

AGENDA

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

**NORTON REGIONAL EVENT CENTER
1601 EAST THIRD STREET, SAN BERNARDINO**

REGULAR MEETING OF APRIL 19, 2023

9:00 A.M. – CALL TO ORDER – FLAG SALUTE

ANNOUNCEMENT: Anyone present at the hearing who is involved with any of the changes of organization to be considered and who has made a contribution of more than \$250 in the past twelve (12) months to any member of the Commission will be asked to state for the record the Commission member to whom the contribution has been made and the matter of consideration with which they are involved.

1. PUBLIC COMMENTS ON CLOSED SESSION
2. CONVENE CLOSED SESSION
Conference Room Adjacent to Event Center Auditorium

Conference with Legal Counsel – Existing Litigation – (Government Code Section 54956.9(d)(1)) – C.O.M.E.T. (Citizens of Mentone Empowered Together) v. City of Redlands et al, County of San Bernardino Superior Court Case No. CIVDS1906437

3. RECONVENE PUBLIC SESSION

CONSENT ITEMS:

The following consent items are expected to be routine and non-controversial and will be acted upon by the Commission at one time without discussion, unless a request has been received prior to the hearing to discuss the matter.

4. [Approval of Minutes for Regular Meeting of March 15, 2023](#)
5. [Approval of Executive Officer's Expense Report](#)
6. [Ratify Payments as Reconciled and Note Cash Receipts for Month of February 2023](#)
7. [Third Quarter Financial Review for FY 2022-23 and Consideration of Increasing Appropriation](#)
8. [Nomination for the Special District Risk Management Authority Board of Directors](#)
9. Consent Items Deferred for Discussion

PUBLIC HEARING ITEMS:

10. [Consideration of: \(1\) Review of the Addendum to the Environmental Impact Report \(SCH No. 2018011008\) for the I-15 Logistics Project Prepared by the City of Fontana](#)

for Its Review of the Proposal to Develop a 1,175,720 Sq. Ft. Logistics Facility on Approximately 76 Acres, as CEQA Lead Agency for LAFCO 3261; and (2) LAFCO 3261 – Reorganization to Include Annexation to the City of Fontana and Detachment from County Service Area 70

11. Review and Consideration of Amendments to LAFCO Policy and Procedure Manual (Final Adoption Scheduled for the May 17, 2023 Hearing)
12. Preliminary Budget Review for Fiscal Year 2023-24:
 - a. Proposed Schedule of Fees, Deposits, and Charges for Fiscal Year 2023-24
 - b. Proposed Budget for Fiscal Year 2023-24
13. Legislative Update Report

INFORMATION ITEMS:

14. Executive Officer's Report
15. Commissioner Comments
(This is an opportunity for Commissioners to comment on issues not listed on the agenda, provided that the subject matter is within the jurisdiction of the Commission and that no action may be taken on off-agenda items unless authorized by law.)
16. Comments from the Public
(By Commission policy, the public comment period is limited to five minutes per person for comments related to other items under the jurisdiction of LAFCO not on the agenda.)

The Commission may adjourn for lunch from 12:00 to 1:30 p.m. The Commission may take action on any item listed in this Agenda whether or not it is listed for Action. In its deliberations, the Commission may make appropriate changes incidental to the above-listed proposals.

Materials related to an item on this Agenda submitted to the Commission or prepared after distribution of the agenda packet will be available for public inspection in the LAFCO office at 1170 West Third Street, Unit 150, San Bernardino, during normal business hours, on the LAFCO website at www.sbclafco.org, and at the hearing.

Current law and Commission policy require the publishing of staff reports prior to the public hearing. These reports contain technical findings, comments, and recommendations of staff. The staff recommendation may be accepted or rejected by the Commission after its own analysis and consideration of public testimony.

IF YOU CHALLENGE ANY DECISION REGARDING ANY OF THE ABOVE PROPOSALS IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED DURING THE PUBLIC TESTIMONY PERIOD REGARDING THAT PROPOSAL OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE LOCAL AGENCY FORMATION COMMISSION AT, OR PRIOR TO, THE PUBLIC HEARING.

The Political Reform Act requires the disclosure of expenditures for political purposes related to a change of organization or reorganization proposal which has been submitted to the Commission, and contributions in support of or in opposition to such measures, shall be disclosed and reported to the same extent and subject to the same requirements as provided for local initiative measures presented to the electorate (Government Code Section 56700.1). Questions regarding this should be directed to the Fair Political Practices Commission at www.fppc.ca.gov or at 1-866-ASK-FPPC (1-866-275-3772).

A person with a disability may contact the LAFCO office at (909) 388-0480 at least 72-hours before the scheduled meeting to request receipt of an agenda in an alternative format or to request disability-related accommodations, including auxiliary aids or services, in order to participate in the public meeting. Later requests will be accommodated to the extent feasible.

**DRAFT ACTION MINUTES OF THE
LOCAL AGENCY FORMATION COMMISSION
FOR SAN BERNARDINO COUNTY**

REGULAR MEETING

9:00 A.M.

MARCH 15, 2023

PRESENT:

COMMISSIONERS:

Regular Member

Joe Baca
James Bagley, Chair
Dr. Kimberly Cox
Phill Dupper
Curt Hagman
Acquanetta Warren

Alternate Member

Rick Denison
Jim Harvey
Kevin Kenley

STAFF:

Samuel Martinez, Executive Officer
Paula de Sousa, Legal Counsel
Michael Tuerpe, Senior Analyst
Art Pastor, Analyst
Angela Schell, Commission Clerk
Tom Dodson, Environmental Consultant

ABSENT:

COMMISSIONERS:

Regular Member

Steven Farrell

Alternate Member

Dawn Rowe

**CONVENE REGULAR MEETING OF THE LOCAL AGENCY FORMATION COMMISSION –
9:02 A.M. – CALL TO ORDER – FLAG SALUTE AND ROLL CALL**

ANNOUNCEMENT OF CONTRIBUTIONS

CONSENT ITEMS:

Vice Chair Acquanetta Warren states she has a conflict of interest on Item #7 on the agenda due to campaign contributions and will abstain from that item. Legal Counsel Paula de Sousa clarifies that Vice Chair Warren will not abstain from the Consent Item, but for Item #7 of the Public Hearing Items.

1. Approval of Minutes for Regular Meeting of January 18, 2023

2. Approval of Executive Officer's Expense Report

Recommendation: Approve the Executive Office's Expense for Procurement Card Purchases from December 23, 2022 to January 23, 2023 and January 24, 2023 to February 22, 2023.

3. Ratify Payments as Reconciled for the Month of November 2022 and Note Revenue Receipts

Recommendation: Ratify payments as reconciled for the months of December 2022 and January 2023 and note revenue receipts for the same period.

4. Consent Items Deferred for Discussion (none)

Commissioner Baca moves the approval of the Consent Items. Second by Commissioner Dupper. The motion passes with the following roll call vote:

Ayes: Baca, Bagley, Dupper, Kenley and Warren.
Noes: None.
Abstain: None.
Absent: Cox (Kenley voting in her stead), Farrell and Hagman.

PUBLIC HEARING ITEMS:

5. LAFCO SC#497 – City of Redlands OSC 22-01 for Water Service (APN 0298-301-33)

Recommendation: Staff recommends that the Commission approve LAFCO SC#497 by taking the following actions:

1. Certify that LAFCO SC#497 is exempt from environmental review and direct the Executive Officer to file a Notice of Exemption within five (5) days of this action.
2. Approve LAFCO SC#497 authorizing the City of Redlands to extend water service outside its boundaries to Assessor Parcel Number 0298-301-33.
3. Adopt LAFCO Resolution #3366 setting forth the Commission's determinations and approval of the agreement for service outside the City of Redlands' boundaries.

Commissioner Dupper moves the approval of Item 5. Second by Commissioner Warren. The motion passes with the following roll call vote:

Ayes: Baca, Bagley, Dupper, Kenley and Warren.
Noes: None.
Abstain: None.
Absent: Cox (Kenley voting in her stead), Farrell and Hagman.

6. LAFCO SC#498 – City of Colton Extra-Territorial Water Service Agreement (APN 0274-122-05) TAKEN OFF CALENDAR – ITEM PULLED INDEFINITELY BY APPLICANT

Chair Bagley, for the record, states Item #6 on the agenda has been pulled off the calendar.

Commissioners Hagman and Cox arrive at 9:12 am.

7. LAFCO SC#495 – City of Fontana Pre-Annexation Agreement No. 22-006 for Sewer Service (APNs 0230-031-20 and 0230-031-21 – Serena Village)

Commissioner Warren leaves the dais and the room due to a conflict of interest stated at the beginning of the meeting. Legal Counsel Paula de Sousa states that Commissioner Warren is recusing herself due to a conflict of interest related to campaign contributions pertaining to this item, as previously stated for the record by Commissioner Warren at the beginning of the meeting.

Chair Bagley comments that for the record, recognizes that Commissioner Hagman and Commissioner Cox has joined the Commission on the dais.

Recommendation:

1. For environmental review, take the following actions as a responsible agency:
 - Certify that the Commission has reviewed and considered the environmental assessment and the Mitigated Negative Declaration prepared by the County of San Bernardino for a Conditional Use Permit and Tentative Tract Map 20016 to develop a 112-unit multiple family condominium project on approximately 6.7 acres, and found them to be adequate for the Commission's use;
 - Determine that the Commission does not intend to adopt alternatives or additional mitigation measures for this project; that all mitigation measures are the responsibility of the County of San Bernardino and/or others, not the Commission; and are self-mitigating through the Conditions of Approval; and,
 - Direct the Executive Officer to file a Notice of Determination within five (5) days of this action.
2. Approve SC#495 authorizing the City of Fontana to extend sewer service outside its Boundaries to the project area comprised of Assessor Parcel Numbers 0230-031-20 & 0230-031-21; and,
3. Adopt LAFCO Resolution #3367 setting forth the Commission's determinations and approval of the agreement for service outside the City of Fontana's boundaries.

Mohammad Monshizadeh, representing the property owner, Inland Senior Development, LLC, provides comments during public comment.

Commissioner Baca moves the approval of Item 7. Second by Commissioner Hagman. The motion passes with the following roll call vote:

*Ayes: Baca, Bagley, Cox, Denison, Dupper, Hagman, and Kenley.
Noes: None.
Abstain: Warren (Denison voting in her stead).
Absent: Farrell (Kenley voting in his stead).*

DISCUSSION ITEM:

8. Nominations for the Special District Risk Management Authority Board of Directors

Commissioner Warren returns to the dais.

Recommendation: Staff Recommends that the Commission take one of the following actions:

1. If the Commission nominates a member of the Commission or its management staff for the SDRMA Board of Directors 2023 Election, direct the Executive Officer to prepare a resolution for candidate nomination for Commission action at the April meeting and submit the required documents by the May 1, 2023 deadline; or,
2. If there is no nomination, note receipt and file the information.

After Commission discussion and Vice-Chair Warren signifying her interest to be nominated to the SDRMA Board, Commissioner Baca moves the approval of Recommendation #1 nominating Commissioner Warren. Second by Commissioner Hagman. The motion passes with the following roll call vote:

Ayes: Baca, Bagley, Cox, Dupper, Hagman, Kenley and Warren.
Noes: None.
Abstain: None.
Absent: Farrell (Kenley voting in his stead).

INFORMATION ITEMS:

9. Legislative Update Report

Executive Officer Samuel Martinez states Legislative Report item is to receive and file. He provides comments on each of the CALAFCO legislative priorities for 2023 as identified in the staff report. Commissioner Cox comments that CSDA is putting forth some modifications to the Brown Act as a follow-up to last year's AB 2449 that would also benefit LAFCOs. Executive Officer Martinez states that staff will come back at a later date to provide the Commission with an update on the CSDA sponsored bill, as well as the other Brown Act related legislation, for its review.

10. Executive Officer's Report

Executive Officer Martinez provides updates on the two proposals identified in the staff report and informs the Commission that he will be attending a meeting tonight in Morongo Valley to do a presentation on LAFCO. He concludes his report by reminding the Commission to submit their 700 form by the April 3 deadline. Chair Bagley comments his appreciation to the Executive Officer for taking the time to attend the meeting in Morongo.

11. Commissioner Comments

Commissioner Baca comments on Item 6 that was pulled off calendar by the applicant. He states that it is in his Supervisorial District and expressed his concerns regarding the transition of the residents in this community to connect to water and hopes that staff can help with this transition process. Executive Officer Martinez states that he has reached out to the State Division of Drinking Water and the other parties involved and will provide Commissioner Baca with an update.

Commissioner Hagman comments on the Barstow Cemetery District issues that was brought up at the Board of Supervisors meeting. Staff indicated that an update was provided in the past but will provide the Commission with a new update in the near future.

12. Public Comments

There is none.

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COMMISSION, THE MEETING ADJOURNS AT 10:33 A.M.

ATTEST:


ANGELA SCHELL, Clerk to the Commission

LOCAL AGENCY FORMATION COMMISSION

JIM BAGLEY, Chair

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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DATE : APRIL 10, 2023 
FROM: SAMUEL MARTINEZ, Executive Officer
TO: LOCAL AGENCY FORMATION COMMISSION

**SUBJECT: AGENDA ITEM #5 – APPROVAL OF EXECUTIVE OFFICER'S
EXPENSE REPORT**

RECOMMENDATION:

Approve the Executive Officer's Expense Report for Procurement Card Purchases from February 22, 2023 to March 22, 2023.

BACKGROUND INFORMATION:

The Commission participates in the County of San Bernardino's Procurement Card Program to supply the Executive Officer a credit card to provide for payment of routine official costs of Commission activities as authorized by LAFCO Policy and Procedure Manual Section II – Accounting and Financial Policies #3(H). Staff has prepared an itemized report of purchases that covers the billing periods of:

- February 22, 2023 to March 22, 2023

Staff recommends that the Commission approve the Executive Officer's expense reports as shown on the attachment.

SM/AS

[Attachments](#)



PROCUREMENT CARD PROGRAM

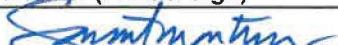
ATTACHMENT G

MONTHLY PROCUREMENT CARD PURCHASE REPORT

PAGE 1 OF 1

F		Cardholder Samuel Martinez						Travel	Billing Period 02/22/23 to 3/22/2023	
DATE	VENDOR NAME	#	DESCRIPTION	PURPOSE	COST CENTER	G/L ACCOUNT	\$ AMT	TRIP NUMBER	*R/D	SALES TAX INCL
02/22/23	Best Best & Krieger	1	Training	Webinar Training on Brown Act	8900005012	52942941	\$75.00		R	
02/22/23	Best Best & Krieger	2	Training	Webinar Training on Brown Act	8900005012	52942941	\$75.00		R	
02/22/23	Best Best & Krieger	3	Training	Webinar Training on Brown Act	8900005012	52942941	\$75.00		R	
02/22/23	Best Best & Krieger	4	Training	Webinar Training on Brown Act	8900005012	52942941	\$75.00		R	
03/03/23	Frontier Comm	5	Phone Service	Communication	8900005012	52002041	\$679.77		R	
03/03/23	Thomas West	6	Law Library Updates	Law Library Updates	8900005012	52002080	\$290.54		R	
03/12/23	Zoom	7	Video Conference	Communication	8900005012	52002305	\$16.15		R	
03/15/23	Thomas West	8	Law Library Updates	Law Library Updates	8900005012	52002080	\$290.54		R	
03/03/23	Frontier Comm	9	Phone Service	Communication	8900005012	52002041	\$679.77		R	
03/16/23	Panera Bread	10	Office Expense	Commission Meeting	8900005012	52002305	\$49.67		R	
03/21/23	Amazon	11	Office Expense	Projector/Monitor Cord	8900005012	52002305	\$32.18		R	
03/21/23	Amazon	12	Office Expense	Computer Peripherals	8900005012	52002305	\$302.96		R	


The undersigned, under penalty of perjury, states the above information to be true and correct. If an unauthorized purchase has been made, the undersigned authorizes the County Auditor/Controller-Recorder to withhold the appropriate amount from their payroll check after 15 days from the receipt of the cardholder's Statement of Account.

Cardholder (Print & Sign)	Date
Samuel Martinez 	04/10/23

Approving Official (Print & Sign)	Date
Jim Bagley	04/19/23

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DATE : APRIL 12, 2023 
FROM: SAMUEL MARTINEZ, Executive Officer
TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: AGENDA ITEM #6 - RATIFY PAYMENTS AS RECONCILED FOR
THE MONTH OF FEBRUARY 2023 AND NOTE REVENUE
RECEIPTS

RECOMMENDATION:

Ratify payments as reconciled for the month of February 2023 and note revenue receipts for the same period.

BACKGROUND INFORMATION:

Staff prepared a reconciliation of warrants issued for payments to various vendors, internal transfers for payments to County Departments, cash receipts and internal transfers for payments of deposits or other charges that cover the period of:

- February 1 through February 28, 2023

Staff recommends that the Commission ratify the payments as outlined on the attached listing and note the revenues received.

