

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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DATE: APRIL 8, 2020
FROM: SAMUEL MARTINEZ, Executive Officer 
MICHAEL TUERPE, Senior Analyst
TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: Agenda Item #10(a) – Proposed Schedule of Fees, Deposits, and Charges for FY 2020-21

RECOMMENDATION:

Staff recommends that the Commission take the following actions related to the Proposed Schedule of Fees, Deposits and Charges for Fiscal Year 2020-21:

1. Review the proposed amendments and provide staff with direction on changes, corrections, or modifications to be included.
2. Direct staff to forward the Proposed Schedule of Fees, Deposits, and Charges for FY 2020-21 to the County, all Cities/Towns, and all Independent Special Districts for their review and comments pursuant to Government Code Section 56383.
3. Schedule the final review and adoption of the Schedule of Fees, Deposits, and Charges for the May 20, 2020 hearing.

BACKGROUND:

The Commission has established a schedule of fees, deposits, and charges for the processing of proposals and the conduct of proceedings under its purview as allowed by law. This staff report presents the Commission with recommendations for amendments to its current Schedule of Fees, Deposits, and Charges (“Schedule”). The revised schedule is included as an attachment to this report. Based upon the requirements of Government Code Section 56383 (which references Section 66016), any change to the Schedule requires that a review and comment period be provided and that a public hearing be held with the opportunity for comment by the public. Today’s review opens this process.

In line with the Commission’s direction, the Fees identified on page 2 (Jurisdictional Change) and page 6 (Service Contract) increase with the 2019 inflation rate of 2.9%¹.

¹ 2.886% for Riverside-San Bernardino-Ontario, CA

Additionally, staff reviewed the costs associated with processing proposals and service contracts. Staff recommends a reduction from \$772 to \$550 for Non-development-related Out-of-Agency Service Contracts/Exemptions from Government Code Section 56133.

CONCLUSION:

At this hearing the Commission is requested to provide staff with any changes, corrections, or additions to be included in the revisions proposed for the Schedule of Fees, Deposits, and Charges. Should the Commission have any changes/modifications, staff would then have to modify the FY 2020-21 Proposed Budget accordingly.

Staff will forward the proposed Schedule to the County, the Cities and Towns, and the Independent Special Districts for their review and comment as required by Govt. Code §56383. Any comments received will be reviewed with the Commission at the final budget hearing scheduled for May 20, 2020 when the adoption of the Schedule will be considered.

SM/MT

Attachment:

Draft Schedule of Fees, Deposits, and Charges for FY 2020-21 (track format)

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

SCHEDULE OF FEES, DEPOSITS, AND CHARGES EFFECTIVE JULY 1, ~~2019~~2020

The submission of an application to the Local Agency Formation Commission (“LAFCO”) is not officially accepted for processing until the filing fees and deposits have been received (Gov’t. Code §56383). Filing Fees are for the Commission’s and staff’s costs. Deposits are for the recovery of outside costs for such items as LAFCO Legal Counsel, environmental review, individual notification, and protest proceedings, etc. In addition, certain fees and charges are required at the conclusion of the application process and must be received prior to its official completion.

Financial Policies for Application Processing

Refer to Attachment A for the Commission’s policies related to waivers and reductions of processing fees, filing fee refund if an application is withdrawn, indemnification, and responsibility for payment of special legal counsel costs. The Indemnification Policy is identified below.

Indemnification Policy

It is the policy of this Commission that for any application submitted for a change of organization or reorganization, a sphere of influence amendment, or a review of an out-of-agency service contract/agreement, the applicant and/or the real party in interest shall agree to defend, indemnify, and hold harmless San Bernardino LAFCO, its agents, officers, attorneys, and employees from any claim, action, proceeding brought against any of them. A real party in interest includes the landowner and/or a registered voter of an application subject property.

Annual Review and Adjustment

The Fees are adjusted annually to increase with the Consumer Price Index, not to exceed five percent. Deposits and Charges relate to outside professional services and supplies and are evaluated annually.

