

# LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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**DATE:** APRIL 8, 2026   
**FROM:** SAMUEL MARTINEZ, Executive Officer  
**TO:** LOCAL AGENCY FORMATION COMMISSION

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**SUBJECT:** Agenda Item #9a – Proposed Schedule of Fees, Deposits, and Charges for FY 2026/27

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## **RECOMMENDATION:**

Staff recommends that the Commission take the following actions related to the Proposed Schedule of Fees, Deposits and Charges for Fiscal Year 2026/27:

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 2026/27 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, 2026 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 with changes shown in red. 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.

Per the Commission’s direction, the revised Schedule has fees for Jurisdictional Changes (page 2 of the attachment) and the fees for Out-of-Agency Service Contracts (page 6)

increasing by 3.3% -- in line with the 2025 CPI for the region.<sup>1</sup> Additionally, there are two proposed changes for the year.

- Page 2. District Overlay. There have been instances when an agency annexes over the entirety of another agency and assumes responsibility for service provision. An example is when County Fire has annexed over an entire agency and assumes responsibility for fire protection and emergency medical services. The fee schedule now properly identifies this change of organization.
- Page 6. Non-development-related Out-of-Agency Service Contracts receive an administrative review from the Executive Officer. Examples include failure of a septic tank and the need to connect to an adjacent collection system or connecting an ADU. Currently, the rate is \$650 and would increase to \$671 in line with the other LAFCO Fees. Staff's position is that resetting this fee at \$500 would provide relief to property owners, most likely individual homeowners, at a time when other fees, charges, and construction costs occur.

This report does not recommend any changes to Deposits (services provided by consultants) or Charges (e.g. reproduction) because these costs are passed directly onto the applicant and the current deposits and charges are adequate at this time.

### **CONCLUSION:**

At this hearing staff requests the Commission provide staff with any changes, corrections, or additions to the Schedule. Should the Commission have any changes/modifications, staff would then modify the FY 2026/27 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 when the adoption of the Schedule will be considered.

SM/MT

Attachment:

Draft Schedule of Fees, Deposits, and Charges for FY 2026/27 (changes in red)

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<sup>1</sup>Data derived from the annual (12-month percent change) CPI for All Urban Consumers (CPI-U) for the Riverside-San Bernardino-Ontario Area for 2025 (<https://www.bls.gov/regions/west/factsheet/consumer-price-index-data-tables.htm>).

# LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

## SCHEDULE OF FEES, DEPOSITS, AND CHARGES EFFECTIVE JULY 1, 2026

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**

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<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

Valley and Mountain Region				
	Under 20 acres	20 – 150 acres	151 – 300 acres	Over 300 acres
City	\$ 7,776	\$ 10,368	\$ 12,961	\$ 12,961 plus \$1 per acre over 300 acres
District	\$ 6,480	\$ 8,426	\$ 10,368	\$ 10,368 plus \$1 per acre over 300 acres
Desert Region (North and South Desert)				
	Under 100 acres	100-640 acres	641-1,920 acres	Over 1,920 acres
City	\$ 7,776	\$ 10,368	\$ 12,961	\$ 12,961 plus \$1 per acre over 1,920 acres
District	\$ 6,480	\$ 8,426	\$ 10,368	\$ 10,368 plus \$1 per acre over 1,920 acres

Sphere of Influence Amendment	\$ 6,480	\$ 4,000	\$ 10,612
District: Dissolution, Merger, or Establishment of Subsidiary District(s)	\$ 6,480	\$ 4,000	\$ 10,612
District: Formation, Consolidation, or Overlay*	\$ 19,441	\$ 4,000	\$ 23,573
District: Activation/Divestiture of Functions and/or Services	\$ 9,720 each function/service	\$ 4,000	\$ 13,852
City: Consolidation	\$ 25,922	\$ 4,000	\$ 30,054
City: Incorporation or Disincorporation	\$ 25,922	\$ 54,000	\$ 81,704
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	

\* Overlay is when a district annexes over the entirety of another agency and assumes service responsibility.