SM/MT


[Attachment](#)

FEBRUARY 2023 PAYMENTS PROCESSED							
Document Number	Account	Posting Date	Vendor	Invoice	Reference	Amount	
1901435522	5200	2085	02/14/23	Daily Press	B3664527	Notice of Protest Hearing The Sun	\$ 705.32
1901430383	5200	2090	02/07/23	City Comm	UNIT: 150	Lease payment for Dec & Jan	\$ 396.00
1901430386	5200	2090	02/07/23	Jan Pro	92088	Cleaning Service	\$ 588.00
1901435524	5200	2180	02/14/23	So Cal Edison	6433-2-9-23	Cust acct 700099666433 Svc Acct 8002108287	\$ 569.30
1901430394	5200	2400	02/07/23	Best, Best, Krieger	954607	Legal service	\$ 1,224.09
1901425165	5200	2400	02/14/23	Best, Best, Krieger	952843	Legal service	\$ 2,301.70
1901425167	5200	2424	02/14/23	Tom Dodson	LAFCO 22-14	Environmental consulting December	\$ 1,275.00
1901441830	5200	2424	02/23/23	Tom Dodson	LAFCO 23-1	Environmental consulting January	\$ 717.50
1901425168	5200	2444	02/14/23	Bay Alarm	20269289	02/01/23 - 05/01/23	\$ 123.00
1901442246	5200	2445	02/24/23	Hannah Larsen	#5	Bill date 1/9, 1/11-12, 1/21, 1/23 to 1/25	\$ 325.00
1901442248	5200	2445	02/24/23	Hannah Larsen	#3	Billing Tasks: Training Arturo & SALC Plan	\$ 325.00
1901433384	5200	2895	02/10/23	Konical Minolta	41639959	Office copier	\$ 365.38
1901431464	5294	2941	02/08/23	CALAFCO	2023 WORKSHOP	CALAFCO Annual Staff Workshop April 26-28, 2023	\$ 1,200.00
TOTAL							\$ 10,115.29
FEBRUARY 2023 COUNTY TRANSFERS PROCESSED							
4102772059	5200	2031	02/01/23	IT	ITD BILLING	JAN 2023 Payroll System Services (EMACS)	\$ 51.92
4102773125	5200	2032	02/01/23	IT	ITD BILLING	JAN 2023 Virtual Private Network (VPN)	\$ 13.29
4102772061	5200	2037	02/01/23	IT	ITD BILLING	JAN 2023 Dial Tone	\$ 226.72
4102749481	5200	2305	02/13/23	Purchasing	PUR. / STAPLES	7373327924000001	\$ 18.57
4102772063	5200	2322	02/01/23	IT	ITD BILLING	JAN 2023 Enterprise Printing (EMACS)	\$ 7.56
4102772066	5200	2420	02/01/23	IT	ITD BILLING	JAN 2023 Storage - Tier 3	\$ 147.76
4102772066	5200	2420	02/01/23	IT	ITD BILLING	JAN 2023 Storage - Tier 1	\$ 110.84
4102772066	5200	2420	02/01/23	IT	ITD BILLING	JAN 2023 Enterprise Content Management	\$ 135.10
4102772067	5200	2421	02/01/23	IT	ITD BILLING	JAN 2023 Desktop Support Services	\$ 802.96
4102772098	5241	2410	02/01/23	IT	ITD BILLING	IT Infrastructure - Period 8	\$ 570.00
4102772064	5241	2414	02/01/23	IT	ITD BILLING	Application Maintenance & Support - Period 08	\$ 673.00
4102749481	5540	5012	02/13/23	Purchasing	PUR. / STAPLES	7373327924000001	\$ 154.77
4200109892	5200	2445	02/08/23	Auditor	2022 Q3 S08	Quarterly tax filing	\$ 891.00
4200109893	5200	2445	02/08/23	Auditor	2022 Q4 S08	Quarterly tax filing	\$ 992.25
4200110139	5200	2445	02/13/23	ROV	3268	Registered voter count	\$ 98.94
4200110140	5200	2445	02/13/23	ROV	3288	Registered voter count	\$ 98.94
4200109689	5200	2310	02/02/23	Mail	JE UPLOAD	Mail Services - DEL	\$ 177.45
4200109690	5200	2310	02/02/23	Mail	JE UPLOAD	Mail Services - FLAT	\$ 6.12
4200109692	5200	2310	02/02/23	Mail	JE UPLOAD	Mail Services - HAN	\$ 170.63
4200110878	5200	2310	02/27/23	Mail	JE UPLOAD	Mail Services - DEL	\$ 160.55
4200110879	5200	2310	02/27/23	Mail	JE UPLOAD	Mail Services - HAN	\$ 31.59
4200110892	5200	2310	02/27/23	Mail	JE UPLOAD	Mail Services - FLAT	\$ 23.75
TOTAL							\$ 5,563.71
FEBRUARY 2023 CASH RECEIPTS							
TOTAL			NONE				\$ -

FEBRUARY 2023 COUNTY TRANSFERRED RECEIVED									
4200110021	4070	9555	02/17/23	Special Districts Division		LAFCO 3254 (Running Springs WD/CSA 79) cost recovery	\$	412.52	
TOTAL							\$	412.52	
COMPLETED BY: MICHAEL TUERPE					APPROVED BY: SAMUEL MARTINEZ				
		Senior Analyst			Executive Officer				
		Date: 4/10/2023			4/10/2023				

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DATE: APRIL 12, 2023 
FROM: SAMUEL MARTINEZ, Executive Officer
MICHAEL TUERPE, Senior Analyst
TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: Agenda Item #7: Third Quarter Financial Review for FY 2022/23

RECOMMENDATION:

Staff recommends that the Commission take the following actions:

1. Note receipt of this report and file.
2. Approve the following amendments to the FY 2022/23 Budget:
 - a. To account for County IT account code changes and rate increases:
 - i. Increase appropriation for the following:
 1. Account 2410 (IT Infrastructure) by \$6,254 from \$586 to \$6,840
 2. Account 2414 (Application Development and Maintenance) by \$8,076 from \$0 to \$8,076
 3. Account 2420 (Other IT Services) by \$4,517 from \$211 to \$4,728
 - ii. Decrease appropriation for the following:
 1. Account 2417 (Enterprise Content Management) by \$1,848 from \$1,848 to \$0
 2. Account 2418 (Data Storage Services) by \$4,116 from \$4,116 to \$0
 3. Account 2450 (Systems Development Charges) by \$7,764 from \$7,764 to \$0
 - b. To account for unrecoverable legal costs, increased costs related to the SALC Grant, and the FY 2021/22 SBCERA payment:
 - i. Increase appropriation for the following:
 1. Account 2400 (Legal Counsel) by \$19,718 from \$40,800 to \$60,518

2. Account 2445 (Other Professional Services) by \$25,000 from \$101,092 to \$126,092
 3. Account 9990 (SBCERA Additional Payment) by \$50,163 from \$50,000 to \$100,163
- c. To balance the budget and account for reimbursements from the SALC Grant and increased carryover into FY 2022/23, increase Account 9930 (Miscellaneous) by \$100,000 from \$0 to \$100,000.

SUMMARY:

1. Budget Markers

The third quarter of Fiscal Year 2022/23 has concluded and staff is presenting the Commission with its third financial report. This report includes a review of the financial activities and the presentation of a spreadsheet (see Attachment) showing the line-item expenditures and receipts during the period. The table below shows that Total Expenditures are on-track with Third Quarter markers. For Revenues, Fees and Deposits are at 62%, below the 75% mark (however substantial revenues were received in April). The table below is a snapshot through the third quarter.

Expenditures		Revenues	
Salaries and Benefits	66%	Apportionment	100%
<i>(below appropriations)</i>		<i>(met goal)</i>	
Services and Supplies	72%	Fees and Deposits	62%
<i>(below appropriations)</i>		<i>(below goal)</i>	
TOTAL	68%	TOTAL	93%

2. Applications

The table below identifies the number of proposals and service contracts received. When taking activity that the Commission approves (proposals and one category of service contracts), 10 were budgeted with 11 received.

Activity	Budget	THRU Q3	
		No.	% of Budget
Commission: Proposals	6	3	50%
Commission: Service Contracts	4	8	200%
Administrative: Service Contracts	4	4	100%

3. Cash in Treasury

As of March 31, the Commission's cash in the County Treasury was \$804,605. A breakdown of this amount is shown below. Currently, staff projects to end the year with a cash surplus.

March 31, 2023 Balance		\$804,605
Cash Balance is composed of the following:		
<i>Committed (constrained to specific purposes)</i>		
Compensated Absences (Account 6030)		157,095
Salary for Extra Pay Period: Year 1 of 10 (Account 6035)		6,000
<i>Assigned (intended for specific purposes)</i>		
Contingency (Account 6000)		30,000
General Reserve (Account 6025)		200,000
<i>Estimated Revenues (shown as negative)</i>		(40,000)
<i>Remaining Budgeted Expenditures</i>		361,980
Projected Additional Cash Carryover		\$89,530

4. Appropriations Increase

Staff recommends changes to the budget as described below and shown on the figure on the next page. Note that these are accounting measures and do not affect cash.

After the adoption of the Proposed Budget in March 2022, the County approved its schedule of Fees for the year. This included a change of accounts as well as a rough increase of \$5,000 in fees and charges for the year. This staff report recommends transferring appropriation authority from the unused accounts to the correct accounts, as well as an overall increase of \$5,119.

Additionally, three accounts are incurring excess costs over their respective budgets:

1. Ongoing legal expenses that are not recoverable.
2. Increased expenses related to the SALC Grant, all of which are reimbursable. Charges include LAFCO staff time, Inland Empire RCD staff time, consultants, and subject matter experts.
3. Last year's additional payment to SBCERA was not processed by the year-end cutoff, and the payment as well its funding occurred in FY 2022/23. Therefore, the budget needs to account for this additional activity.

The budget can be balanced by two activities that were not included in the Adopted Budget:

1. SALC Grant revenues as it was speculative at that time.
2. Revenues associated with last year's SBCERA payment that carried forward.

ACCOUNT		ADOPTED	change	AMENDED
County IT Account Code Changes & Rate Increases				
2410	IT Infrastructure	\$ 586	\$ 6,254	\$ 6,840
2414	Application Dev. & Maint.	-	8,076	8,076
2417	Enterprise Content Management	1,848	(1,848)	-
2418	Data Storage Services	4,116	(4,116)	-
2420	Other IT Services	211	4,517	4,728
2450	Systems Development Charges	7,764	(7,764)	-
	SUB-TOTAL		\$ 5,119	
Appropriation Increases				
2400	Legal Counsel	\$ 40,800	\$ 19,718	\$ 60,518
	<i>Unrecoverable legal</i>			
2445	Other Professional Services	101,092	25,000	126,092
	<i>Increased SALC grant costs, all are reimbursed</i>			
9990	SBCERA Additional Payment	50,000	50,163	100,163
	<i>Last year's payment did not process before the year-end & the funds carried over</i>			
	SUB-TOTAL		\$ 94,881	
	TOTAL		\$ 100,000	
BALANCED BY GRANT REIMBURSEMENT & CARRYOVER				
9930	Miscellaneous	\$ -	\$ 100,000	\$ 100,000
	<i>Reimbursement for LAFCO, partner Inland Empire RCD, & consultant work, as well as carryover funds.</i>			
	TOTAL		\$ 100,000	

DETAIL:

The following provides a discussion of (1) expenditures, (2) reserves, (3) projects and programs, and (4) revenues.

1. Expenditures

Expenditures are comprised of two categories of accounts: 1) Salaries and Benefits, and 2) Services and Supplies. Through the third quarter, expenditures were at 68% of Approved Budget authority. At this time, no request is being presented by staff for authorization to utilize funds maintained in the Contingency or Reserve accounts. A more detailed analysis of the categories is as follows:

A. Salaries and Benefits (1000 series)

(1) Third Quarter Activity

The Salaries and Benefits series of accounts (1000 series) had expenditures of \$519,239 representing 66% of Approved Budget authority.

(2) Anticipated Activity

At this time, no additional activity is anticipated outside of the budget.

B. Services and Supplies (2000 and 5000 series)

(1) Third Quarter Activity

The Services and Supplies series of accounts (2000 and 5000 series) had expenditures of \$312,236, or 72% of the Approved Budget authority.

Currently, the Commission is engaged in legal matters where costs are not recoverable. Due to revenues received in April, there are adequate funds to cover these legal costs. However, the high costs project to exceed appropriation at year's end. This staff report recommends an increase to the Legal Counsel account (Account 2400) to provide additional appropriation to accommodate the payments. (See the Attachment for the line items in red and green font).

(2) Anticipated Activity

Staff will continue to monitor the Commission's finances closely. No other activity is anticipated to have a significant effect on the budget.

As a part of the FY 2022/23 Budget, the Commission approved payment to SBCERA of \$50,000 as a credit towards paying down LAFCO's share of the Unfunded Actuarial Liability.

2. Reserves

Prior Year Contingency and Reserve funds of \$355,095 from FY 2021/22 carried forward into FY 2022/23. No spending activity has been requested by staff or authorized by the Commission to take place in the Reserve accounts. Reserve balances are shown in the Cash Balance figure on page 3.

3. Projects and Programs

The following provides an update on expenditures and progress on projects approved by the Commission.

A. Sustainable Agricultural Lands Conservation (SALC) Program

In May 2021 the CA Department of Conservation (DOC) awarded LAFCO the SALC Program Planning Grant. LAFCO's partner in the grant is the Inland Empire Resource Conservation District (via a cooperative agreement setting terms for roles and reimbursement).

LAFCO and IERCD staffs are currently formulating policies for Commission review after the new year.

B. Service Reviews and Special Studies

In September 2022, LAFCO completed the *Service Review for the Twentynine Palms Community*. Staff began work on the Healthcare District review and the focused review for the Big River Community Services District, which provides park and recreation services.

C. Governance Training Program

In coordination with CSDA, LAFCO conducted two seminars this year. The first was in August, Board Member Best Practices Part I, and the second was in November, Board Member Best Practices Part II. Both received positive feedback.

4. Revenues

The Commission has received 93% of Adopted Budget revenues through the third quarter. The items below outline the revenue activity:

- Interest (Account 8500) – \$6,458 in interest revenue was earned from the Commission's cash in the County Treasury – a paltry amount. The bulk of LAFCO's revenues are received during the first half of the fiscal year through receipt of its annual apportionment.
- Apportionment (Account 8842) - 100% of the mandatory apportionment payments from the County, cities, and independent special districts billed by the County Auditor have been received.
- Fees and Deposits (Accounts 9545 – 9800) – The Fees and Deposits series of accounts have received 62% of its budgeted revenue (\$65,713). This amount is made up of a combination of application fees, service contract filing fees, and cost recovery.

CONCLUSION:

Through the third quarter, expenditures are on track, 100% of the apportionment receipts were received, and proposal activity is less than anticipated. Reimbursements received from the State related to the SALC grant have more than made up for the decrease in proposal funds.

This staff report recommends changes to the budget as described on pages 3 and 4. (See the Attachment for the line items in red and green font).

Staff will be glad to answer any questions from the Commission prior to or at the hearing regarding the items presented in this report.

SM/MT

[Attachment: Spreadsheet of Expenditures, Reserves, and Revenues](#)

Attachment

Budget Spreadsheets

ACCT.	ACCOUNT NAME	ADOPTED FY 22-23	AMENDED MAY 2023	TOTAL THRU Q3	% THRU Q3	ESTIMATED YEAR-END TOAL	ESTIMATED YEAR-END PERCENT
#							
	SALARIES AND BENEFITS						
1010	Earnable Compensation	480,213	480,213	320,721	67%	440,775	92%
1030	Auto and Cell Phone Allowances	9,275	9,275	6,650	72%	8,969	97%
1045	Termination Payment			-		-	
1110	General Member Retirement	166,721	166,721	112,068	67%	153,748	92%
1130	Survivors Benefits	106	106	66	62%	92	87%
1200	Medical Premium Subsidy	58,179	58,179	33,241	57%	47,786	82%
1205	Long-Term Disability	1,087	1,087	717	66%	989	91%
1207	Vision Care Insurance	700	700	431	62%	606	87%
1215	Dental Insurance Subsidy	1,106	1,106	658	59%	934	84%
1222	Short-Term Disability	5,367	5,367	3,585	67%	4,927	92%
1225	Medicare	6,039	6,039	3,747	62%	5,257	87%
1240	Life Insurance & Medical Trust Fund	13,665	13,665	10,113	74%	13,529	99%
1305	Medical Reimbursement Plan	5,971	5,971	1,812	30%	3,305	55%
1314	457/401a Contribution	3,247	3,247	2,147	66%	2,958	91%
1315	401k Contribution	32,190	32,190	23,283	72%	31,331	97%
	TOTAL SALARIES & BENEFITS	\$ 783,866	\$ 783,866	\$ 519,239	66%	\$ 715,205	91%
	Staffing (Full time equivalent units)	4.5					
	SERVICES AND SUPPLIES						
2031	Payroll System Services (County IT)	884	884	448	51%	669	76%
2032	Virtual Private Network (County IT)	158	158	102	65%	142	90%
2033	Network Labor Services (County IT)	-	-	-		-	
2037	Dial Tone (County IT)	3,061	3,061	1,814	59%	2,579	84%
2041	Data Line	8,400	8,400	6,785	81%	8,885	106%
2043	Electronic Equipment Maintenance (County IT)	-	-	-		-	
2075	Membership Dues	12,769	12,769	12,921	101%	16,113	126%
2076	Tuition Reimbursement	2,000	2,000	-	0%	500	25%
2080	Publications	3,408	3,408	2,862	84%	3,714	109%
2085	Legal Notices	20,000	20,000	5,097	25%	10,097	50%

Attachment

Budget Spreadsheets

ACCT.	ACCOUNT NAME	ADOPTED FY 22-23	AMENDED MAY 2023	TOTAL THRU Q3	% THRU Q3	ESTIMATED YEAR-END TOAL	ESTIMATED YEAR-END PERCENT
2090	Building Expense	7,380	7,380	7,289	99%	9,134	124%
2115	Software	2,283	2,283	2,712	119%	3,283	144%
2135	Utilities	-	-	-		-	
2180	Electricity	6,000	6,000	4,610	77%	6,110	102%
2245	Other Insurance	19,274	19,274	12,523	65%	17,342	90%
2305	General Office Expense	1,584	1,584	2,484	157%	2,880	182%
2308	Credit Card Clearing Account	-	-	(1,058)		(1,058)	
2310	Postage - Direct Charge	5,716	5,716	3,498	61%	4,927	86%
2315	Records Storage	772	772	689	89%	883	114%
2322	Enterprise Printing (County IT)	86	86	66	77%	87	102%
2323	Reproduction Services	500	500	283	57%	408	82%
2335	Temporary Services	1,500	1,500	589	39%	964	64%
2400	Legal Counsel	40,800	60,518	37,455	62%	67,455	111%
2405	Auditing	11,915	11,915	8,450	71%	11,429	96%
2410	IT Infrastructure (County IT)	586	6,840	5,130	75%	5,277	77%
2414	Application Dev. & Maint. (County IT)	-	8,076	6,057	75%	6,057	75%
2415	Countywide Cost Allocation Program (COWCAP)	-	-	-		-	
2416	Enterprise Printing (County IT)	-	-	-		-	
2417	Enterprise Content Management (County IT)	1,848	-	-		462	
2418	Data Storage Services (County IT)	4,116	-	-		1,029	
2420	Other IT Services (County IT)	211	4,728	3,212	68%	3,265	69%
2421	Desktop Support Services (County IT)	12,830	12,830	6,424	50%	9,631	75%
2424	Environmental Consultant	8,230	8,230	8,430	102%	10,488	127%
2444	Security Services	492	492	569	116%	692	141%
2445	Other Professional Services	101,092	126,092	100,005	79%	125,278	99%
2449	Outside Legal (Litigation & Special Counsel)	-	-	1,991		1,991	
2450	Systems Development Charges (County IT)	7,764	-	-		1,941	
2460	Aerial Imagery (County IT)	3,000	3,000	3,000	100%	3,750	125%
2895	Rent/Lease Equipment (copier)	5,100	5,100	3,432	67%	4,707	92%
2905	Office/Hearing Chamber Rental	60,669	60,669	45,396	75%	60,564	100%