Table of Contents

<u>Section 1.</u>	Proposals – Application Submission and Processing
<u>Section 2.</u>	Proposals – Completion Fees and Charges
<u>Section 3.</u>	Out-of-Agency Service Contracts
<u>Section 4.</u>	Reproduction Charges
<u>Attachment A.</u>	Financial Policies for Application Processing

Section 1. Proposals - Application Submission and Processing

FEE AND DEPOSITS SUMMARY			
Type of Proposal	Fee	Deposits*	Total
Annexation, Detachment, Reorganization involving solely annexations and/or detachments	See Annexation/ Detachment Chart	\$4,000	
<p><i>The fees identified in Chart 1 shall be assessed for each area of consideration within the proposal. A single area means any separate geographical area requiring a legal description. A "single area" does not include two areas that are contiguous only at a point, or two or more areas that are contiguous to an existing boundary of a city or district but not to each other.</i></p> <p><i>See Attachment A for automatic waivers or reductions in the Fee regarding: correcting boundary alignment problem; annexation/detachment with concurrent sphere of influence amendment; city island annexations under §56375.3; readjustments of agency boundaries due to roadway realignment.</i></p>			

Annexation/Detachment Chart

<i>Valley and Mountain Region</i>				
	Under 20 acres	20 – 150 acres	151 – 300 acres	Over 300 acres
<i>City</i>	\$6,180 <u>6,359</u>	\$8,240 <u>8,479</u>	\$10,300 <u>10,599</u>	\$10,300 <u>10,599</u> plus \$1 per acre over 300 acres
<i>District</i>	\$5,150 <u>5,299</u>	\$6,695 <u>6,889</u>	\$8,240 <u>8,479</u>	\$8,240 <u>8,479</u> plus \$1 per acre over 300 acres
<i>Desert Region (North and South Desert)</i>				
	Under 100 acres	100-640 acres	641-1,920 acres	Over 1,920 acres
<i>City</i>	\$6,180 <u>6,359</u>	\$8,240 <u>8,479</u>	\$10,300 <u>10,599</u>	\$10,300 <u>10,599</u> plus \$1 per acre over 1,920 acres
<i>District</i>	\$5,150 <u>5,299</u>	\$6,695 <u>6,889</u>	\$8,240 <u>8,479</u>	\$8,240 <u>8,479</u> plus \$1 per acre over 1,920 acres

Sphere of Influence Amendment	\$5,150 <u>5,299</u>	\$4,000	\$9,150 <u>9,299</u>
District: Dissolution, Merger, or Establishment of Subsidiary District(s)	\$5,150 <u>5,299</u>	\$4,000	\$9,150 <u>9,299</u>
District: Formation or Consolidation	\$15,450 <u>15,898</u>	\$4,000	\$19,450 <u>19,898</u>
District: Activation/Divestiture of Functions and/or Services	\$7,725 <u>7,949</u> each function/service	\$4,000	\$11,725 <u>11,949</u>
City: Consolidation	\$20,600 <u>21,197</u>	\$4,000	\$24,600 <u>25,197</u>
City: Incorporation or Disincorporation	\$20,600 <u>21,197</u>	\$54,000	\$74,600 <u>75,197</u>

San Bernardino LAFCO
Schedule of Fees, Deposits, and Charges
July 1, ~~2019~~2020

Reorganization <i>For a reorganization that involves changes other than annexations and detachments, the fee will be based upon the components of the reorganization.</i>	Sum of Components	\$4,000	
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***DEPOSITS BREAKDOWN**

Applicants shall be required to reimburse the Commission for all charges and costs in excess of the deposits outlined below. Reimbursement to LAFCO shall be required prior to issuance of the Commission's Certificate of Completion for jurisdictional changes or issuance of the Commission's resolution for sphere of influence amendments/updates. If charges billed to LAFCO are less than the amount of deposit, the balance will be refunded to the applicant or applied to other categories where excess charges have been incurred.