**\*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.

<b>Legal Counsel (\$250 non-refundable, \$1,750 deposit)</b>	<b>\$2,000</b>
<p><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></p>	
<b>Individual Notice (\$250 non-refundable, \$750 deposit)</b>	<b>\$1,000</b>
<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>	
<p>Proposals Extending an Existing Special Tax</p> <p><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></p>	<p>Actual Cost</p>
<b>Environmental Review (\$250 non-refundable, \$750 deposit)</b>	<b>\$1,000</b>
<p><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></p>	
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 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.</p>	

San Bernardino LAFCO  
Schedule of Fess, Deposits, and Charges  
July 1, 2026

<b>Protest Proceeding, if applicable (\$250 non-refundable, \$1,250 deposit)</b>	<b>\$1,500</b>
<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**

<b>Comprehensive Fiscal Analysis for Incorporation or Disincorporation, Deposit</b>	<b>\$50,000</b>
<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>	
<b>State Controller's Fiscal Review for Incorporations, Deposit</b>	<b>\$25,000</b>
<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>	
<b>Verification of Petition Signatures by Registrar of Voters Office, Deposit</b>	<b>\$200</b>
<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>	
<b>Request for Reconsideration of LAFCO Decision or Environmental Determination, Fee</b>	<b>\$2,500</b>
<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>	
<b>Workshop Request, Deposit</b>	<b>\$1,000</b>
<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>	
<b>Request for Extension of Time to Complete Change of Organization Proceedings (Gov't. Code Section 57001)</b>	<b>\$1,100</b>

**Section 2.  
Proposals - Completion Fees and Charges**

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
1.00 – 5.99 acres	\$350
6.00 – 10.99 acres	\$500
11.00 – 20.99 acres	\$800
21.00 – 50.99 acres	\$1,200
51.00 – 100.99 acres	\$1,500
101.00 – 500.99 acres	\$2,000
501.00 - 1,000.99 acres	\$2,500
1,001.00 - 2,000.99 acres	\$3,000
2,001.00 acres and above	\$3,500

When notified by LAFCO staff, please make check payable to the State Board of Equalization and reference Tax Area Services Section, MIC:59.

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

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### 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	\$ 6,480	\$2,400	\$ 8,880
Contracts involving the development of units requiring only a parcel map as defined by the Subdivision Map Act (up to four units)	\$ 1,296 per Connection	\$2,400	\$ 3,696 to \$7,584
Any contract for fire protection services outside a public agency's jurisdictional boundaries pursuant to Govt. Code Section 56134	\$ 6,480	\$2,400	\$ 8,880
Contracts to provide services outside a sphere of influence pursuant to Govt. Code Section 56133.5	\$ 1,296	\$2,400	\$ 3,696
Contract Requiring Approval pursuant to Govt. Code Section 56133 (c)	\$ 6,480	\$2,400	\$ 8,880
Development-Related Request for Exemption from Govt. Code Section 56133, requires noticed Commission hearing	\$ 2,915	\$0	\$ 2,915
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	\$ 500	\$0	\$ 500

#### \*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.

<b>Legal Counsel</b> (\$250 non-refundable, \$450 deposit)	<b>\$700</b>
<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>	
<b>Individual Notice</b> (\$250 non-refundable, \$750 deposit)	<b>\$1,000</b>
<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>	
<b>Environmental Review</b> (\$250 non-refundable, \$450 deposit)	<b>\$700</b>

<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<br>(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

## **CHAPTER 2: APPLICATION PROCESSING**

1. **LAFCO FEE WAIVER/REDUCTION PROVISIONS** *(Adopted June 10, 1981 (effective July 1, 1981); Amended March 20, 1996, July 18, 2001, May 17, 2006, May 16, 2007, and November 20, 2013)*

A. AUTOMATIC WAIVERS

For proposals that correct a boundary alignment problem (i.e., a divided assessor's parcel or inadvertent exclusion), the Annexation, Detachment, or Reorganization filing fee will be automatically waived. All required deposits (anticipated direct costs for legal counsel, environmental review, and registered voter/landowner notification) including any completion fees/deposits applicable will be charged at full cost.

For reorganization proposals that require a concurrent sphere of influence amendment (expansion and/or reduction) and reorganization (annexation and/or detachment) for the same area, the Sphere of Influence Update/Service Review filing fee will be automatically waived. The Annexation, Detachment, or Reorganization filing fee including all required deposits and any completion fees/deposits applicable will be charged at full cost.

Compliance with any of these automatic waiver conditions is to be determined by the LAFCO Executive Officer, who is authorized to notify the applicant(s) involved.

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. All required deposits and any completion fees/deposits applicable will be charged at full cost.