Attachment

Budget Spreadsheets

ACCT. #	ACCOUNT NAME	ADOPTED FY 22-23	AMENDED MAY 2023	TOTAL THRU Q3	% THRU Q3	ESTIMATED YEAR-END TOAL	ESTIMATED YEAR-END PERCENT
2940	Private Mileage	3,596	3,596	3,915	109%	4,814	134%
2941	Conference/Training	5,490	5,490	7,689	140%	9,062	165%
2942	Hotel	12,350	12,350	5,582	45%	8,669	70%
2943	Meals	1,200	1,200	215	18%	515	43%
2945	Air Travel	800	800	595	74%	795	99%
2946	Other Travel	300	300	135	45%	210	70%
5012	Transfer to County (Staples & Microsoft)	6,689	6,689	839	13%	2,512	38%
TOTAL SERVICES & SUPPLIES		\$ 384,854	\$ 434,691	\$ 312,236	72%	\$ 428,250	99%
TOTAL EXPENDITURES		\$ 1,168,720	\$ 1,218,557	\$ 831,475	68%	\$ 1,143,455	94%
TRUST TRANSFERS							
9990	SBCERA Additional Payment	50,000	100,163	50,163	50%	100,163	200%
TOTAL TRUST TRANSFERS		\$ 50,000	\$ 100,163	\$ 50,163	50%	\$ 100,163	100%
TOTAL APPROPRIATION		\$ 1,218,720	\$ 1,318,720	\$ 881,638	67%	\$ 1,243,618	94%

Attachment

Budget Spreadsheets

ACCT. #	ACCOUNT NAME	ACTUAL YEAR-END FY 21-22	INCREASES FY 22-23	TOTAL
	RESERVES (Increases)			
6000	Contingency (Assigned)	25,000	5,000	30,000
6025	General (Assigned)	175,000	25,000	200,000
6030	Compensated Absences (Committed)	152,095	5,000	157,095
6035	Salary for Extra Pay Period (Committed)	3,000	3,000	6,000
TOTAL RESERVES (Increases)		\$ 355,095	\$ 38,000	\$ 393,095


Attachment

Budget Spreadsheets

ACCT #	ACCOUNT NAME	ADOPTED FY 22-23	AMENDED MAY 2023	TOTAL THRU Q3	% THRU Q3	ESTIMATED YEAR-END TOAL	ESTIMATED YEAR-END PERCENT
8500	Interest	10,000	10,000	6,458	65%	6,458	65%
9984	Interest Adjustment			16,582		16,582	
8842	Apportionment	1,090,497	1,090,497	1,090,497	100%	1,090,497	100%
	Fees and Deposits (Current Services):						
9545	Individual Notice Deposit	9,000	9,000	11,000	122%	11,000	122%
9555	Legal Services Deposit	12,000	12,000	12,013	100%	12,013	100%
9595	Protest Hearing Deposit	3,000	3,000	-	0%	-	0%
9655	Digital Mapping Fee	2,735	2,735	-	0%	-	0%
9660	Environmental Deposits	7,800	7,800	8,600	110%	8,600	110%
9800	LAFCO Fee	71,044	71,044	34,100	48%	39,100	55%
	Total Fees and Deposits	105,579	105,579	65,713	62%	70,713	67%
	OTHER REVENUES						
9560	Indemnification Recovery			-		-	
9910	Prior Year Activity (refunds, collections)			(9,299)		(9,299)	
9930	Miscellaneous	-	100,000	42,030	42%	77,030	77%
9970	Carryover of Open Proposals	50,644	50,644	43,469	86%	43,469	86%
9973	Stale-dated Checks			-		-	
	TOTAL OTHER REVENUES	50,644	150,644	76,200	51%	111,200	74%
	TOTAL REVENUES	\$ 1,256,720	\$ 1,356,720	\$ 1,255,449	93%	\$ 1,295,449	95%

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

1170 West 3rd Street, Unit 150, San Bernardino, CA 92415-0490
(909) 388-0480 • Fax (909) 388-0481
lafco@lafco.sbcounty.gov
www.sbclafco.org

DATE : APRIL 12, 2023 
FROM: SAMUEL MARTINEZ, Executive Officer
TO: LOCAL AGENCY FORMATION COMMISSION

**SUBJECT: AGENDA ITEM #8 – NOMINATION FOR THE SPECIAL DISTRICT RISK
MANAGEMENT AUTHORITY (SDRMA) BOARD OF DIRECTORS**

RECOMMENDATION:

Adopt Resolution No. 3369 nominating Commissioner Acquanetta Warren to the SDRMA Board of Directors and transmit said resolution including Commissioner Warren's Candidate's Statement of Qualifications to SDRMA before May 1, 2023.

BACKGROUND INFORMATION:

At the March 15 Commission meeting, LAFCO staff presented the Commission with the notice from the Special Districts Risk Management Authority (SDRMA) calling for nominations for the SDRMA Board of Directors 2023 Election to determine if there was any interest among Commissioners to run for said SDRMA Board Election.

After further discussion by the Commission, Vice Chair Warren signaled her interest in running and offered herself to be nominated.

In order to nominate someone for the SDRMA Board election, the Commission is required to adopt a nominating resolution that must be received by SDRMA on or before the May 1, 2023 deadline. Therefore, staff is recommending that the Commission adopt the attached resolution to nominate Commissioner Warren. Staff will also be coordinating with Commissioner Warren and her staff to complete the required Candidate's Statement of Qualification for submittal together with the adopted resolution prior to the May 1 deadline.

[Attachment: Draft Resolution No. 3369](#)

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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RESOLUTION NO. 3369

A RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY NOMINATING COMMISSIONER ACQUANETTA WARREN AS A CANDIDATE FOR ELECTION TO THE SPECIAL DISTRICT RISK MANAGEMENT AUTHORITY BOARD OF DIRECTORS

On motion of Commissioner _____, duly seconded by Commissioner _____, and carried, the Local Agency Formation Commission adopts the following resolution:

WHEREAS, the Special District Risk Management Authority (SDRMA) is a Joint Powers Authority formed under California Government Code, Section 6500 et.seq., for the purpose of providing risk management and risk financing for California Special Districts and other local government agencies; and

WHEREAS, the Joint Powers Agreement and Bylaws of SDRMA set forth director qualifications, terms of office and election requirements; and

WHEREAS, the Board of Directors of SDRMA established procedures and guidelines for the Director Election process; and

WHEREAS, the SDRMA Board of Directors adopted Board Policy 2022-06, which includes the following requirements for candidate qualification:

- a. A candidate seeking election, re-election or appointment to SDRMA's Board of Directors must be a member of the Governing Body or a management employee (as defined in Section 4.1) of a SDRMA member participating in both the Property/Liability and Workers' Compensation Programs.
- b. Each nominated candidate must submit a properly completed "Statement of Qualifications" with an original wet signature (electronic signatures are not acceptable) on or before the May 1, 2023 filing deadline in order for the candidate's name to be placed on the official ballot.
- c. Candidates seeking election or reelection must be nominated by action of their respective Governing Body through a resolution that must be received by the Authority on or before the May 1, 2023 filing deadline.

RESOLUTION NO. 3369

NOW, THEREFORE, BE IT RESOLVED, that the Commission does hereby determine, find, resolve, and order as follows:

1. The Local Agency Formation Commission for San Bernardino County nominates Commissioner Acquanetta Warren as a candidate for the Board of Directors of the Special District Risk Management Authority.
2. The Local Agency Formation Commission for San Bernardino County further directs that a copy of this Resolution shall be delivered to SDRMA on or before the May 1, 2023 filing deadline.

THIS ACTION APPROVED AND ADOPTED by the Local Agency Formation Commission for San Bernardino County by the following vote:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN BERNARDINO)


I, **SAMUEL MARTINEZ**, Executive Officer of the Local Agency Formation Commission for San Bernardino County, California, do hereby certify this record to be a full, true, and correct copy of the action taken by said Commission by vote of the members present as the same appears in the Official Minutes of said Commission at its regular meeting of April 19, 2023.

DATED:

SAMUEL MARTINEZ
Executive Officer

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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DATE: APRIL 12, 2023 
FROM: SAMUEL MARTINEZ, Executive Officer
MICHAEL TUERPE, Senior Analyst
TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: Agenda Item #10: LAFCO 3261 – Reorganization to Include Annexation to the City of Fontana and Detachment from County Service Area 70

INITIATION:

Initiated by Landowner Petition (I-15 Logistics, LLC, property owner)

RECOMMENDATION:

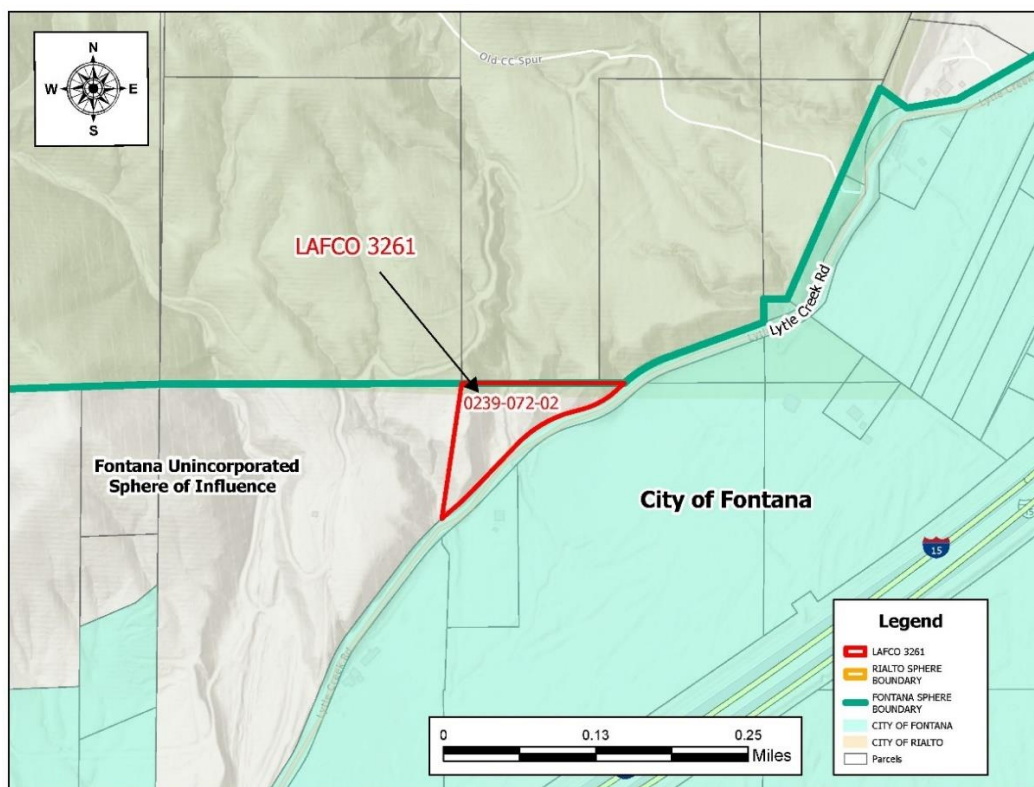
Staff recommends that the Commission approve LAFCO 3261 by taking the following actions:

1. With respect to environmental review:
 - a. Certify that the Commission, its staff, and its Environmental Consultant have independently reviewed and considered the City of Fontana's Final Environmental Impact Report for the I-15 Logistics Project and Addendum #1 (SCH No. 218011008);
 - b. Determine that the City of Fontana's Final Environmental Impact Report for the I-15 Logistics Project and Addendum #1 are adequate for the Commission's use as a CEQA Lead Agency for its consideration of LAFCO 3261;
 - c. Adopt the Addendum, as presented, that addresses the reorganization area and the debris basin associated with the I-15 Logistics Project;
 - d. Determine that the Commission does not intend to adopt alternatives or additional mitigation measures for the proposal; that the mitigation measures identified in the City's environmental documents associated with the I-15 Logistics Project are the responsibility of the City and/or others, not the Commission; and,

- e. Direct the Executive Officer to file the Notice of Determination within five (5) days.
2. Approve LAFCO 3261 with the standard LAFCO terms and conditions that include, but are not limited to, the “hold harmless” clause for potential litigation costs by the applicant and the continuation of fees, charges, and/or assessments currently authorized by the annexing agency;
3. Waive protest proceedings, as permitted by Government Code Section 56662(d), with 100% landowner consent to the reorganization proposal; and,
4. Adopt LAFCO Resolution No. 3368, setting forth the Commission’s determinations and conditions of approval concerning LAFCO 3261.

BACKGROUND:

LAFCO 3261 is a reorganization proposal initiated by a property owner/developer, I-15 Logistics, LLC, that includes annexation of a single parcel, Assessor Parcel Number 0239-072-02 encompassing approximately 5.4 acres into the City of Fontana (City) and detachment from County Service Area 70 (CSA 70).

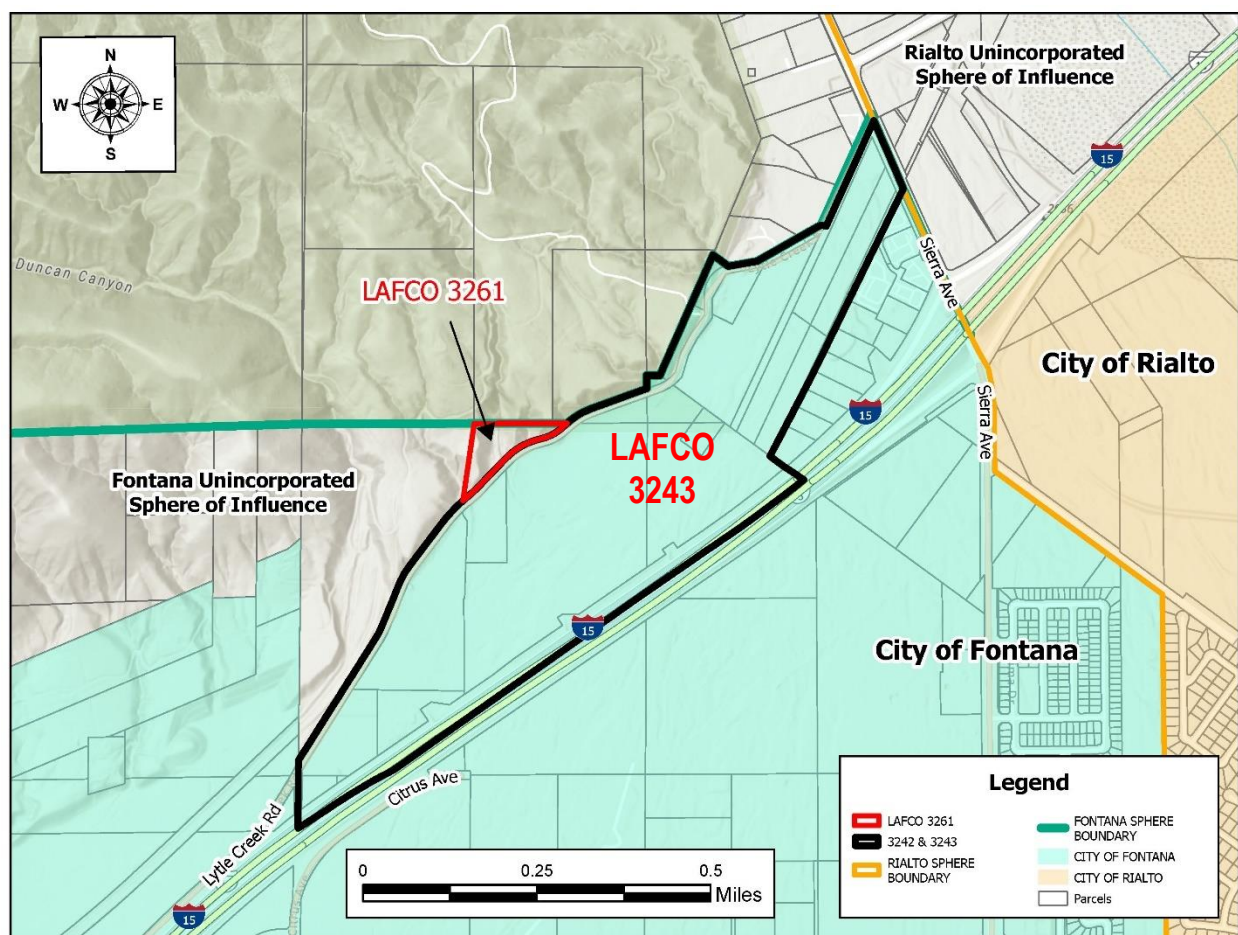


The reorganization area is located on the north side of Lytle Creek Road, generally between Sierra Avenue and the natural northerly extension of Citrus Avenue.

The primary reason for the annexation request, as outlined in the application materials (included as Attachment #2 to this report), is to construct a debris basin (and storm drain connection) within the property that is needed to support the I-15 Logistics Project—a 1,171,788 sq. ft. high-cube warehouse logistics facility that was previously annexed into the City.

LAFCO 3242 and LAFCO 3243

In 2021, the City of Fontana initiated, and the Commission approved, a sphere of influence amendment (LAFCO 3242) and a reorganization (LAFCO 3243) that annexed the said warehouse logistics facility into the City of Fontana.



The reorganization area for LAFCO 3243 (in black outline) not only included the project site itself but also included all the properties generally south of Lytle Creek Road from Sierra Avenue to the City's existing boundaries along the natural extension of Citrus Avenue.

However, the previous annexation—unfortunately—did not include the debris basin parcel (in red outline) that is needed to manage surface runoff to the I-15 Logistics Project as well as the adjacent Interstate 15 Freeway facilities. The area to the north of the reorganization area (and the said I-15 Logistics Project) has experienced wildfires in the past resulting in

scorched and barren ground making it susceptible to mudflows, which could cause significant damage to not only the I-15 Logistics facility but also to the adjacent freeway facilities.

Debris basins are facilities designed to catch vegetative and sedimentary debris, such as tree branches, boulders, and other debris that are washed out of the canyons during storms but allow water to flow into the downstream storm drain system.

Therefore, the property owner/developer is petitioning the annexation of said parcel into the City to allow for the debris basin to be built on the site, which is intended to serve the I-15 Logistics Project and the adjacent freeway facilities.

STAFF ANALYSIS:

In every consideration for jurisdictional change, the Commission is required to review information on a number of things including, but not limited to, boundaries, land use, service issues and the effects on other local governments, and environmental considerations.

BOUNDARIES:

The reorganization area includes a single parcel, Assessor Parcel Number (APN) 0239-072-02, which is approximately 5.4 acres and is located on the north side of Lytle Creek Road, within the City of Fontana's northerly sphere of influence.