Legal Counsel (\$250 non-refundable, \$1,750 deposit)	\$2,000
<i>It is the policy of this Commission that the costs for Special Counsel due to a representation conflict shall be the responsibility of the applicant. Additionally, as a condition of approval of any action taken by LAFCO, the proponents shall be required to defend, indemnify and hold harmless LAFCO or its agents, officers, and employees from any claim, action, or proceeding against LAFCO or its agents, officers, and employees to attack, set aside, void, or annul the approval of LAFCO concerning the proposal or any action relating to, or arising out of, such approval when such action is brought within the applicable statute of limitations. Refer to <u>Policy and Procedure Manual, Section II, Chapter 2.</u></i>	
Individual Notice (\$250 non-refundable, \$750 deposit)	\$1,000
<p>(1) Individual Mailed Notice or (2) Publication of Display Ad in lieu of Individual Notice</p> <p><i>In cases where the noticing 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 display ad in a newspaper of general circulation within the area. Refer to <u>Policy and Procedure Manual, Section IV, Chapter 1, Policy 9.</u></i></p> <p><i>By policy, 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.</i></p>	
Proposals Extending an Existing Special Tax <i>Should a proposal require individual notice due to the extension of an existing special tax, the proponent will be required to submit a deposit for the direct costs such as: (1) the County Assessor to compile the mailing list, (2) outside printing to produce the printed notices, (3) and County Mail for shipping and handling. Please contact the LAFCO office for the estimated deposit cost.</i>	Actual Cost
Environmental Review (\$250 non-refundable, \$750 deposit)	\$1,000
<i>All applicants shall be required to pay the full costs of the Commission's Environmental Consultant's review regardless whether the Commission is the lead or responsible agency as defined under CEQA.</i>	
Preparation of Negative Declaration/Mitigated Negative Declaration	Additional \$15,000
Preparation of an Environmental Impact Report (EIR)	Additional \$25,000
<p>If the proposal requires that LAFCO prepare a Negative Declaration/Mitigated Negative Declaration or EIR as CEQA lead agency, the CA Dept. of Fish and Wildlife (DFW) CEQA Environmental Document Filing Fees are required to be paid at the time LAFCO files the Notice of Determination with the Clerk of the Board of the affected County. The applicant will be</p>	

San Bernardino LAFCO
 Schedule of Fess, Deposits, and Charges
 July 1, ~~2019~~2020

notified of the appropriate fees, which must be received by LAFCO prior to the Commission hearing. Contact the LAFCO office for the current DFW filing fees.	
Protest Proceeding, if applicable (\$250 non-refundable, \$1,250 deposit)	\$1,500
<i>Deposit required within 30 days of Commission approval of action. The Protest Hearing will not be set until deposit has been paid. Applicants shall be required to reimburse the Commission for any protest proceeding costs in excess of the deposit. Reimbursement to LAFCO shall be required prior to issuance of the Certificate of Completion. If charges billed to LAFCO are less than the amount of the deposit, the balance of the fee will be refunded to the applicant or applied to other categories where excess charges have been incurred.</i>	
Proposals Extending an Existing Special Tax <i>Should a proposal require individual notice due to the extension of an existing special tax, the proponent will be required to submit a deposit for the direct costs such as: (1) the County Assessor to compile the mailing list, (2) outside printing to produce the printed notices, (3) and County Mail for shipping and handling. Please contact the LAFCO office for the estimated deposit cost.</i>	Actual Cost

