LOCAL AGENCY FORMATION COMMISSION
COUNTY OF SAN BERNARDINO

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DATE: **APRIL 9, 2012**

FROM: **KATHLEEN ROLLINGS-McDONALD, Executive Officer**

TO: **LOCAL AGENCY FORMATION COMMISSION**

SUBJECT: **Item #9: Proposed Schedule of Fees, Deposits, and Charges for Fiscal Year 2012-13**

RECOMMENDATION:

Staff is recommending that the Commission take the following actions for the LAFCO Schedule of Fees, Deposits, and Charges for FY 2012-13:

a. Review the proposed modifications and provide staff with direction on changes, corrections, or amendments to be included;

b. Direct staff to forward the Proposed Schedule of Fees, Deposits, and Charges for FY 2012-13 to the County, all Cities/Towns, and all Independent Special Districts for their review and comments pursuant to Government Code Section 66016;

c. Schedule the final review and adoption of the Schedule of Fees, Deposits, and Charges for the May 16, 2012 hearing.

BACKGROUND:

Pursuant to Government Code Section 56383, the Commission has established a schedule of fees, deposits, and service charges to recoup the costs of proceedings. Section 56383 includes the stipulation that the fees shall not exceed the estimated reasonable cost of providing the service for which it is charged. For Fiscal Year 2012-13 no monetary changes are included except to update the State Department of Fish and Game fees, which the Commission does not control. The only descriptive changes relate to clarifying the language for Out-of-Agency Service Agreements exemption requests to identify those that are development related and those that are not, and to clearly identify for legal counsel and environmental review deposits that the charges apply for sphere of influence changes. The changes are shown in bold italics on the attached Proposed Schedule.

CONCLUSION:

At this hearing, the Commission is requested to provide staff with any changes, corrections, or additions to be included in the Schedule of Fees, Deposits, and Charges. The Schedule, as amended, will be forwarded to the County, the Cities and Towns, and the Independent Special Districts for their review and comment as required by statute. Any comments received will be reviewed with the Commission at the final hearing scheduled for May 16, 2012.

KRM/

Attachment – Proposed Schedule of Fees, Deposits, and Charges for FY 2012-13

PROPOSED
LOCAL AGENCY FORMATION COMMISSION
FOR SAN BERNARDINO COUNTY

SCHEDULE OF FEES, DEPOSITS AND CHARGES
EFFECTIVE JUNE 1, *2012*

The submission of a proposal to the Local Agency Formation Commission (hereinafter LAFCO) is not officially accepted for processing until the filing fees and deposits have been received. These fees and deposits ordinarily involve the appropriate LAFCO filing fee and deposits for the recovery of the Commission's direct costs, for such items as LAFCO Legal Counsel, environmental review, Registrar of Voters costs, individual notification costs, etc. In addition, certain fees are required at the conclusion of the application process and must be received prior to its official completion.

APPLICATION SUBMISSION:
The following fees and deposits are required at the time of application submission:

A. LAFCO Filing Fees:

1. Annexation, Detachment, Reorganization – involving solely annexations and/or detachments

	Under 20 acres	20 – 150 acres	150 – 275 acres	Over 275 acres
City	$5,500	$7,000	$9,000	$9,000 plus $1 per acre over 275 acres
District	$5,000	$6,000	$7,500	$7,500 plus $1 per acre over 275 acres

The fees identified above 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. City island annexations filed pursuant to Government Code 56375.3 will be assessed one-half of the LAFCO filing fee pursuant to Commission Policy #18 section 2. Also review automatic waiver provisions under "Policies Related to Implementation of Fee Schedule" for further information.

2. Reorganization — Sum of Component Charges

For a reorganization that involves any combination of changes beyond simply annexations and detachments, the fee will be based upon the components of the reorganization. Also review automatic waiver provisions under "Policies Related to Implementation of Fee Schedule" for further information.