No boundary issue has been identified. It is LAFCO staff's position that the reorganization proposal provides for a logical boundary since it is where the debris basin is to be built to serve the I-15 Logistics Project and the adjacent freeway facilities.

LAND USE:

The property is currently vacant and undeveloped land. The existing County land use and zoning designation for the reorganization area is Special Development-Residential (SD-RES). The City has assigned General Plan land use designations of Residential Estates (R-E) and Public Utility (P-UC) as well as zoning designations of Residential Estate (R-E) and Open Space – Natural (OS-N). The County's land use designation of SD-RES is generally compatible with the City's anticipated land use assigned for the property.

The parcel is specifically needed to build a debris basin and connection to the storm drain. The debris basin area will be graded, and a 12-foot-wide access road will be constructed for access to the basin. The debris basin will be a permanent facility on the site.

SERVICE DELIVERY AND EFFECTS ON OTHER LOCAL GOVERNMENTS:

In every consideration for jurisdictional change, the Commission is required to look at the existing and proposed service providers within an area. The service providers within the reorganization area are Fontana Fire Protection District (City subsidiary district providing fire protection and emergency medical services), West Valley Water District (retail water

service), San Bernardino Valley Municipal Water District (wholesale water/State Water Contractor), and the Inland Empire Resource Conservation District. County Service Area 70 (multi-function, unincorporated countywide entity) is the only County service provider within the reorganization area affected by the change.

Plan for Service:

The City of Fontana has certified a “Supplemental Plan for Service” that includes a Fiscal Impact Analysis prepared by the City. Copies of the City’s certified Supplemental Plan for Service and Fiscal Impact Analysis are included as Attachment #3.

- Debris Basin Maintenance:

The property owner/developer, I-15 Logistics, LLC, will maintain the debris basin and the associated storm drain line under a maintenance agreement with the City. The agreement will be signed upon completion of the annexation—prior to the issuance of the debris basin grading plans (see Attachment #4).

- Fire Protection/Emergency Medical Services:

The reorganization area is already within the boundaries of the city’s subsidiary district, the Fontana Fire Protection District, which serves the entire City and its sphere of influence. It should be noted that, as a debris basin facility, the need for fire protection and emergency medical services are nominal.

- Law Enforcement:

Law enforcement responsibilities will shift from the San Bernardino County Sheriff’s Department and California Highway Patrol to the City of Fontana Police Department. It should be noted that, as a debris basin facility, the need for law enforcement services are also nominal.

- Water Service:

The reorganization area is already within the boundaries of the West Valley WD, which provides retail water service. In addition, the reorganization area is also within the boundaries of San Bernardino Valley Municipal Water District, which provides wholesale water service. There will be no need for water service to the parcel.

- Sewer Service:

The City provides for wastewater collection within its boundaries, while the treatment and disposal of wastewater is the responsibility of the Inland Empire Utilities Agency. There will also be no need for sewer service to the parcel.

As required by Commission policy and State law, the Plan for Service shows that the extension of its services will maintain, and/or exceed, current service levels.

ENVIRONMENTAL CONSIDERATIONS:

The City prepared an Environmental Impact Report (EIR) for its approval of the I-15 Logistics Project (SCH No. 218011008) that included the annexation of not only the 1,171,788 sq. ft. high-cube warehouse logistics facility but also the annexation of all the properties generally south of Lytle Creek Road from Sierra Avenue to the City's existing boundaries along the natural extension of Citrus Avenue totaling approximately 152 acres. In 2021, acting as CEQA responsible agency, the Commission reviewed and approved a sphere of influence amendment (LAFCO 3242) and a reorganization (LAFCO 3243) that annexed the said warehouse logistics facility into the City of Fontana.

For LAFCO 3261, an addendum to the City's Final EIR for the I-15 Logistics Project was prepared for the Commission's use in considering LAFCO 3261.

The City's Final EIR for the I-15 Logistics Project and its Addendum #1 are included as part of Attachment #5, which have been reviewed by the Commission's Environmental Consultant, Tom Dodson of Tom Dodson and Associates. Mr. Dodson has determined that, if the Commission chooses to approve LAFCO 3261, the City's environmental documents and the Addendum #1 are adequate for Commission's use as a lead agency under CEQA. The addition of the LAFCO 3261 property has no potential to cause or result in additional significant adverse impacts to the environment. The following are the necessary environmental actions to be taken by the Commission:

- a. Certify that the Commission, its staff, and its Environmental Consultant have independently reviewed and considered the City's Final EIR for the I-15 Logistics Project and Addendum #1 (SCH No. 218011008);
- b. Determine that the City's Final EIR for the I-15 Logistics Project and Addendum #1 are adequate for the Commission's use as a CEQA Lead Agency for its consideration of LAFCO 3261 and that the Commission has considered the supporting environmental documentation and environmental effects as outlined in the City's environmental documents for the I-15 Logistics Project and Addendum #1 prior to reaching a decision on LAFCO 3261;
- c. Adopt the Addendum, as presented, that addresses the reorganization area and the debris basin associated with the I-15 Logistics Project;
- d. Determine that the Commission does not intend to adopt alternatives or additional mitigation measures for the proposal; that the mitigation measures identified in the Addendum or the City's environmental documents associated with the I-15 Logistics Project are the responsibility of the City and/or others, not the Commission; and,
- e. Direct the Executive Officer to file the Notice of Determination within five (5) days.

Waiver Of Protest Procedures:

The reorganization area is uninhabited (as determined by the Registrar of Voters) and LAFCO staff verified that the reorganization area possesses 100% landowner consent to the reorganization. Therefore, if the Commission approves LAFCO 3261 and none of the affected agencies submit written opposition to a waiver of protest proceedings, staff is recommending that the protest proceedings be waived. The action would include direction to the Executive Officer to complete the reorganization following conclusion of the mandatory 30-day reconsideration period.

CONCLUSION:

The purpose of initiating this reorganization is to annex the property into the City of Fontana in order to construct a debris basin (and storm drain connection) that is needed to support the I-15 Logistics Project—a 1,171,788 sq. ft. high-cube warehouse logistics facility that was previously annexed into the City—and the adjacent freeway facilities.

For this reason, and those outlined throughout the staff report, the staff supports the approval of LAFCO 3261.

DETERMINATIONS:

The following determinations are required to be provided by Commission policy and Government Code Section 56668 for any change of organization/reorganization proposal:

1. The County Registrar of Voters Office has determined that the reorganization area is legally uninhabited containing zero registered voters as of March 24, 2023.
2. The County Assessor's Office has determined that the total assessed valuation of land within the reorganization area is \$1,191,323 as of November 29, 2022.
3. The reorganization area is within the sphere of influence assigned the City of Fontana.
4. Legal advertisement of the Commission's consideration has been provided through publication in *The Sun*, a newspaper of general circulation within the reorganization area. As required by State law, individual notice was provided to affected and interested agencies, County departments, and those individuals and agencies having requested such notice.
5. In accordance with State law and adopted Commission policies, LAFCO staff has provided individual notice to landowners (10) and registered voters (6) surrounding the reorganization area (totaling 16 notices). To date, no written comments in support or opposition have been received. Comments from registered voters, landowners, and other individuals and any affected local agency in support or

opposition will be reviewed and considered by the Commission in making its determination.

6. The City of Fontana pre-zoned the reorganization area as Residential Estate (R-E) and Open Space-Natural (OS-N).
7. The Southern California Associated Governments ("SCAG") adopted its 2020-2045 Regional Transportation Plan and Sustainable Communities Strategy (RTP-SCS) pursuant to Government Code Section 65080. LAFCO 3261 has no direct impact on SCAG's Regional Transportation Plan and Sustainable Communities Strategy; however, the reorganization area is close to the I-15 Freeway, which is part of the RTP-SCS's regional express lane network that will be adding two express lanes on both freeways in each direction for completion by 2040.
8. The City of Fontana approved and adopted its 2017 Local Hazard Mitigation Plan on August 14, 2018 that shows the reorganization area is adjacent to both high and very high Fire Hazard Severity Zones.
9. As CEQA lead agency, the Commission's Environmental Consultant, Tom Dodson of Tom Dodson and Associates, has reviewed the Addendum prepared for the City's Final Environmental Impact Report for the I-15 Logistics Project (SCH No. 218011008) and has indicated that the City's environmental documents and the Addendum are adequate for the Commission's use as CEQA lead agency. The addition of the LAFCO 3261 property has no potential to cause or result in additional significant adverse impacts to the environment. Copies of the Addendum and the City's Complete Final EIR and all associated documents are included (as Web links) in Attachment #5.
10. The reorganization area is served by the following local agencies:

County of San Bernardino
Inland Empire Resource Conservation District
Fontana Fire Protection District (city subsidiary district)
West Valley Water District
San Bernardino Valley Municipal Water District
County Service Area 70 (multi-function unincorporated area Countywide)

The area will be detached from County Service Area 70 and its sphere of influence reduced as a function of the reorganization.

11. A Plan was prepared for the extension of services to the reorganization area, as required by law. The Supplemental Plan for Service and the Fiscal Impact Analysis, as certified by the City, indicates that the City can maintain and/or improve the level and range of services currently available in the area. A copy of the Plan is included as Attachment #3 to this report.

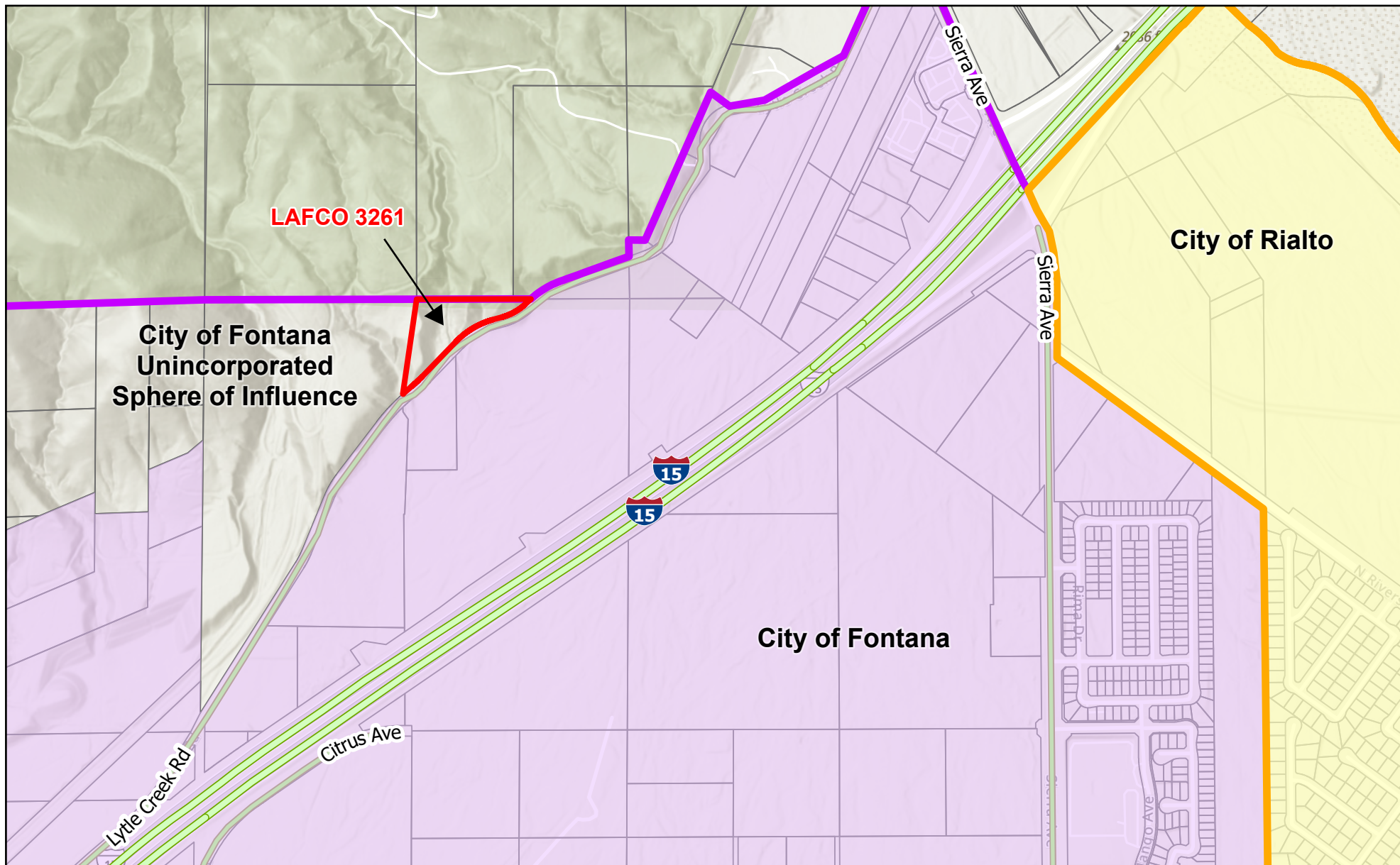
The Plan for Service and Fiscal Impact Analysis has been reviewed and compared with the standards established by the Commission and the factors contained within

Government Code Section 56668. The Commission finds that the Plan for Service and the Fiscal Impact Analysis conform to those adopted standards and requirements.

12. The reorganization proposal complies with Commission policies that indicate the preference for areas proposed for development at an urban-level land use to be included within a City so that the full range of municipal services can be planned, funded, extended and maintained.
13. The reorganization area can benefit from the availability and extension of municipal-level services from the City of Fontana.
14. This proposal will not have an effect on the City of Fontana's ability to achieve its fair share of regional housing needs since a debris basin is being built on the property.
15. With respect to environmental justice, which is the fair treatment of people of all races, cultures, and incomes approval of the reorganization to annex the parcel into the City of Fontana to be used for a debris basin to serve the I-15 Logistics Project will not result in the deprivation of service or the unfair treatment of any person based on race, culture or income.
16. The County of San Bernardino and the City of Fontana have successfully negotiated a transfer of property tax revenues that will be implemented upon completion of this reorganization. This fulfills the requirements of Section 99 of the Revenue and Taxation Code.
17. The map and legal description, as revised, are in substantial compliance with LAFCO and State standards through certification by the County Surveyor's Office.

ATTACHMENTS:

1. [Vicinity Map and Reorganization Map](#)
2. [Applicant's Application Materials](#)
3. [Plan for Service Supplement and Fiscal Impact Analysis Certified by the City of Fontana](#)
4. [Draft Memorandum of Agreement for Water Quality Management Plan and Storm Water BMP Transfer, Access and Maintenance](#)
5. [Environmental Response from Tom Dodson and Addendum #1 to the City of Fontana's Final Environmental Impact Report for the I-15 Logistics Project \(SCH No. 218011008\) Including Links to the Environmental Documents Related to the City's Approval of the I-15 Logistics Project](#)
6. [Draft Resolution No. 3368](#)



LAFCO 3261 - Reorganization to Include Annexation to the City of Fontana and Detachment from County Service Area 70 (APN 0239-072-02)

Legend

- | | |
|---|---|
| Annexation Area | City of Rialto |
| Fontana Sphere Boundary | City of Fontana |
| | Parcels |

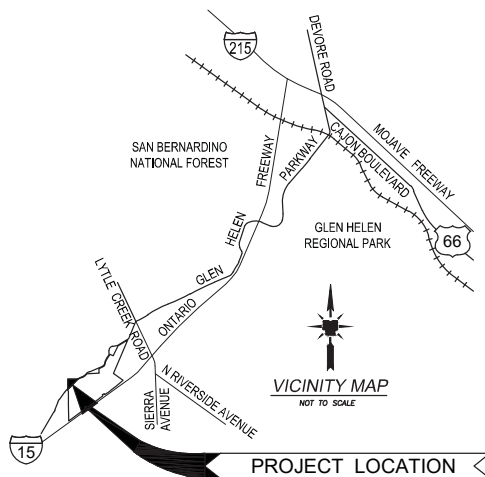
Disclaimer: The information shown is intended to be used for general display only and is not to be used as an official map.

0 0.15 0.3 Miles



EXHIBIT B ANNEXATION MAP

LAFCO 3261 - REORGANIZATION TO INCLUDE ANNEXATION TO THE CITY OF FONTANA AND DETACHMENT FROM COUNTY SERVICE AREA 70 (APN 0239-072-02)



LEGEND

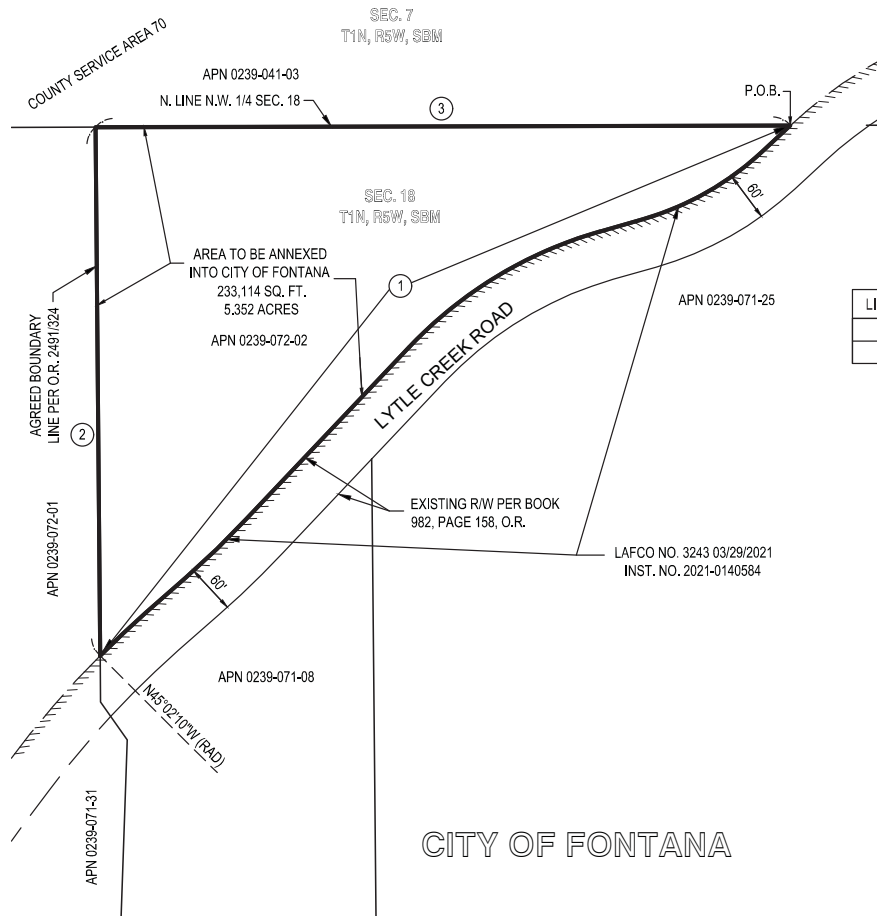
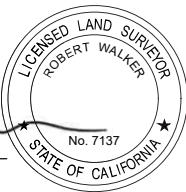
P.O.B. = POINT OF BEGINNING

= ANNEXATION/DETACHMENT BOUNDARY

= EXISTING CITY OF FONTANA
BOUNDARY AND LAFCO 3243 BOUNDARY

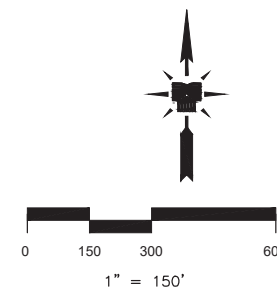
= COURSE NUMBER

ROBERT WALKER, PLS 7137
DATE PREPARED: 03/14/2023



LINE #	BEARING/DELTA	RADIUS	LENGTH
2	N00°30'32"W		637.97'
3	N89°51'25"E		838.74'

AFFECTED AGENCIES
CITY OF FONTANA
COUNTY SERVICE AREA 70



ANNEXATION TO THE CITY OF FONTANA



REVISIONS: APPD.