ADDITIONAL FEES AND DEPOSITS

Comprehensive Fiscal Analysis for Incorporation or Disincorporation, Deposit	\$50,000
<i>A \$50,000 deposit is required at the time the application is submitted. Applicants shall be required to reimburse the Commission for all costs associated with the preparation of the Comprehensive Fiscal Analysis in excess of the deposit prior to the scheduling of the Commission hearing. If the charges billed to LAFCO for the preparation of the required document are less than the amount of the deposit, the balance will be refunded to the applicant or applied to other categories where excess charges have been incurred.</i>	
State Controller's Fiscal Review for Incorporations, Deposit	\$25,000
<i>A \$25,000 deposit is required at the time a Request for State Controller Review is submitted. All costs in excess of this amount will be the responsibility of the Requestor for payment. Any balance remaining after payments are made to the State will be refunded to the Requestor of Review.</i>	
Verification of Petition Signatures by Registrar of Voters Office, Deposit	\$200
<i>A \$200 deposit from the applicants is required at the time of petition submission. This amount will be refunded upon certification of the petition and determination of billable charges. The charges assessed by the Registrar of Voters Office to verify petition signatures shall be payable by the affected entity in the same manner as the verification of initiative petition signatures is billed.</i>	
Request for Reconsideration of LAFCO Decision or Environmental Determination, Fee	\$2,500
<i>Should a reconsideration request require individual notice due to the extension of a special tax, then the proponent will be required to submit a deposit for the direct costs to produce and mail the individual notices.</i>	
Workshop Request, Deposit	\$1,000
<i>Proponents of actions pending Commission review may request that a Commission workshop be held in their area. If the Commission agrees to conduct such a workshop session, the Commission may require reimbursement of all costs associated with that session by the proponents, subject to a deposit.</i>	
Request for Extension of Time to Complete Change of Organization Proceedings (Gov't. Code Section 57001)	\$1,100

Section 2. Proposals - Completion Fees and Charges

Following Commission approval of an action, the following fees or charges may be required. LAFCO staff will notify the applicant at the time the Commission's resolution is forwarded which of the following fees or charges is applicable to the proposal:

- A. County Geographic Information Management System (GIMS) Processing, required prior to issuance of the Certificate of Completion for jurisdictional changes or issuance of the Commission's resolution for sphere of influence amendments/updates:
1. Changes requiring an update to current sphere or boundaries of participating agencies (Fees identified below will be assessed for each area of consideration. The definition of area is provided under Processing Fees on Page 2.)

<u>Acreage</u>	<u>Primary Charge</u>	<u>Additional Agency</u>
0 to 100 acres	\$400	\$ 85
101 to 640 acres	\$550	\$110
641 to 2,560 acres	\$825	\$150
over 2,560 acres	\$1,100	\$175

2. Incorporation, Formation, or placement of a new agency boundary or sphere into the LAFCO-maintained GIMS system \$3,000

(The fees for incorporations or formations can be deferred until the new City/Town or District receives its first revenues. A request for deferral shall be made to the Executive Officer.)

- B. At the time the Certificate of Completion is forwarded to the State Board of Equalization (SBE), application types listed under Item A - Processing Fees Subsections 1 through 7 (except for Spheres of Influence), are charged a processing fee pursuant to SBE's adopted Fee Schedule (Government Code Section 54902.5). The fees listed below, as identified by SBE, are current as of January 1, 2011. LAFCO staff will notify the applicant of the appropriate fees:

Single Area Charges:	
Less than 1 acre	\$300
1-5 acres	\$350
6-10 acres	\$500
11-20 acres	\$800
21-50 acres	\$1,200
51-100 acres	\$1,500
101-500 acres	\$2,000
501-1,000 acres	\$2,500
1,001-2,000 acres	\$3,000
2,001 acres and above	\$3,500

(Additional types of charges are outlined in the State Board of Equalization Fee Schedule. LAFCO staff will notify the applicant of the appropriate fees.)

Section 3. Out-of-Agency Service Contract

FEE AND DEPOSITS SUMMARY			
Type of Service Contract	Fee	Deposits*	Total
Contracts involving developments such as: subdivisions/tracts as defined by the Subdivision Map Act (five or more units), Specific Plans	\$ 5,150 <u>5,299</u>	\$2,400	\$ 7,550 <u>7,699</u>
Contracts involving the development of units requiring only a parcel map as defined by the Subdivision Map Act (up to four units)	\$ 1,030 <u>1,060</u> per connection	\$2,400	\$ 3,430 <u>3,460</u> to \$ 6,520 <u>6,640</u>
Any contract for fire protection services outside a public agency's jurisdictional boundaries pursuant to Govt. Code Section 56134	\$ 5,150 <u>5,299</u>	\$2,400	\$ 7,550 <u>7,699</u>
Contracts to provide services outside a sphere of influence pursuant to Govt. Code Section 56133.5	\$ 1,030 <u>1,060</u>	\$2,400	\$ 3,430 <u>3,460</u>
Contract Requiring Approval pursuant to Govt. Code Section 56133 (c)	\$ 1,030 <u>1,060</u>	\$2,400	\$ 3,430 <u>3,460</u>
Development-Related Request for Exemption from Govt. Code Section 56133, requires noticed Commission hearing	\$ 2,317 <u>2,384</u>	\$0	\$ 2,317 <u>2,384</u>
Non-development-related (Administrative Review from Executive Officer): (1) Out-of-Agency Service Contract (City or District) or (2) Exemption from Govt. Code Section 56133 as Authorized by Commission Policy	\$ 772 <u>550</u>	\$0	\$ 772 <u>550</u>