The readjustment of agency boundaries as a result of the realignment of a roadway will be reduced to a single Annexation, Detachment, or Reorganization filing fee per entity involved no matter how many changes or separate areas are included in the proposal. All required deposits and any completion fees/deposits applicable will be charged.

Compliance to any of the automatic reduction conditions is to be determined by the LAFCO Executive Officer, who is authorized to notify the applicant(s) involved.

C. **REQUEST FOR WAIVER OR REDUCTION OF FEES** (to be reviewed and approved by the Commission):

Any applicant may request for a waiver or reduction of the LAFCO filing fee to be charged. The request must be submitted in writing and accompany the submission of the application to the LAFCO Executive Officer. The request shall include a justification for the request and the fee(s) it is requesting to be waived or the dollar amount of fees being reduced. The Executive Officer shall present the waiver/reduction request for Commission review on the consent calendar at the next regular hearing. The Commission may waive/reduce the filing fee if it determines that payment would be detrimental to the public interest pursuant to Government Code Section 56383(d). A waiver/reduction of fees is limited to those costs incurred by the Commission in processing the proposal. The Commission may authorize a waiver or reduction of 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 request for fee waiver/reduction.

2. **LAFCO FILING FEE REFUND** (*Originally Adopted May 21, 1991 as part of the Fee Schedule; Added to Policy Manual on May 17, 2006; Amended August 21, 2013; August 17, 2016; April 15, 2020*)

If withdrawal of an application is requested, the LAFCO Filing Fee paid for processing will be refunded in the following manner:

- A. Following issuance of the Notice of Filing: 50% refund.
- B. Following issuance of the Certificate of Filing (change of organization/reorganization) or staff's Technical Application Review process (sphere of influence amendment): no refund.

**PROCEDURES:**

Deposits are subject to individual refund procedures outlined on the Schedule of Fees, Deposits, and Charges.

3. **INDEMNIFICATION** (*Adopted May 19, 1993; effective June 1, 1993; Amended May 17, 2006, Amended August 19, 2015; August 17, 2016*)

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

*San Bernardino LAFCO Policy and Procedure Manual*  
*Section II – Internal Operations, Accounting, and Financial Policies*

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.

PROCEDURES:

- A. Acknowledgement of LAFCO Indemnification Requirement:
1. When a public agency adopts a resolution of application to initiate an application for a change of organization or reorganization, a sphere of influence amendment, or a fire protection contract, the resolution shall include a provision acknowledging the Commission's requirement for indemnification as outlined in this Manual.
  2. When a state agency or a real party of interest initiates an application for a change of organization or reorganization, a sphere of influence amendment, or a fire protection contract, the written request shall include a statement acknowledging the Commission's requirement for indemnification as outlined in this Manual.
- B. In signing the certification on the Application form, on any of the supplement forms or on the Application for Extension of Service by Contract form, the person signing acknowledges the Commission's requirement for indemnification as outlined in this Manual.
- C. The Commission shall impose a condition within its resolution of approval that requires the applicant and/or the real party of interest to defend, indemnify, and hold harmless the Commission, its agents, officers, attorneys, and its employees from any claims, actions or proceedings against them to attack, set aside, void, or annul such approval.
- D. The Executive Officer shall promptly notify the applicant or real party of interest of any legal action brought challenging the Commission's action, and the Commission, its agents, officers, attorneys, and employees shall cooperate fully in the defense of that action.
- E. The applicant may provide their own counsel in the defense of the action taken, or the applicant may elect to use the services of San Bernardino 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.

**4. RESPONSIBILITY FOR PAYMENT OF SPECIAL LEGAL COUNSEL COSTS**  
*(Adopted May 17, 2006, Amended August 19, 2015)*

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 shall 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 shall be responsible for paying the regular San Bernardino LAFCO Legal Counsel hourly rate. The balance of Special Counsel costs will be the responsibility of the Commission.

**PROCEDURES:**

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 shall be followed:

- A. The Executive Officer shall promptly notify the proponents of the proposal that Special Counsel is required.
- B. An item shall 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. This procedure may be waived if San Bernardino LAFCO has entered into a retainer agreement with a legal counsel to act as special counsel and said legal counsel is chosen and available as special counsel for the matter.
- C. 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.
- D. All Special Counsel costs that are the responsibility of the applicant shall be paid prior to issuance of the Certificate of Completion.