DATE: March 14, 2023
DESIGN: SKZ
DRAWN: SKZ
CHECKED: RW
REVISION NUMBER:

SCALE: 1"=150'

PROJECT NUMBER:
CPRK115L0001

DRAWING FILE:
CPRK115L0001 Annexation Exhibit B

SHEET NO.

1
OF 1

RECEIVED

NOV 04 2022

LAFCO

San Bernardino County

NOTICE OF INTENT TO CIRCULATE PETITION

Notice is hereby given of the intention to circulate a petition proposing

annexation of approximately 3.42 acres (Assessor's Parcel Number 0239-072-02) to
the City of Fontana.

A written statement of the reasons for the proposal, not to exceed 500 words in length is as follows:

Annexation is required to accommodate construction of a debris basin and storm
drain connection in support of the I-15 Logistics Center project.

Name and address of proponent:

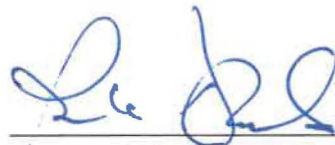
I-15 Logistics, LLC

1300 Dove St., Ste. 200

Newport Beach, CA 92660

SIGNED BY:

DATED:


10/27/2022

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 FOR SAN BERNARDINO COUNTY

1170 W. Third Street, Unit 150,
San Bernardino, CA 92415-0490 • (909) 388-0480 • FAX (909) 388-0481
E-MAIL: lafco@lafco.sbcounty.gov

RECEIVED

NOV 04 2022

LAFCO
San Bernardino County

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:

Annexation of approximately 3.42 acres (Assessor's Parcel Number 0239-072-02) to the City of Fontana.

(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):

I-15 Logistics, LLC

1300 Dove St., Ste. 200

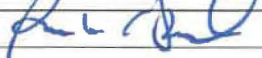
Newport Beach, CA 92660

The reason(s) for this proposal is (are):
to accommodate construction of a debris basin and storm drain connection in support of the
I-15 Logistics Center project.

The requested terms and conditions for this proposal, if any, are as follows: None

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 I-15 Logistics, LLC By: Patrick Daniels, CEO	RESIDENCE ADDRESS	DATE 11/4/2022	PARCEL NUMBER 0239-072-02
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

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 application to allow the San Bernardino LAFCO, its staff and others to adequately assess the proposal. By taking the time to fully respond to the questions on the forms, you can reduce the processing time for your proposal. 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: _____
Annexation of approximately 3.42 acres (Assessor's Parcel Number 0239-072-02) to the City of Fontana.

2. NAME OF APPLICANT: I-15 Logistics, LLC
 APPLICANT TYPE: ☒ Landowner ☐ Local Agency
 ☐ Registered Voter ☐ Other _____
 MAILING ADDRESS:
1300 Dove St., Ste. 200, Newport Beach, CA 92660

 PHONE: (817) 813-8826
 FAX: () n/a
 E-MAIL ADDRESS: jroberts@caprock-partners.com

3. GENERAL LOCATION OF PROPOSAL: _____
APN 0239-072-02, north of Lytle Creek Road between Sierra Avenue and Duncan Canyon Road.

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 reason(s) that the proposed action has been requested. _____
Annexation is required to accommodate construction of a debris basin and storm drain connection in support of the I-15 Logistics Center project.

LAND USE AND DEVELOPMENT POTENTIAL

1. Total land area of subject territory (defined in acres):
3.42 acres
2. Current dwelling units within area classified by type (single-family residential, multi-family [duplex, four-plex, 10-unit], apartments)
None
3. Approximate current population within area:
None
4. Indicate the General Plan designation(s) of the affected city (if any) and uses permitted by this designation(s):
Fontana General Plan R-E (Residential Estates) district, permitting various residential, open space, and utility uses

San Bernardino County General Plan designation(s) and uses permitted by this designation(s):
SD-RES (Special Development - Residential) district, permitting various residential, open space, and utility uses

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:
No development apart from a debris basin is planned. There are no special land use concerns associated with this use.

6. Indicate the existing use of the subject territory.
Vacant

What is the proposed land use?
Debris basin

7. 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.
No public services are required.

8. On the following list, indicate if any portion of the territory contains the following by placing a checkmark next to the item:

- | | |
|--|--|
| <input type="checkbox"/> Agricultural Land Uses | <input type="checkbox"/> Agricultural Preserve Designation |
| <input type="checkbox"/> Williamson Act Contract | <input type="checkbox"/> Area where Special Permits are Required |
| <input type="checkbox"/> Any other unusual features of the area or permits required: _____ | |

9. Provide a narrative response to the following factor of consideration as identified in §56668(p):
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:

The annexation area is vacant and surrounded by vacant land. The annexation would not result in environmental justice impacts, and will support economic development by providing jobs.

ENVIRONMENTAL INFORMATION

1. Provide general description of topography. The site slopes downward to Lytle Creek Road.

2. Describe any existing improvements on the subject territory as % of total area.

Residential	<u>0</u>	%	Agricultural	<u>0</u>	%
Commercial	<u>0</u>	%	Vacant	<u>100</u>	%
Industrial	<u>0</u>	%	Other	<u>0</u>	%

3. Describe the surrounding land uses:

NORTH	<u>Vacant</u>
EAST	<u>Vacant</u>
SOUTH	<u>Vacant (approved industrial development)</u>
WEST	<u>Vacant</u>

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.).

The project will include grading and installation of a debris basin with a storm drain connection.

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 proposal a part of a larger project or series of projects? YES ☒ NO ☐ If YES, please explain.

This is a supporting element to the approved I-15 Logistics Center project.

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 James Roberts, Caprock Partners TELEPHONE NO. (817) 713-8826

ADDRESS: 1300 Dove St., Ste. 200, Newport Beach, CA 92660

NAME Andrea Arcilla, EPD Solutions, Inc. TELEPHONE NO. (949) 278-5413

ADDRESS: 2355 Main St., Ste. 100, Irvine, CA 92614

NAME _____ TELEPHONE NO. _____

ADDRESS: _____

CERTIFICATION

As a part of this application, the City/Town of _____, or the _____ District/Agency, _____ (the applicant) and/or the I-15 Logistics, LLC (real party in interest - landowner and/or registered voter of the application subject property) agree to defend, indemnify, hold harmless, promptly reimburse San Bernardino LAFCO for all reasonable expenses and attorney fees,

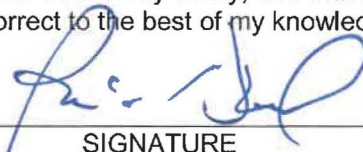
and release San Bernardino LAFCO, its agents, officers, attorneys, and employees from any claim, action, proceeding brought against any of them, the purpose of which is to attack, set aside, void, or annul the approval of this application or adoption of the environmental document which accompanies it.

This indemnification obligation shall include, but not be limited to, damages, penalties, fines and other costs imposed upon or incurred by San Bernardino LAFCO should San Bernardino LAFCO be named as a party in any litigation or administrative proceeding in connection with this application.

As the person signing this application, I will be considered the proponent for the proposed action(s) and will receive all related notices and other communications. I understand that if this application is approved, the Commission will impose a condition requiring the applicant and/or the real party in interest 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 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
I-15 Logistics, LLC

Printed Name of Applicant or Real Property in Interest
(Landowner/Registered Voter of the Application Subject Property)

Patrick Daniels, CEO

Title and Affiliation (if applicable)

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

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 proposal. 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
City of Fontana

DETACHED FROM

2. 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.

R-E (Residential Estate) zone, allowing low-density residential, open space uses, and
utilities.

3. For a city annexation, 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.

4. Will the territory proposed for change be subject to any new or additional special taxes, any new assessment districts, or fees?

Not applicable

5. Will the territory be relieved of any existing special taxes, assessments, district charges or fees required by the agencies to be detached?

Not applicable

6. 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.

Not applicable

7. 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.

The project site is not proposed for residential use. Residential uses are not feasible due to the site's distance from existing infrastructure.

8. **PLAN FOR SERVICES:** *see attached plan for service and Fiscal impact analysis*

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.

- A. A description of the level and range of each service to be provided to the affected territory.
- B. An indication of when the service can be feasibly 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 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.
- F. 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/Town of _____, or the _____ District/Agency, _____ (the applicant) and/or the I-15 Logistics, LLC (real party in interest - landowner and/or registered voter of the application subject property) agree to defend, indemnify, hold harmless, promptly reimburse San Bernardino LAFCO for all reasonable expenses and attorney fees, and release 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.

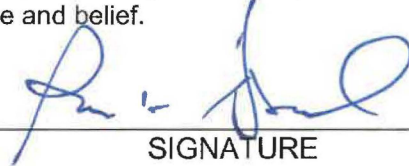
This indemnification obligation shall include, but not be limited to, damages, penalties, fines and other costs imposed upon or incurred by San Bernardino LAFCO should San Bernardino LAFCO be named as a party in any litigation or administrative proceeding in connection with this application.

As the person signing this application, I will be considered the proponent for the proposed action(s) and will receive all related notices and other communications. I understand that if this application is approved, the Commission will impose a condition requiring the applicant and/or the real party in interest 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 acknowledge that annexation to the City/Town of Fontana or the _____ District/Agency 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 XIII C and XIII D 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 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 10-28-22


SIGNATURE

Printed Name of Applicant or Real Property in Interest
(Landowner/Registered Voter of the Application Subject Property)

I-15 Logistics, LLC

Title and Affiliation (if applicable)



I-15 LOGISTICS CENTER ANNEXATION

Supplement to Plan for Service
City of Fontana

Prepared for:

LAFCO for San Bernardino County
1170 West 3rd Street, Unit 150
San Bernardino, CA 92415-0490

Prepared by:

EPD Solutions, Inc.
2 Park Plaza, Suite 1120
Irvine, CA 92614

December 14, 2022

**Supplement to Plan for Service
I-15 Logistics Center – Debris Basin Annexation
City of Fontana**

This is a supplement to the Plan for Service (Appendix A) dated November 2019 for the I-15 Logistics Center Reorganization. The Plan for Services was prepared in support of actions LAFCO 3242 and 3243.

An additional annexation to the City of Fontana of approximately 3.42 acres (Exhibit 1), located north of Lytle Creek Road and consisting of Assessor's Parcel Number 0239-072-02, is required for development of the I-15 Logistics Center property. The land is specifically needed for a debris basin and connection to a 48-inch diameter storm drain. Debris basins capture sediment, gravel, and other debris that are washed downstream during storms, and filter water into the storm drain system. The basin and associated storm drain line will be maintained by the property owner, I-15 Logistics, LLC, under a maintenance agreement with the City. City-provided services for the debris basin parcel will be limited to general government services. No other development would occur within the annexation area..

I hereby certify that this supplement presents the data and information required for the Plan for Service for the I-15 Logistics Center – Debris Basin Annexation 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.

City of Fontana



Phil Burum
Deputy City Manager 

Date 12-15-22

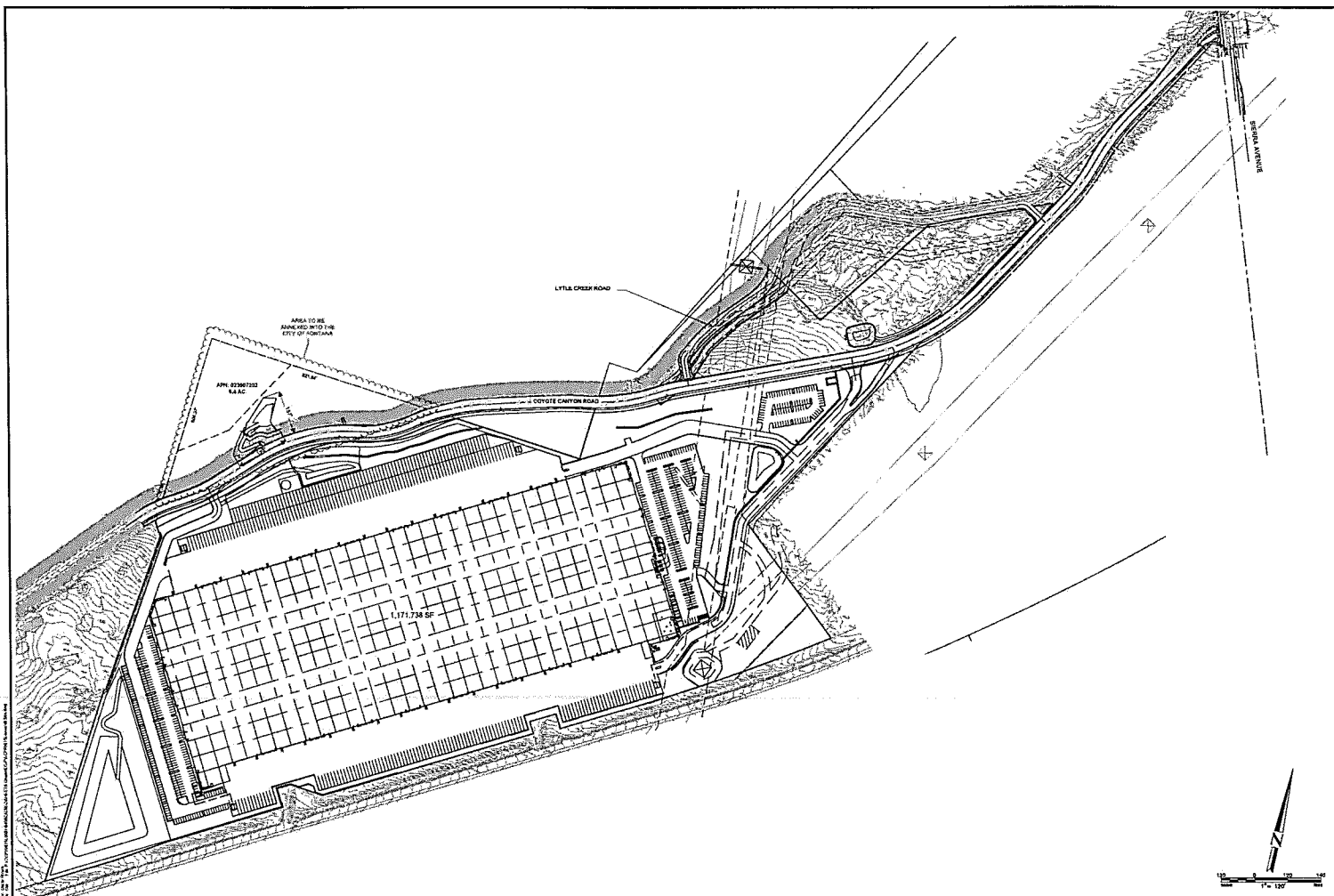
List of Exhibits:

Exhibit 1 Overall Site Plan Exhibit/Additional Annexation Boundary

Appendices:

Appendix A Plan of Service dated November 2019

EXHIBIT 1 ADDITIONAL ANNEXATION BOUNDARY



<p>Underground Service Alert</p> <p>CALL TOLL FREE 1-800 227-2600</p> <p>THE MATH-PRO SURVEYING LOGO</p>	<p>BASE OF STAIRS</p> <p>THE POLYMER LINE IS THE LINE OF SECTION IN THE PLAN AND SECTION IN THE SECTION. THE POLYMER LINE IS THE LINE OF SECTION IN THE SECTION.</p>	<p>BENCHMARK, NOT BENCHMARK ONLY</p> <p>LOCATION: 200' BY 200' CONCRETE BASE OF THE TOWER. THE BENCHMARK IS THE POINT OF THE TOWER. ELEVATION: 170.00' (M.S.L.)</p>	<p>DAVID EVANS ASSOCIATES, INC.</p> <p>4141 E. 1st Avenue, Suite 200 Orem, Utah 84057 Phone: 801.225.1200 Fax: 801.225.1201</p> <p>PREPARED UNDER THE SUPERVISION OF</p>	<p>CITY OF FORTNAK ENGINEERING DEPARTMENT</p> <p>DESIGNED BY: [blank] DRAWN BY: [blank] CHECKED BY: [blank] APPROVED BY: [blank]</p>	<p>6-15 LOGISTICS CENTER</p> <p>OVERALL SITE EXHIBIT</p>
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APPENDIX A: PLAN OF SERVICE DATED NOVEMBER 2019



I-15 LOGISTICS CENTER ANNEXATION

Plan for Service
City of Fontana
West Valley Water District

Prepared for:

LAFCO for San Bernardino County
1170 West 3rd Street, Unit 150
San Bernardino, CA 92415-0490

Prepared by:


EPD Solutions, Inc.
2 Park Plaza, Suite 1120
Irvine, CA 92614

November 2019

Certification

I hereby certify that this document presents the data and information required for the Plan for Service for the I-15 Logistics Center Reorganization 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.

City of Fontana


Chuck Hayes
Deputy City Manager

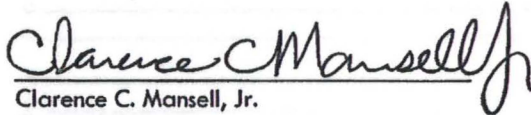
Date

8/3/20

Certification

I hereby certify that this document presents the data and information related to water services required for the Plan for Service for the I-15 Logistics Center Reorganization 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.