*DEPOSITS BREAKDOWN

Applicants shall be required to reimburse the Commission for all charges and costs in excess of the deposits outlined below. Reimbursement to LAFCO shall be required prior to issuance of the Commission's resolution for service contracts. If charges billed to LAFCO are less than the amount of deposit, the balance will be refunded to the applicant or applied to other categories where excess charges have been incurred.

Legal Counsel (\$250 non-refundable, \$450 deposit)	\$700
<i>It is the policy of this Commission that the costs for Special Counsel due to a representation conflict shall be the responsibility of the applicant. Additionally, as a condition of approval of any action taken by LAFCO, the proponents shall be required to defend, indemnify and hold harmless LAFCO or its agents, officers, and employees from any claim, action, or proceeding against LAFCO or its agents, officers, and employees to attack, set aside, void, or annul the approval of LAFCO concerning the proposal or any action relating to, or arising out of, such approval when such action is brought within the applicable statute of limitations. Refer to <u>Policy and Procedure Manual, Section II, Chapter 2.</u></i>	
Individual Notice (\$250 non-refundable, \$750 deposit)	\$1,000
<i>(1) Individual Mailed Notice or (2) Publication of Display Ad in lieu of Individual Notice In cases where the noticing 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 display ad in a newspaper of general circulation within the area. Refer to <u>Policy and Procedure Manual, Section IV, Chapter 1, Policy 9.</u></i>	

Environmental Review (\$250 non-refundable, \$450 deposit)	\$700
<i>All applicants shall be required to pay the full costs of the Commission's Environmental Consultant's review regardless whether the Commission is the lead or responsible agency as defined under CEQA.</i>	
Preparation of Negative Declaration/Mitigated Negative Declaration	Additional \$15,000
Preparation of an Environmental Impact Report (EIR)	Additional \$25,000
If the proposal requires that LAFCO prepare a Negative Declaration/Mitigated Negative Declaration or EIR as CEQA lead agency, the CA Dept. of Fish and Wildlife (DFW) CEQA Environmental Document Filing Fees are required to be paid at the time LAFCO files the Notice of Determination with the Clerk of the Board of the affected County. The applicant will be notified of the appropriate fees, which must be received by LAFCO prior to the Commission hearing. Contact the LAFCO office for the current DFW filing fees.	

Section 4. Reproduction Charges

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| A. | Charges for Purchase of Paper Copies, per page | |
| | (1) from paper materials (requests in excess of 10 pages) | 10 cents |
| | (2) from existing digital data (requests in excess of 20 pages) | 5 cents |
| B. | Charges for Purchase of Digital Data | |
| | (1) placement of materials on digital medium | \$10 |
| | (2) scan copies of paper materials (if applicable), per page | 5 cents |
| C. | DVD Copy of Commission Hearing
(available if production services are utilized for hearings) | \$25 per DVD |
| D. | Preparation of Transcript of Hearing | Actual Cost |

(Those requesting a transcript of a Commission hearing will be notified of the estimated cost for preparation. The Requestor will be required to provide a deposit in the amount of the estimated cost. All costs in excess of the deposit amount will be the responsibility of the Requestor for payment. Any balance remaining after final charges are determined will be refunded to the Requestor.)

Attachment A:
Policy and Procedure Manual, Section II, Chapter 2: Financial Policies for
Application Processing