3. Sphere of Influence Update/Municipal Service Review:

a. Amendment — $5,000
b. Update/Service Review Proposing Change — $5,000

The fee identified above 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 sphere boundary of a city or district but not to each other.

c. Deposit for Sphere Update/Service Review with no change requested $500

For the item above, agencies will be required to reimburse the Commission for all direct charges (LAFCO legal counsel, environmental review, reproduction costs, notification costs, etc.) in excess of the deposit. If charges billed to LAFCO are less than the amount of the deposit, the balance of the deposit will be refunded to the applicant.

4. Dissolution, Merger, or Establishment of Subsidiary District(s) $5,000

5. Formation or Consolidation of Special District(s) $10,000

6. Incorporation or Disincorporation of a City, or Consolidation of Cities $10,000

7. Addition/Deletion of Powers for Special Districts $5,000

8. Request for Reconsideration of LAFCO Decision/Environmental Determination $1,100

9. Request for Extension of Time to Complete Proceedings $1,100

10. Verification of Petition Signatures by Registrar of Voters Office Actual Cost

(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.)

B. LAFCO Filing Fee for Out-of-Agency Service Contract Review (City or District):

1. Contracts involving developments such as: subdivisions/ tracts as defined by the Subdivision Map Act (five or more units), Specific Plans $4,000

2. Contracts involving the development of units requiring only a tract map as defined by the Subdivision Map Act (up to four units) $750 per connection

3. Service Contract Requiring Approval Pursuant to Govt. Code Section 56133, Subsection (c) $750

4. ***Development Related*** Request for Exemption from Govt. Code Section 56133 $2,250

5. Administrative Review of Non-development-related Out-of-Agency Service Contract (City or District) ***or Non-development Related Exemption from Govt. Code Section 56133*** as Authorized by Commission Policy $500

C. Legal Counsel Deposit:

1. Legal Deposits are required at the time of application submission identified as follows:

a. Jurisdictional Change ***or Sphere of Influence Change*** (applicable to actions listed under Item A, #1 through #7 except for Item #3c)

$200 non-refundable LAFCO fee	$950 Deposit for LAFCO Legal Counsel costs	$1,150 Total Deposit required upon application submission

b. Service Contracts Item B #1 through #3

$150 non-refundable LAFCO fee	$425 Deposit for LAFCO Legal Counsel costs	$575 Total Deposit required upon application submission

(Applicants shall be required to reimburse the Commission for all LAFCO Legal Counsel charges and costs in excess of the deposit outlined above. Reimbursement to LAFCO shall be required prior to issuance of the Certificate of Completion for jurisdictional changes or issuance of the Commission's resolution for service contracts or sphere of influence changes. If charges billed to LAFCO are less than the amount of deposit, the balance of the fee will be refunded to the applicant or applied to other categories where excess charges have been incurred. If Special Counsel is required due to a conflict of interest by LAFCO Legal Counsel, the Commission will determine at a public hearing whether the applicant will be required to pay the full cost of Special Counsel, as authorized by Government Code Section 56384, or the current hourly rate of LAFCO Legal Counsel.)

2. Legal Defense Actual Cost

As a condition of approval of any action taken by LAFCO, the proponents may 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. The Commission has adopted a policy and procedure setting out the process by which this charge will be applied. At the discretion of the Commission, a deposit of funds by the proponent may be required in an amount sufficient to cover the anticipated litigation costs.

D. Environmental Review Processing:

1. Environmental Review Deposit:

a. Jurisdictional Change ***or Sphere of Influence Change*** (applicable to actions listed under Item A, #1 through #7 except for Item #3c)

$200 non-refundable LAFCO fee	$550 Deposit for LAFCO Environmental Consultant costs	$750 Total Deposit required upon application submission

b. Service Contracts (Item B, #1 through #3)

$150 non-refundable LAFCO fee	$300 Deposit for LAFCO Environmental Consultant costs	$450 Total Deposit required upon application submission

(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. Applicants shall be required to reimburse the Commission for Environmental Consultant charges and costs in excess of the deposit outlined above. Reimbursement to LAFCO shall be required prior to issuance of the Certificate of Completion for jurisdictional changes or issuance of the Commission's resolution for service contracts or sphere of influence changes. If charges billed to LAFCO are less than the amount of deposit, the balance of the deposit will be refunded to the applicant or applied to other categories where excess charges have been incurred.)