West Valley Water District


Clarence C. Mansell, Jr.
General Manager

Date 02/10/2020

1 EXECUTIVE SUMMARY

This report provides an assessment of public service delivery capabilities of the City of Fontana, the West Valley Water District, and other agencies or special districts affected by the proposed expansion of a portion of the City of Fontana's Sphere of Influence (SOI) and the proposed annexation of 152 acres ("Reorganization Area"), inclusive of the 76-acre Logistics Site; and the related project components and entitlements to the City of Fontana. The City of Fontana is surrounded by the cities of Rialto, Rancho Cucamonga, and Jurupa Valley.

This report is being submitted to the County of San Bernardino Local Agency Formation Commission (LAFCO) as a "Plan for Service" required by California Government Code Section 56653. Currently, the proposed project site is located in unincorporated San Bernardino County, which provides many services to the Reorganization Area including fire and paramedic services, general government, development services, sheriff patrol, public library, regional parks and recreation, street lighting, transportation, flood control and drainage, and health and welfare. The proposed reorganization also includes detachment of the Reorganization Area from the San Bernardino County Fire Protection District (SBCFPD), its Valley Service Zone, and County Service Area 70.

After annexation, the City of Fontana is anticipated to provide services including general government, community development, police protection, local parks and recreation, community services, and public works. The reorganization also includes the annexation of 4.83 acres, including 3 parcels and portions of road right-of-way, into West Valley Water District and San Bernardino Valley Municipal Water District.

The proposed Reorganization Area includes the I-15 Logistics Project, which includes the development and operation of a 1,175,720-square foot logistics facility on approximately 76 acres (Logistics Site), the realignment of a segment of Lytle Creek Road (from the western project boundary eastward to a new intersection with Sierra Avenue), as well as related project components and entitlements. The logistics facility building would include two office spaces that would total approximately 30,000 square feet. It is anticipated that the logistics facility would be in operation 24 hours per day and would employ approximately 500-1,000 full-time employees. The logistics facility would include on-site and off-site utility connections for water, sewer, storm drain facilities, electricity, and cable television.

2 INTRODUCTION

The I-15 Logistics Project Reorganization Area is located in unincorporated San Bernardino County, northwest of Interstate 15 (I-15), south of Sierra Avenue, east of Lytle Creek Road, and in the northern portion of the City of Fontana's Sphere of Influence (SOI), as shown in Exhibit 2. More specifically, the Reorganization Area is located at the base of the lower slopes of the San Gabriel Mountains, with the San Bernardino National Forest to the northwest. Regional access to the site is from I-15 via the Sierra Avenue interchange and from Interstate 210 (I-210) via the Citrus or Sierra Avenue interchanges.

2.1 PURPOSE OF THE STUDY

3 PROJECT DESCRIPTION

This chapter presents the detailed land uses for the I-15 Logistics project and Reorganization Area. Information includes project density, population, assessed valuation and taxable sales. The total I-15 Logistics Reorganization Area includes the annexation of 152 acres ("Reorganization Area") inclusive of the 76-acre Logistics Site.

3.1 PROJECT DEVELOPMENT

The Proposed Project includes the development and operation of a 1,175,720-square-foot logistics facility on approximately 76 acres (Logistics Site); the realignment of a segment of Lytle Creek Road; the annexation of 152 acres (Reorganization Area), inclusive of the 76-acre Logistics Site; and the related project components and entitlements, as discussed herein.

3.2 REORGANIZATION AREA

The I-15 Logistics project proposes the annexation of 152 acres of land currently under the jurisdiction of the County of San Bernardino. The proposed Reorganization Area is in the northern portion of the City of Fontana's Sphere of Influence (SOI). More specifically, the Reorganization Area is located at the base of the lower slopes of the San Gabriel Mountains, with the San Bernardino National Forest to the northwest. Regional access to the site is from I-15 via the Sierra Avenue Interchange and from SR-210 via the Citrus or Sierra Avenue Interchanges.

As shown in Exhibit 3, the Reorganization Area is proposed to include 21 parcels—inclusive of the Logistics Site, as well as portions of the road right-of-way for Lytle Creek Road, Sierra Avenue, and I-15. The parcels within the Reorganization Area have been pre-zoned and pre-designated, consistent with City of Fontana General Plan land use designations and zoning with the exception of the 2.14 acres of land not currently in the City's SOI. A list of Assessor's Parcel Numbers (APNs) in the Reorganization Area is provided in Appendix A.

The 152-acre Reorganization Area predominantly consists of vacant parcels of undeveloped land with surface elevations ranging from approximately 1,850 to 2,079 feet above mean sea level, generally sloping to the southwest. The Reorganization Area has been exposed to a variety of disturbances, including clearing/disking activities, off-road vehicle use, and illegal dumping.

Developed areas within the Reorganization Area generally consist of paved, impervious surfaces and infrastructure including Lytle Creek Road and paved driveways and infrastructure associated with the existing eight residential properties, as well as a small commercial development at the north end of the Reorganization Area.

There is an existing water tank located in the southern portion of the Reorganization Area, approximately 0.3 mile from the southern boundary of the I-15 Logistics project site. In addition, existing transmission towers are located along the entirety of the Reorganization Area's eastern boundary, including the I-15 Logistics project site.¹

¹ P. 3.0-11 & P. 3.0-12. "Draft Environmental Impact Report, I-15 Logistics," City of Fontana, August 2019.

Table 4-1
Current and Anticipated Service Providers in the I-15 Logistics Reorganization

Service Type	Current Service Provider	Anticipated Service Provider
General Government -		
Administrative Services:		
Finance Division	County of San Bernardino	City of Fontana
Human Resources Division	County of San Bernardino	City of Fontana
Business Registration	County of San Bernardino	City of Fontana
Community Development:		
Planning	County of San Bernardino	City of Fontana
Building & Safety	County of San Bernardino	City of Fontana
Code Compliance	County of San Bernardino	City of Fontana
Economic Development	County of San Bernardino	City of Fontana
Fire and Paramedic	San Bernardino County Fire Protection District (Valley Service Zone) and County Service Area 70	Fontana Fire Protection District
Sheriff/Police	Fontana Police Department	Fontana Police Department
Library	San Bernardino County Library District	San Bernardino County Library District
Parks and Recreation	County of San Bernardino	City of Fontana
Water	West Valley Water District San Bernardino Valley Municipal Water District	West Valley Water District San Bernardino Valley Municipal Water District
Sewer	Private Septic Systems	City of Fontana
Transportation:		
Freeways and Interchanges	Caltrans	Caltrans
Arterials and Collectors	San Bernardino County	City of Fontana
Local Roads	San Bernardino County	City of Fontana
Transit	Omnitrans	Omnitrans
Flood Control and Drainage:		
Local Facilities	San Bernardino County Flood Control District	City of Fontana
Regional Facilities	San Bernardino County Flood Control District	San Bernardino County Flood Control District
Utilities:		
Cable/Internet	Frontier Communications	Frontier Communications
Telephone	Frontier Communications	Frontier Communications
Power	Southern California Edison	Southern California Edison
Natural Gas	Southern California Gas Company	Southern California Gas Company
Schools	Fontana Unified School District	Fontana Unified School District
Solid Waste Management	San Bernardino County Solid Waste Management Division (contract with Burrtec)	City of Fontana (contract with Burrtec)
Health and Welfare	San Bernardino County Department of Public Health	San Bernardino County Department of Public Health

Currently, the Reorganization Area is served by the San Bernardino County Fire Protection District (SBCFPD), its Valley Service Zone, and County Service Area 70, which is a special tax zone for funding fire protection and Emergency Medical Services. SBCFPD covers 19,278 square miles and serves more than 60 communities/cities within four Regional Service Zones (Mountain, North Desert, South Desert and Valley). SBCFPD provides contractual fire protection services to Fontana Fire Protection District.²

After Annexation

The Fontana Fire Protection District (FFPD) provides fire service to the City of Fontana including emergency services and fire prevention services. In conjunction with the annexation, a Sphere of Influence expansion will occur to include Assessor's Parcel Number (APN) 0239-041-15 and portions of APNs 0239-091-13 and -14, and the westerly right-of-way of Lytle Creek Road encompassing approximately 2.14 acres into the Fire Protection District's SOL.

The 152-acre Reorganization Area would be annexed to the FFPD, a subsidiary district of the City, that contracts with the San Bernardino County Fire Protection District for its services. The FFPD will be the service provider for fire prevention, fire protection and emergency medical services (EMS) after annexation. The FFPD operates six fire stations, with Fire Station 79 located approximately 1.3 miles southwest of the project site at 5075 Coyote Canyon Road in Fontana, and Fire Station 78 located approximately 4.7 miles south of the project site at 7110 Citrus Avenue in Fontana.³ According to the City's General Plan Public Facilities, Services, and Infrastructure Element, the average response time within the city is approximately four to five minutes. In addition to fire response, the FFPD also investigates and mitigates all types of hazardous materials spills, exposures, and releases, as well as provides emergency medical aid.

4.3 SHERIFF/POLICE

Before Annexation

Police protection services for the project site are provided by the Fontana Police Department (FPD). The FPD operates out of its headquarters at 17005 Upland Avenue, approximately seven miles south of the project site. Its staff includes 188 sworn officers providing law enforcement services 24 hours a day, 365 days a year.⁴

After Annexation

Upon annexation, the City of Fontana Police Department will continue to provide the public safety services for the I-15 Logistics Center and the rest of the Reorganization Area. The Reorganization Area will continue to be served by the main police station at 17005 Upland Avenue, approximately seven miles south of the project site.

The I-15 Logistics project will not involve the construction of new houses and will not induce substantial population growth to the area. Thus, no additional police officers or police facilities are expected to be required to serve the I-15 Logistics project and Reorganization Area. In addition, the I-15 Logistics project and future development would be required to comply with the provisions

² SBCFD (San Bernardino County Fire Protection District). 2019. Department Website. Accessed October 2019. <http://sbclafco.org/FiscalIndicators/BOS/SBCFPD.aspx>.

³ FFPD (Fontana Fire Protection District). 2019. Department website. Accessed October 2019. <https://www.fontana.org/634/Fire-Protection-District>.

⁴ FPD (Fontana Police Department). 2019. Department website. Accessed October 2019. <https://www.fontana.org/112/Police-Department>.

4.6 WATER

Before Annexation

Developed areas within the Reorganization Area generally consist of eight existing residential properties, as well as a small commercial development at the north end of the Reorganization Area. These properties are currently serviced by the WVWD, which provides retail water service to Fontana and portions of unincorporated San Bernardino County.

WVWD utilizes three primary sources for drinking water supply: local surface water from flows on the east side of the San Gabriel Mountains, including North Fork Lytle Creek, Middle Fork Lytle Creek, and South Fork Lytle Creek; groundwater; and imported water from the State Water Project (SWP) through the SBVMWD, through the Lytle Turnout off the San Gabriel Feeder Pipeline.⁷

In addition, SBVMWD is a wholesale water provider and State Water Contractor, and it provides water to Fontana and to West Valley.

After Annexation

Currently, WVWD's existing service area and its SOI area do not fully cover the Reorganization Area. Therefore, an expansion of WVWD's service area and Sphere of Influence is proposed so that the district can provide water service to this future area of the city.

A Water Supply Assessment (WSA) of the Reorganization Area was prepared for the WVWD by Water Systems Consulting, Inc. According to the WSA, it is anticipated that the new water demand created by development of the Reorganization Area would not exceed the available water supply. WVWD mainly recognizes recycled water as a preferred source of water supply for all non-potable water demands, including, without limitation, irrigation of recreation areas, greenbelts, open space, common areas, commercial landscaping, and supply for aesthetic impoundment or other water features.

As the Reorganization Area builds out and increased demand warrants, future development in the area will be required to extend water lines and other facilities to the property frontage and will be responsible for costs associated with the extension of service. Major development projects will be required to prepare WSAs in compliance with Senate Bills 610 and/or 221.

4.7 SEWER

Before Annexation

Sanitary discharges and domestic wastewater generated by the existing residences on the site are disposed of by means of septic systems. According to the Fontana Public Works Department, the site is currently not connected to the City's sewer system.

After Annexation

⁷ P. 4.15-1. "Draft Environmental Impact Report, I-15 Logistics", Michael Baker International, August 2019.

for single and multi-family residential development, and per square foot for commercial and industrial development.

4.9 FLOOD CONTROL AND DRAINAGE

Before Annexation

Stormwater management for the Reorganization Area and surrounding area is provided by the San Bernardino County Flood Control District (SBCFCD). The Flood Control District implements broad management functions, such as flood control planning, construction of drainage improvements for regional flood control facilities, and watershed and watercourse protection related to those facilities. It has power of taxation, bonded indebtedness, land and water rights acquisition, and cooperative partnerships with local, state, and federal agencies in order to carry out its mandated responsibility. Decisions related to the Flood Control District are made by the San Bernardino County Board of Supervisors. The District is subdivided into several geographic zones with the proposed Reorganization Area being in District Zone 1.

After Annexation

Upon annexation, the Flood Control District would be responsible for regional stormwater management within the Reorganization Area, and the Fontana Public Works Department would be responsible for local drainage management. Both the City and the SBCFCD provide flood control facilities for Fontana. SBCFCD is responsible for the construction of dams, containment basins, channels, and storm drains to intercept and convey flood flows through and away from developed areas. The City constructs and maintains local storm drains that feed into the county's area-wide system. In addition, the City has adopted a Master Drainage Plan.

As a permittee in the Santa Ana Regional Water Quality Control Board (RWQCB) Basin Plan, the City of Fontana implements a Municipal Storm Water Management Plan, which prohibits and regulates various types of discharges, mandates inspections and public education, puts controls on new development and redevelopment, and specifies site and construction site maintenance practices. Future development within the Reorganization Area will be required to manage storm flows onsite, and to participate in regional drainage improvements included in both County and City drainage master plans.

4.10 UTILITIES

Before Annexation

Utilities include cable television, internet, telephone, electric power, and natural gas. Currently, Frontier Communications is the cable television and internet service provider. Verizon maintains telephone service to the Reorganization Area. Electricity is provided by Southern California Edison, while natural gas is supplied by the Southern California Gas Company. These service providers are not anticipated to change upon annexation.

After Annexation

The I-15 Logistics project and Reorganization Area would connect to existing electric power facilities owned and operated by Southern California Edison. The Project's annual electricity consumption is

4.12 SOLID WASTE MANAGEMENT

Before Annexation

Developed areas within the Reorganization Area generally consist of eight existing residential properties, as well as a small commercial development at the north end of the Reorganization Area. Currently, solid waste generated at the site is disposed of in commercial dumpsters located throughout the residential and commercial areas, and an independent solid waste disposal contractor removes solid waste from these areas.

The main solid waste disposal site for the Reorganization Area is the Mid-Valley Sanitary Landfill at 2390 Alder Ave, Rialto. The landfill has a capacity of 7,500 tons of solid waste per day and has 61,219,377 cubic yards of capacity available.¹²

After Annexation

Upon annexation, the City of Fontana will be responsible for providing solid waste management services to future development in the Reorganization Area. Per the City's Sole Franchise Hauler Agreement, all hauling resulting from construction or demolition activities may only be contracted through Burrtec Waste Industries.

Through its contractual agreement with the City of Fontana, Burrtec collects non-hazardous solid waste and hauls it to the Mid-Valley Sanitary Landfill. The landfill is operated by San Bernardino County. As discussed above, the landfill has a capacity of 7,500 tons of solid waste per day and 61,219,377 cubic yards of capacity available.¹³ Solid waste collection and disposal services would be provided on a fee basis to future residential, commercial, and industrial customers within the Reorganization Area.

4.13 HEALTH AND WELFARE

Before Annexation

The San Bernardino County Department of Public Health currently serves the City for the general public's health and welfare services. The department provides a variety of programs and services that informs and educates the public about health issues. The County Department of Public Health additionally provides public assistance welfare and healthcare needs for all residents within San Bernardino County.

After Annexation

There are no anticipated changes in service levels or costs after the annexation of the I-15 Logistics project and Reorganization Area. Although the I-15 Logistics project would have the potential to generate limited population growth with the potential to impact other public health and welfare services, due to the number of persons anticipated to occupy the Logistics Site and the nature of uses proposed, no significant increase in demand for new or physically altered public facilities are expected. The I-15 Logistics project applicant would be required to pay its fair share of

¹² CalRecycle (California Department of Resources Recycling and Recovery). 2019. Agency website. Accessed October 2019. <https://www.calrecycle.ca.gov>.

¹³ CalRecycle (California Department of Resources Recycling and Recovery). 2019. Agency website. Accessed October 2019. <https://www.calrecycle.ca.gov>.

Financial Impact Analysis

Proposed Annexation to the City of Fontana

Annexation Area: I-15 Logistics Center II – Second Annexation

Assumptions

1. This annexation analysis is an addition to the I15 Logistic Annexation, this addition to the City is property owned by the Logistics center. LAFCO is requesting an analysis for this section only.
2. Only development that is planned after the annexation is the construction of a private drainage on the north side of Lytle Creek and the City will not maintain it but will conduct annual inspections of the connections between it and the City storm drain system.
3. Projections are based on fiscal years ending June 30.
4. Revenues and costs are using fiscal year 22/23 budgeted figures, assuming for this analysis only a California Consumer Price Index (CPI) adjustment of 3% due to the regular increases in supplies.
5. No revenue projections were made for future Sales Tax for the Logistics Center addition or for existing commercial businesses because it was included if any in the Logistics Annexation analysis.
6. Factors concerning land use for the area were obtained through physical observation, reference to maps supplied by the City's Planning Department, and information supplied by the planner and builder.
7. Capital and other infrastructure impact has not been included in this analysis except for anticipated increases in street maintenance costs from trucks utilizing City maintained streets.
8. Planning, Building and Engineering Services and Fees that are non-recurring are excluded in this analysis.
9. Valuation of the existing properties are from the County Tax records, GIS, Realtor input, data provided by Realtor.com, and the local Multiple Listing Service. Assessed values for the land and estimate for the proposed Logistics Center were taken directly from the San Bernardino County Assessor tax rolls.
10. Fiscal model factors are limited to the storm drainage addition, this is not usable property nor has any plans for development.

