persons and entities to request the Commission to reconsider its adopted determinations. Pursuant to GC §56895, when the Commission has adopted a resolution making determinations at a public hearing, any person or affected agency may file a written request with the LAFCO Executive Officer requesting amendments to or reconsideration of the resolution. The request must include the recommended modification and state what new or different facts or applicable new law, that could not have been known previously, warrant this reconsideration.

The request for reconsideration must be filed within 30 days of the Commission's action. The reconsideration action should be scheduled for the next Commission hearing for which adequate notice can be given. Oral and written testimony may be received at the reconsideration hearing. The Commission may continue the hearing from time to time but not longer than 70 days from the date of the first hearing (GC §56895).

FOR MORE INFORMATION

This guidance document was prepared by OPR to assist the public, LAFCOs and service providers to effectively engage in the service review process. Additional information on LAFCO may be found on the OPR website at www.opr.ca.gov.