2. Appeal of Environmental Recommendation $750

3. Preparation of Environmental Impact Report Actual Cost

(A $20,000 deposit with LAFCO shall be required before proceeding toward preparation of the required environmental documents.)

4. Department of Fish and Game Fees are required to be paid at the time of filing with the Clerk of the Board of the affected County. These fees are dependent upon the action reviewed. The fees listed below, as identified by the Department of Fish and Game, are current as of January 1, ***2012***. LAFCO staff will notify the applicant of the appropriate fees:

a.	Negative Declaration (as lead agency)	***$2,101.50***
b.	Environmental Impact Report (as lead agency)	***$2,919.00***
c.	Notice of Determination (as responsible agency)	$50.00
d.	Notice of Exemption	$50.00

E. Individual Notice

1. Deposit for Individual Notice (Registrar of Voters Review, and Registered Voter and Landowner Notification Requirements)

[Applicable to actions listed under Items A1, A2, A3, (except for Item 3c), B1, B2 and B3]

$250 non-refundable LAFCO fee	$450 Deposit for Individual Notification costs	$700 Total Deposit required upon application submission

(Applicants shall be required to reimburse the Commission for Registrar of Voters charges and notification costs (notice to all registered voters and landowners within the proposal and surrounding the area according to Commission policy) in excess of the deposit prior to issuance of the Certificate of Completion or issuance of the Commission's resolution for service contracts or sphere of influence changes . 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.

In cases where the 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 display ad in a newspaper of general circulation within the area. Please contact the LAFCO office if the proposal would require mailing of more than 1,000 notices for further information. 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.)

2. Deposit for Publication of Display Ad in lieu of Individual Notice $1,000

[Applicable to actions listed under Items A4 - A7, and those actions where individual notice has been waived by the Commission.]

(Adopted Commission policy automatically waives the requirement for individual landowner and registered voter notice inside and surrounding a proposal for dissolution, merger, or establishment of subsidiary district; formation or consolidation of special districts; activation of divestiture of powers for special districts; consolidation of cities; or incorporation or disincorporation of a city proposal. In doing so, the Commission required that a 1/8th page display ad be provided in a newspaper of general circulation within the area.

Applicants shall be required to reimburse the Commission for advertisement charges in excess of the deposit prior to issuance of the Certificate of Completion or issuance of the Commission's resolution for service contracts or sphere of influence changes. If the charges billed to LAFCO 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.

F. Comprehensive Fiscal Analysis for Incorporation Proposal — Actual Cost

(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.)

COMPLETION FEES AND CHARGES:

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

A. Deposit for Protest Proceeding:

$200 non-refundable LAFCO fee	$800 Deposit for LAFCO Protest Proceeding costs	$1,000 Total Deposit required for Protest Proceeding

(Deposit required within 30 days of Commission approval of action – 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 outlined above. 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.)

B. Geographic Information Management System (GIMS) Processing, required at the time the Certificate of Completion is prepared:

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 Application Submission on Page 1.)

Acreage	Primary Charge	Additional Agency
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.)

C. At the time the Certificate of Completion is forwarded to the State Board of Equalization (SBE), application types listed under Item A - LAFCO Filing Fees Subsections 1 through 6 (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.)

MISCELLANEOUS CHARGES:

The following miscellaneous charges may occur at different times within the processing of an application by LAFCO, or thereafter:

A. State Controller's Fiscal Review for Incorporations — Actual Cost

(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.)

B. Workshop Fees — Actual Cost

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.

C. Charge for Purchase of Copies:

a. Copies from paper materials (requests in excess of 10 pages) — 10 cents per page

b. Copies from digital data (requests in excess of 20 pages) — 5 cents per page

D. Copy of Commission Hearing

a. Tape/CD — $10 per tape/CD

b. DVD (available if production services are utilized for hearings) — $25 per DVD

E. 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.)

Approved and adopted by the Local Agency Formation Commission on _____.

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