Recurring Municipal I

[illegible]

Annexation I 15 Logistics Center II

		<i>Fiscal Year Ending June 30,</i>								Totals
		2035	2036	2037	2038	2039	2040	2041	2042	
		<i>Project Year 13</i>	<i>Project Year 14</i>	<i>Project Year 15</i>	<i>Project Year 16</i>	<i>Project Year 17</i>	<i>Project Year 18</i>	<i>Project Year 19</i>	<i>Project Year 20</i>	
Recurring Revenues										
	Business License Fees	0	0	0	0	0	0	0	0	0
	Franchise Fees	0	0	0	0	0	0	0	0	0
	Motor Vehicle In-Lieu Fees	0	0	0	0	0	0	0	0	0
	Vehicle Code	0	0	0	0	0	0	0	0	0
	Property Tax	245	250	255	260	265	270	276	281	4,689
	Recreation Program Fees	0	0	0	0	0	0	0	0	0
	Property Transfer Tax	0	0	0	0	0	0	0	0	0
	Total Recurring Revenues	\$245	\$250	\$255	\$260	\$265	\$270	\$276	\$281	\$4,689
Recurring Costs										
	General Government	\$515	\$531	\$546	\$563	\$580	\$436	\$441	\$447	\$9,175
	Police Services w/ Code	0	0	0	0	0	0	0	0	0
	Animal Control	0	0	0	0	0	0	0	0	0
	Fire Services	0	0	0	0	0	0	0	0	0
	Code Enforcement	0	0	0	0	0	0	0	0	0
	Recreation Services	0	0	0	0	0	0	0	0	0
	Street Maintenance	2,317	2,386	2,458	2,532	2,608	1,674	1,674	1,674	40,384
	Street Sweeping	211	217	224	231	237	245	252	260	3,977
	Signalized Intersections	0	0	0	0	0	0	0	0	0
	Storm Drainage	713	734	756	779	802	826	851	877	13,435
	Environ. Protection & Graffiti	0	0	0	0	0	0	0	0	0
	Total Recurring Costs	\$3,756	\$3,868	\$3,985	\$4,104	\$4,227	\$3,181	\$3,218	\$3,257	\$66,971
	Recurring Surplus/(Deficit) Per Year	(\$3,511)	(\$3,619)	(\$3,730)	(\$3,844)	(\$3,962)	(\$2,911)	(\$2,943)	(\$2,975)	(\$62,281)
	Cumulative Surplus/(Deficit)	(\$38,297)	(\$41,916)	(\$45,646)	(\$49,490)	(\$53,453)	(\$56,363)	(\$59,306)	(\$62,281)	
	Recurring Revenue/Cost Ratio	0.07	0.06	0.06	0.06	0.06	0.08	0.09	0.09	

Fiscal Model Factors...Summary: Fiscal Year 2022/2023

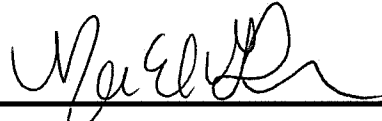
<i>Category</i>	<i>Factor</i>	<i>Description and Method</i>
Local Taxes		Not Applicable
Licenses, Permits and Fees		
See Indust-Dist, Comm Com'l, Local Com'l Sheets		Business License Fees
Fines and Penalties		Not Applicable
Property Taxes		
	\$0.324	Property Tax Received per \$1,000 of Assessed Valuation
	2.0%	Percent of Maximum property tax increase per year
Recreation Revenues		
	\$0.00	Recreation & PAC fees and income per resident (Assume no revenue)
Interest		Not Applicable
General Government		
	15.43%	Citywide overhead as percent of Direct Service costs
Police Services		Not Applicable
Fire Services		
	\$0.00	Fire Services cost per resident (Assume cost paid thru property taxes)
Recreation Services		
	\$0.00	Recreation cost per resident (Assume no additional cost)
Public Services		
	\$3,250.00	Road operation and maintenance cost per lane mile
	\$296.00	Street sweeping cost per Sweep Mile/year (lane miles)
	\$4,500.00	Operations & maintenance cost per signalized intersection per Traffic Eng.
	\$500.00	Annual Storm drain inspection - this project only
	\$1.44	Storm drain maintenance per resident and employee
	\$3.96	Graffiti abatement per resident
	\$2.45	Environmental protection per resident
	3%	Adjustment for increase in costs

I 15 Logistics Center II
 Estimated Street Miles
 Based on Map provided

*Municipal Services Fiscal Impact Analysis
 City of Fontana*

Street type	Street Name	Estimated Feet (')	Estimated Lane Mile
Major		-	-
		-	-
		-	-
Primary		-	-
Secondary			-
			-
			-
		-	-
		-	-
Local	Lytle Creek Rd	2,640.00	0.50
			-
			-
			-
			-
			-
		2,640.00	0.50

REPORT APPROVED FOR DISTRIBUTION



Marlene Galvan, Deputy Finance Officer

Attachment E:

BMP Maintains Agreement

RECORDING REQUESTED BY:

CITY OF FONTANA
ENGINEERING DEPARTMENT
8353 SIERRA AVENUE,
FONTANA CA 92335

SPACE ABOVE FOR RECORDER'S USE ONLY

**Memorandum of Agreement for Water Quality Management
Plan and Storm Water BMP Transfer, Access and Maintenance**

OWNER/APPLICANT NAME: I-15 Logistics, LLC
PROPERTY ADDRESS: 4121 Lytle Creek Road
Fontana, CA 92336

APN: PM# 19712

THIS Memorandum of Agreement hereinafter referred to as "Agreement" is made and entered on this _____ day of _____, _____ by the undersigned herein after referred to as "Owner" and the City of Fontana, a municipal corporation, located in the County of San Bernardino, State of California hereinafter referred to as "CITY";

WHEREAS, the Owner owns real property ("Property") in the City of Fontana, County of San Bernardino, State of California, more specifically described in Exhibit "A" and depicted in Exhibit "B", each of which exhibits is attached hereto and incorporated herein by this reference;

WHEREAS, at the time of initial approval of development project within the Property described above, the City required the project to employ Best Management Practices, hereinafter referred to as "BMPs," to minimize pollutants in urban runoff;

WHEREAS, the Owner has chosen to install and/or implement BMPs as described in the Water Quality Management Plan as described in Exhibit "C" and on file with the City, hereinafter referred to as "WQMP", to minimize pollutants in urban runoff and to minimize other adverse impacts of urban runoff;

WHEREAS, said WQMP has been certified by the Owner and reviewed and approved by the City;

WHEREAS, said BMPs, with installation and/or implementation on private property and draining only private property, are part of a private facility with all maintenance or replacement, therefore, the sole responsibility of the Owner;

WHEREAS, the Owner is aware that periodic and continuous maintenance, including, but not necessarily limited to, filter material replacement and sediment removal, is required to assure peak performance of all BMPs in the WQMP and that, furthermore, such maintenance activity will require compliance with all Local, State, or Federal laws and regulations, including those pertaining to confined space and waste disposal methods, in effect at the time such maintenance occurs;

NOW THEREFORE, it is hereby agreed by the Owner as follows:

1. Owner hereby provides the City of City's designee complete access, of any duration, to the BMPs and their immediate vicinity at any time, upon reasonable notice, or in the event of emergency, as determined by City's Director of Public Works no advance notice, for the purpose of inspection, sampling, testing of the Device, and in case of emergency, to undertake all necessary repairs or other preventative measures at owner's expense as provided in paragraph 3 below. City shall make every effort at all times to minimize or avoid interference with Owner's use of the Property.
2. Owner shall use its best efforts diligently to maintain all BMPs in a manner assuring peak performance at all times. All reasonable precautions shall be exercised by Owner and Owner's representative or contractor in the removal and extraction of any material(s) from the BMPs and the ultimate disposal of the material(s) in a manner consistent with all relevant laws and regulations in effect at the time. As may be requested from time to time by the City, the Owner shall provide the City with documentation identifying the material(s) removed, the quantity, and disposal destination.
3. In the event Owner, or its successors or assigns, fails to accomplish the necessary maintenance contemplated by this Agreement, within five (5) days of being given written notice by the City, the City is hereby authorized to cause any maintenance necessary to be done and charge the entire cost and expense to the Owner or Owner's successors or assigns, including administrative costs, attorneys fees and interest thereon at the maximum rate authorized by the Civil Code from the date of the notice of expense until paid in full.
4. the Owner agrees to hold the City, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage, or injury, in law or equity, to property or persons, arising from the imposition of the plan by the City;
5. The City may require the owner to post security in form and for a time period satisfactory to the city to guarantee the performance of the obligations state herein. Should the Owner fail to perform the obligations under the Agreement, the City may, in the case of a cash bond, act for the Owner using the proceeds from it, or in the case of a surety bond, require the sureties to perform the obligations of the Agreement. As an additional remedy, the Director may withdraw any previous storm water-related approval with respect to the property on which BMPs have been installed and/or implemented until such time as Owner repays to City its reasonable costs incurred in accordance with paragraph 3 above.
6. This agreement shall be recorded in the Office of the Recorder of San Bernardino County, California, at the expense of the Owner and shall constitute notice to all successors and assigns of the title to said Property of the obligation herein set forth, and also a lien in such amount as will fully reimburse the City, including interest as herein above set forth, subject to foreclosure in event of default in payment.
7. In event of legal action occasioned by any default or action of the Owner, or its successors or assigns, then the Owner and its successors or assigns agree(s) to pay all costs incurred by the City in enforcing the terms of this Agreement, including reasonable attorney's fees and costs, and that the same shall become a part of the lien against said Property.

8. It is the intent of the parties hereto that burdens and benefits herein undertaken shall constitute covenants that run with said Property and constitute a lien there against.
9. The obligations herein undertaken shall be binding upon the heirs, successors, executors, administrators and assigns of the parties hereto. The term "Owner" shall include not only the present Owner, but also its heirs, successors, executors, administrators, and assigns. Owner shall notify any successor to title of all or part of the Property about the existence of this Agreement. Owner shall provide such notice prior to such successor obtaining an interest in all or part of the Property. Owner shall provide a copy of such notice to the City at the same time such notice is provided to the successor.
10. This Agreement shall not be amended, modified or terminated without the prior written consent of the City, which consent to be effective, shall be contained in a document executed by the City and recorded against the Real Property.

OWNER:

Owner/Applicant Name: _____

Owner/Applicant Signature: _____

Date: _____

NOTARY

Notary acknowledgement is required for recordation (attach appropriate acknowledgement).

(INSERT NOTARY ACKNOWLEDGEMENT PAGE HERE)

EXHIBIT A
(Legal Description)

PARCEL 1:

THE EAST ½ OF THE NORTHWEST ¼ OF SECTION 18, TOWNSHIP 1 NORTH, RANGE 5 WEST, SAN BERNARDINO BASE AND MERIDIAN.

EXCEPTING FROM SAID PARCEL DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NS CENTER LINE OF NORTHWEST ½, SECTION 18, TOWNSHIP 1 NORTH, RANGE 5 WEST, SAN BERNARDINO BASE AND MERIDIAN, WHICH BEARS SOUTH 2° 3' 32" WEST 678.7 FEET FROM NORTH QUARTER CORNER NORTHWEST CORNER OF SECTION 18, THENCE SOUTH 2° 3' 32" WEST 49.05 FEET, THENCE SOUTH 32° 30' 28" EAST 55.93 FEET, THENCE SOUTH 4° 34' 32" WEST 315.9 FEET, THENCE SOUTH 87° 58' 58" EAST 312.14 FEET, THENCE NORTH 2° 3' 32", EAST 729 FEET, THENCE SOUTH 48° 3' 32" WEST 458.7 FEET TO POINT OF BEGINNING.

EXCEPTING THE RIGHT OF WAY FOR THE COUNTY ROAD WHICH PROJECTS OVER THE NORTH BOUNDARY OF SAID PROPERTY.

EXCEPTING FROM SAID PARCELS:

THE RIGHTS OF WAY FOR THE DEVORE FREEWAY (INTERSTATE 15) AND THE PUBLIC ROAD KNOWN AS LYTLE CREEK ROAD.

EXCEPTING FURTHER FROM SAID PARCELS:

THAT PORTION OF GOVERNMENT LOTS 1 AND 2 AND THE NORTH ½ OF SECTION 18, TOWNSHIP 1 NORTH, RANGE 5 WEST, SAN BERNARDINO BASE AND MERIDIAN, ACCORDING TO GOVERNMENT SURVEY LYING WEST OF THE "AGREED BOUNDARY LINE" DESCRIBED IN THE AGREEMENT BETWEEN ROLAND W. GETCHELL, MABEL R. GETCHELL AND ALFRED R. LEDIG, RECORDED IN BOOK 2491, PAGE 324, OFFICIAL RECORDS.

PARCEL 2:

GOVERNMENT LOT 7, SECTION 18, TOWNSHIP 1 NORTH, RANGE 5 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND ON FILE IN THE DISTRICT LAND OFFICE.

EXCEPTING FROM SAID PARCEL THAT PORTION THEREOF CONSISTING OF A 1.38 ACRE LOT, MORE OR LESS, DESCRIBED AS THAT PORTION BEGINNING AT A POINT KNOWN AS U.S.F.S. #62 WHICH BEARS NORTH 89° 30' 24" EAST 637 FEET MORE OR LESS, FROM THE NORTH ¼ CORNER OF SECTION 18, TOWNSHIP 1 NORTH, RANGE 5 WEST, SAN BERNARDINO BASE AND MERIDIAN, SAID POINT BEING THE INTERSECTION OF THE NORTH LINE OF SECTION 18, WITH THE SEMI-TROPIC LAND AND WATER SUBDIVISION BOUNDARY LINE, THENCE SOUTH 53° 51' EAST 10 FEET, THENCE SOUTH 36° 9' WEST 300 FEET, THENCE NORTH 53° 51' WEST 200 FEET, THENCE NORTH 36° 9' EAST 300 FEET TO THE S.T.L. & W CO. BOUNDARY LINE, THENCE SOUTH 53° 51' EAST 190 FEET TO THE POINT OF BEGINNING.

EXCEPTING FURTHER FROM SAID PARCELS:

THOSE PORTIONS OF GOVERNMENT LOT 7, SECTION 18, TOWNSHIP 1 NORTH, RANGE 5 WEST, SAN BERNARDINO BASE AND MERIDIAN, THE SOUTHWEST ¼ OF THE NORTHWEST ¼ OF SECTION 18, TOWNSHIP 1 NORTH, RANGE 5 WEST, SAN BERNARDINO BASE AND MERIDIAN, AND THAT PORTION THE SOUTHEAST ¼ OF THE NORTHWEST ¼ OF SECTION 18, TOWNSHIP 1 NORTH, RANGE 5 WEST, SAN BERNARDINO BASE AND MERIDIAN, LYING SOUTHERLY OF THE SOUTHERLY LINE OF THAT CERTAIN LAND CONDEMNED BY THE STATE OF CALIFORNIA, BY FINAL ORDER OF CONDEMNATION ISSUED OUT OF SUPERIOR COURT, STATE OF CALIFORNIA, COUNTY OF SAN BERNARDINO CASE NO. 162796, A CERTIFIED COPY OF WHICH WAS RECORDED JUNE 16, 1977 IN BOOK 9200, PAGE 1260, OFFICIAL RECORDS.

PARCEL 3:

THAT CERTAIN PORTION OF SECTION 18, TOWNSHIP 1 NORTH, RANGE 5 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND ON FILE IN THE DISTRICT LAND OFFICE, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHSOUTH CENTER LINE OF THE NORTHWEST $\frac{1}{4}$, SECTION 18 TOWNSHIP, NORTH 1 NORTH, RANGE 5 WEST, SEM, WHICH BEARS SOUTH $2^{\circ} 3' 32''$ WEST 678.7 FEET FROM THE NORTH $\frac{1}{4}$ CORNER NORTHWEST $\frac{1}{4}$ OF SECTION 18; THENCE SOUTH $2^{\circ} 3' 32''$ WEST 49.05 FEET; THENCE SOUTH $32^{\circ} 30' 28''$ EAST 55.93 FEET; THENCE SOUTH $4^{\circ} 34' 32''$ WEST 315.9 FEET; THENCE SOUTH $87^{\circ} 58' 58''$ EAST 312.14 FEET; THENCE NORTH $2^{\circ} 3' 32''$ EAST 729 FEET; THENCE SOUTH $48^{\circ} 3' 32''$ WEST 458.7 FEET TO POINT OF BEGINNING.

EXCEPTING THE R/W FOR THE COUNTY ROAD WHICH PROJECTS OVER THE NORTH BOUNDARY OF SAID PROPERTY.

PARCEL 4:

THOSE CERTAIN PORTION OF GOVERNMENT LOT 1, IN SECTION 7, LOT 7, IN SECTION 18, ALL WITHIN TOWNSHIP 1 NORTH, RANGE 5 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND ON FILE IN THE DISTRICT LAND OFFICE, DESCRIBED AS FOLLOWS:

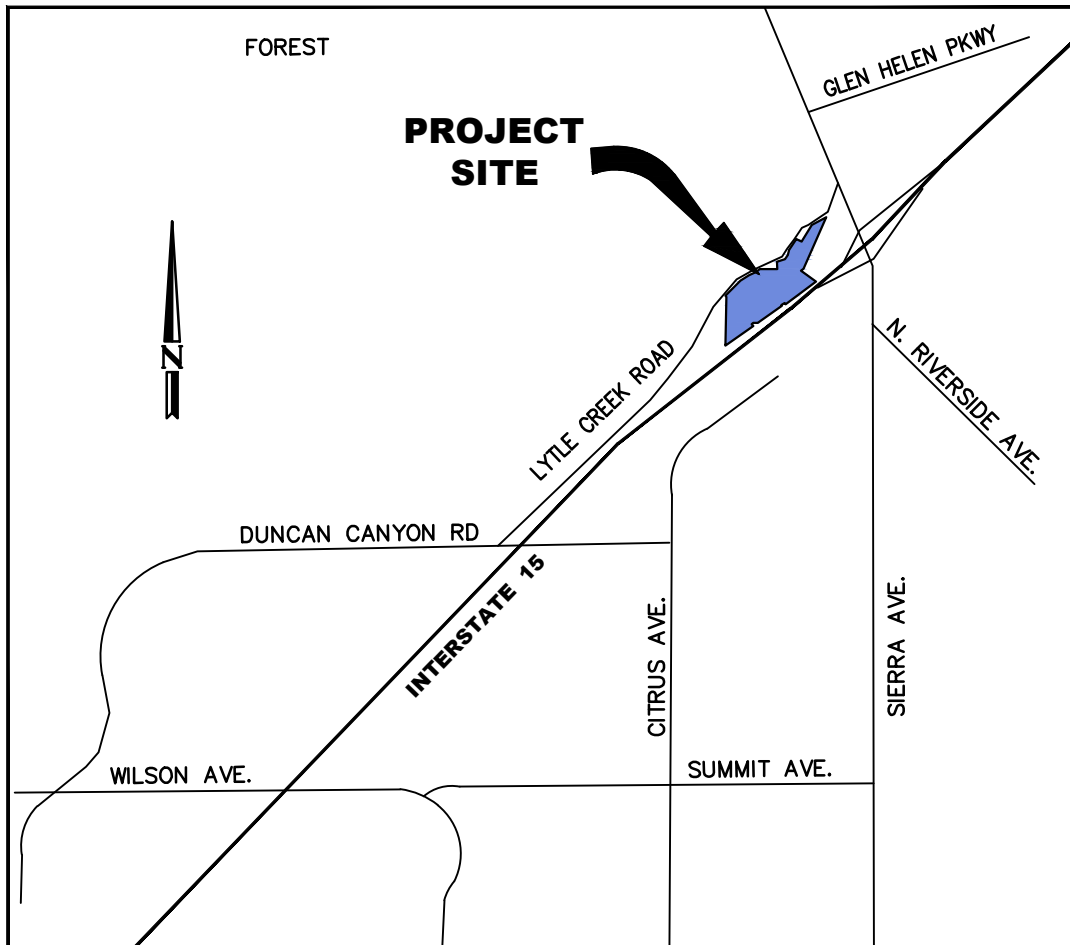
BEGINNING AT A POINT KNOWN AS U.S.F.S. #62 WHICH BEARS NORTH $89^{\circ} 30' 24''$ EAST 637 FEET, MORE OR LESS, FROM THE NORTH $\frac{1}{4}$ CORNER OF SECTION 18, TOWNSHIP 1 NORTH, RANGE 5 WEST, SAN BERNARDINO BASE AND MERIDIAN, SAID POINT BEING THE INTERSECTION OF THE NORTH LINE OF SECTION 18 WITH THE SEMI-TROPIC LAND AND WATER SUBDIVISION BOUNDARY LINE; THENCE SOUTH $53^{\circ} 51''$ EAST 10 FEET; THENCE SOUTH $36^{\circ} 9''$ WEST 300 FEET; THENCE NORTH $53^{\circ} 51''$ WEST 200 FEET; THENCE NORTH $36^{\circ} 9''$ EAST 300 FEET TO THE S.T.L. & W CO. BOUNDARY LINE; THENCE SOUTH $53^{\circ} 51''$ EAST 190 FEET TO THE POINT OF BEGINNING.

PARCEL 5:

GOVERNMENT LOT 1, SECTION 7, TOWNSHIP 1 NORTH, RANGE 5 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND ON FILE IN THE DISTRICT LAND OFFICE.

APN: 0239-071-25-0-000 (AFFECTS A PORTION OF PARCEL 1) 0239-072-02-0-000 (AFFECTS A PORTION OF PARCEL 1); 0239-071-27-0-000 (AFFECTS PARCEL 2); 0239-071-08-0-000 (AFFECTS PARCEL 3); 0239-071-20-0-000 (AFFECTS A PORTION OF PARCEL 4); 0239-041-17-0-000 (AFFECTS A PORTION OF PARCEL 4); 0239-041-15-0-000 (AFFECTS A PORTION OF PARCEL 5); 0239-041-18-0-000 (AFFECTS A PORTION OF PARCEL 5)

EXHIBIT B
(Map/illustration)



VICINITY MAP
NTS

EXHIBIT C
WQMP Exhibit

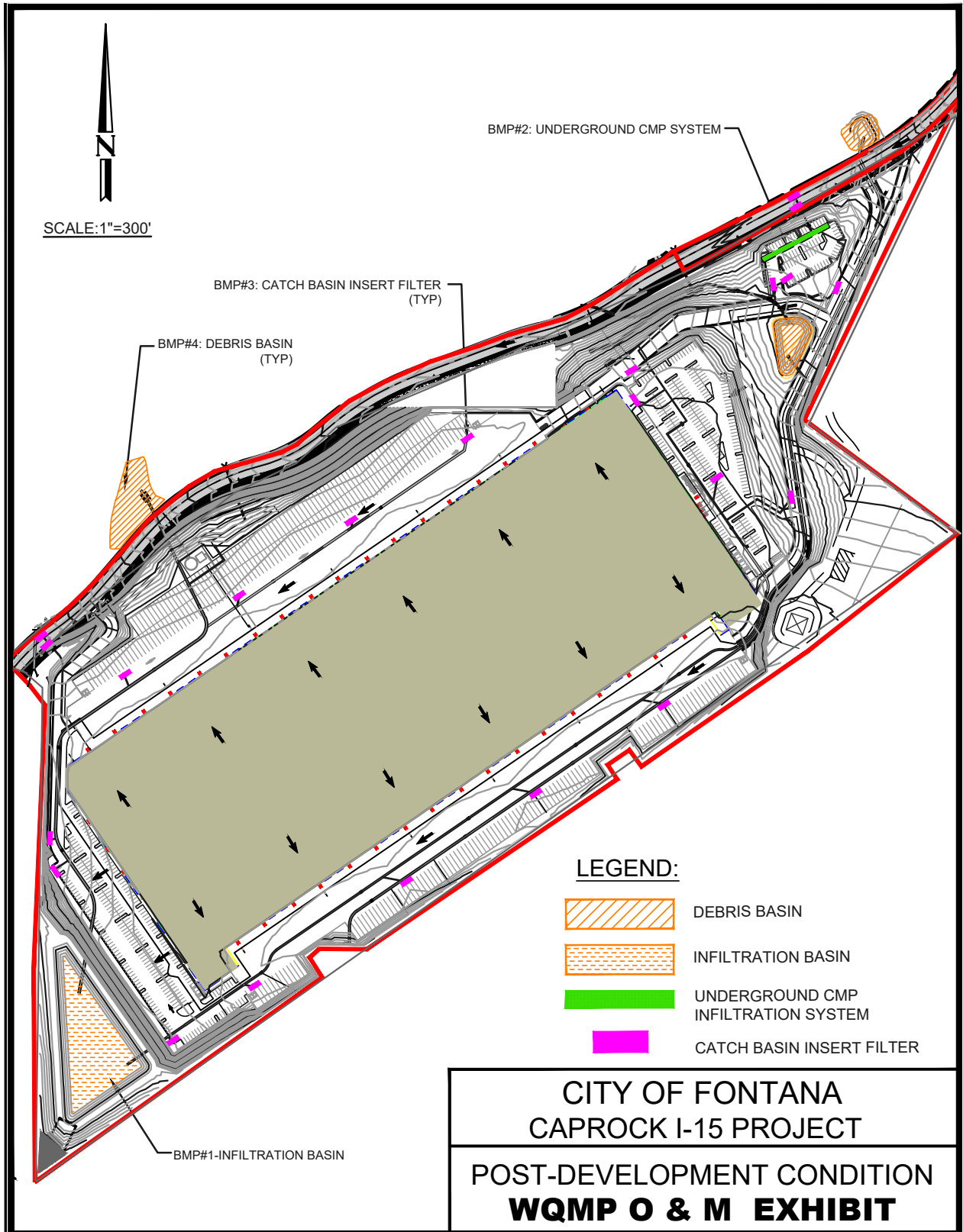


Exhibit D

BMP Inspection and Maintenance Activities			
BMP	Reponsible Party(s)	Inspection/ Maintenance Activities Required	Minimum Frequency of Activities
Catch Basin/ Insert Filter	Property Owner	Inspect catchment area for an excessive sediment, trash, and/or debris accumulation on surface. Inspect inlet for excessive sediment, trash, and/or debris accumulation. Litters, leaves and debris should be removed from inlet to reduce risk of outlet clogging. Change the insert Filter as needed.	Inspect minimum 2 times per year and after every major storm event
Detention/ Infiltration Basin	Property Owner	Inspect the accumulated sediment and debris in the basin. Inspect for standing water with 48 hours of heavy rain events to ensure proper drawdown. Fix and protect the basin slopes. Check outlet structure is functional.	Annually, and after heavy rains
Under Ground Infiltration System	Property Owner	Inspect the underground Arch via the access manhole, for accumulated sediment and debris levels and cleanout solids when > 6" build up occurs. Inspect for standing water with 48 hours of heavy rain events to ensure proper drawdown. Clean and flush underground systems to restore free drainage.	Annually, and after heavy rains
Landscape Maintenance	Property Owner	Maintain landscape area vegetation, slope protection and grades, adjacent to hardscape and prevent discharges of landscape maintenance waste into storm drains	Weekly
Litter Control	Property Owner	Vacuum sweep drive aisles and parking areas to remove potential stormwater contamination before anticipated storm events	Weekly/Monthly
Signage and Stencil	Property Owner	Clean the stencil/signage surface to remove any excess dirt, repaint if necessary.	Annually
Irrigation System	Property Owner	Check and repair the irrigation system. Verify there are no leaks or runoff from landscape areas. Adjust irrigation heads and system run times as necessary to prevent overwatering of vegetation, overspray or run-off from landscape areas and to ensure the health and aesthetic quality of the landscape	Weekly
Trash Enclosures	Property Owner	Empty trash receptacles. Clean the areas around enclosures by sweeping and /or mopping to prevent discharges of cleanup water.	Weekly

TOM DODSON & ASSOCIATES

Mailing Address: PO Box 2307, San Bernardino, CA 92406-2307

Physical Address: 2150 N. Arrowhead Avenue, San Bernardino, CA 92405

Tel: (909) 882-3612 ♦ *Fax:* (909) 882-7015 ♦ *Email:* tda@tdaenv.com

Web: tdaenvironmental.com



April 10, 2023

Mr. Samuel Martinez
Executive Officer
Local Agency Formation Commission
1170 West 3rd Street, Unit 150
San Bernardino, CA 92415-0490

RECEIVED

APR 11 2023

LAFCO
San Bernardino County

Dear Sam:

LAFCO 3261 consists of a request for a Reorganization to include Annexation to the City of Fontana and Detachment from County Service Area 70. The proposed Reorganization area encompasses approximately 5.35 acres (APN 0239-072-02). The Reorganization area is a follow-on action to the recent approval of LAFCOs 3242 and 3243 which included modifying the northern Sphere of Influence in Fontana and Annexation of approximately 152 acres into the City. This action was taken by the Commission in early 2021. The proposed Reorganization under LAFCO 3261 encompasses the 5.35-acre parcel of land needed to support the development of the site previously annexed to the City under LAFCOs 3242 and 3243 for a stormwater management basin on a small stream just north of Lytle Creek Road. This parcel is generally located between Sierra Avenue and the natural northerly extension of Citrus Avenue. The property is within the City of Fontana's northern Sphere of Influence.

The City of Fontana prepared an environmental document, Environmental Impact Report (EIR), as compliance with the California Environmental Quality Act (CEQA) and approved entitlements for a 152-acre project (Interstate 15 Logistics Project) at the north end of the City. The City subsequently filed applications with LAFCO to amend its northern Sphere of Influence (9.2 acres) and annex the whole of the project site (152 acres) into the City. The Commission reviewed and approved LAFCOs 3242 and 3243 at its hearing in January 2021. Acting as a CEQA Responsible Agency the Commission adopted the Final EIR supporting these actions. After completing this action, the City and developer concluded that a small additional parcel (5.35 acres) was needed to properly manage surface runoff just north of the entitled 152-acre project site. After conferring with the City, LAFCO staff concluded that preparing an Addendum for the Commission to consider as a CEQA Lead Agency in conjunction with LAFCO 3261 is the best method of complying with CEQA for this proposed project. Therefore, I recommend that the Commission rely upon the City's Final EIR and the attached Addendum that will serve as the CEQA environmental determination for LAFCO 3261. This is because these two documents verify that the annexation of the 5.35-acre parcel will not result in any new or additional significant adverse impacts on the physical environment.

Environmental Review Process

LAFCO has overseen preparation of this Addendum in accordance with the current CEQA Statutes and Guidelines for implementing CEQA. CEQA Section 15164 includes the following procedures for the preparation and use of an Addendum:

- (b) An addendum to an adopted negative declaration may be prepared if only minor technical changes or additions are necessary or none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred.

- (c) An addendum need not be circulated for public review, but can be included in or attached to the Final EIR or adopted negative declaration.
- (d) The decision-making body shall consider the addendum with the Final EIR or adopted negative declaration prior to making a decision on the project.
- (e) A brief explanation of the decision not to prepare a subsequent EIR pursuant to Section 15162 should be included in an addendum to an EIR, the lead agency's required findings on the project, or elsewhere in the record. The explanation must be supported by substantial evidence.

If changes to a project or its circumstances occur or new information becomes available after certification of an EIR, the lead agency may: (1) prepare a subsequent EIR if the criteria of State CEQA Guidelines Section 15162(a) are met, (2) prepare a subsequent negative declaration, (3) prepare an addendum, or (4) prepare no further documentation. (State CEQA Guidelines Section 15162(b)) When only minor technical changes or additions to the certified EIR are necessary and none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred, CEQA allows the lead agency to prepare and adopt an addendum. (State CEQA Guidelines, Section 15164(a))

Under Section 15162, a subsequent EIR or negative declaration is required only when:

- (1) Substantial changes are proposed in the project which will require major revisions of the previous negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the negative declaration due to the involvement of any new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the EIR was adopted, shows any of the following:
 - (A) The project will have one or more significant effects not discussed in the previous negative declaration;
 - (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measures or alternative; or
 - (D) Mitigation measures or alternatives which are 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.

Recommendation

Based on the change in the expanded annexation being considered under LAFCO 3261, LAFCO concludes that an Addendum is the appropriate environmental determination for this second-tier environmental review process to comply with the CEQA. This is because the addition of this

parcel to that annexed under 3243 has no potential to cause or result in additional significant adverse impacts (physical changes) to the environment.

The attached Addendum, combined with the City's original EIR, serves as the basis for this second- tier environmental review of the City's approval of the Interstate 15 Logistics Project. This Addendum modifies the original EIR adopted by the City in 2021 as its CEQA environmental determination for the proposed implementation of the Interstate 15 Logistics Project. Aside from authorizing the Reorganization proposed in LAFCO 3621 and implementation of the stormwater basin, no other changes in the approved project are proposed at this time.

Pursuant to the provisions of CEQA and State and local CEQA Guidelines, the LAFCO is the Lead Agency for the LAFCO 3261, and is charged with the responsibility of deciding whether or not to approve the annexation to the City as described above and approval of this Addendum as a second tier CEQA environmental determination. As part of its decision-making process, LAFCO is required to review and consider the potential environmental effects that could result from modifying the original project relative to the previously approved project. LAFCO has compiled this Addendum package as the basis for making a new CEQA environmental determination for the modified project.

Under this situation, I recommend that the Commission take the following steps if it chooses to approve LAFCO 3261, acting as a CEQA Lead Agency:

1. Indicate that the Commission staff and environmental consultant have independently reviewed the City's EIR and Addendum and found them adequate for approval of the proposed Reorganization (LAFCO 3261).
2. The Commission needs to indicate that it has considered the supporting environmental documentation and environmental effects, as outlined in the Final EIR package and this Addendum prior to reaching a decision on the project and finds the information substantiating these findings adequate for approval of the Reorganization, LAFCO 3261.
3. The Commission should indicate that it does not intend to adopt alternatives or mitigation measures for this project. Mitigation measures were required for this project in the Final EIR and they will remain the responsibility of the City to implement.
4. File a Notice of Determination with the County Clerk of the Board as a CEQA Lead Agency for LAFCO 3261.

If you have any questions regarding these recommendations, please feel free to give me a call.

Sincerely,



Tom Dodson

TD/cmc

Attachment



ADDENDUM #1 TO THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE I-15 LOGISTICS PROJECT

SCH # 2018011008

Lead Agency:

San Bernardino County LAFCO
1170 W 3rd Street, Suite 150
San Bernardino, CA 92415

Responsible Agency:

City of Fontana
8353 Sierra Avenue
Fontana, CA 92335

Project Applicant:

I-15 Logistics LLC
1300 Dove Street, Suite 200
Newport Beach, CA 92660

ENVIRONMENT | PLANNING | DEVELOPMENT SOLUTIONS, INC.

2355 Main Street, Suite 100
Irvine, CA 92614

March 2023

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- A. Habitat Assessment
- B. Streambed Alteration Agreement
- C. Vegetation Layout Map
- D. Tree Survey and Report
- E. Jurisdictional Delineation Addendum
- F. Plummer's Mariposa Lily Mitigation and Monitoring Plan
- G. Cultural Resources Assessment

1 INTRODUCTION

Caprock Partners (Applicant) is seeking approval for Annexation of a 5.35-acre parcel (Assessor's Parcel Number (APN) 0239-072-02), currently located in unincorporated San Bernardino County, into the City of Fontana in order to provide a debris basin necessary to serve the previously Approved I-15 Logistics Project (entitlement Master Case Number 15-078). The San Bernardino County Local Agency Formation Commission (San Bernardino County LAFCO) is the Lead Agency for the debris basin annexation and will utilize this document as evidence that the Modified Project qualifies for an Addendum, which is further described below.

1.1 REGULATORY SETTING

Pursuant to Section 21166 of the California Environmental Quality Act (CEQA) and Section 15162 of the State CEQA Guidelines, when an Environmental Impact Report (EIR) has been certified or a negative declaration adopted for a project, no subsequent EIR or Mitigated Negative Declaration (MND) shall be prepared for the Modified Project unless the lead agency determines, on the basis of substantial evidence, that one or more of the following conditions are met:

- 1) Substantial changes are proposed in the project which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- 2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- 3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was adopted shows any of the following:
 - a. The project will have one or more significant effects not discussed in the previous EIR or MND.
 - b. Significant effects previously examined will be substantially more severe than identified in the previous EIR or MND.
 - c. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponent declines to adopt the mitigation measures or alternatives.
 - d. Mitigation measures or alternatives that are considerably different from those analyzed in the previous EIR or MND would substantially reduce one or more significant effects on the environment, but the project proponent declines to adopt the mitigation measures or alternatives.

Section 15164 of the State CEQA Guidelines states that an Addendum to an EIR or MND shall be prepared if some changes or additions are necessary, but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR/MND have occurred.

On June 23, 2020, an EIR was certified and the I-15 Logistics Project Final Environmental Impact Report (Final EIR) was approved under MCN15-078 (Approved Project) in June 2020 (SCH # 2018011008). The City was forwarded an Annexation Application from San Bernardino County LAFCO to annex a 3.42-acre debris basin on APN 0239-072-02, which is located directly north of

the previously Approved Project. The Modified Project proposes to annex the site into the City of Fontana and grade the site to create a debris basin as an ancillary use to the I-15 Logistics Project (Modified Project).

This Addendum reviews the changes proposed by the Modified Project and any changes to the existing conditions that have occurred since the Final EIR was certified. It also reviews any new information of substantial importance that was not known and could not have been known with exercise of reasonable diligence at the time that the Project was approved. It further examines whether, as a result of any changes or any new information, a subsequent MND or EIR may be required. This examination includes an analysis pursuant to the provisions of Section 21166 and Section 15162 of the State CEQA Guidelines, which includes an analysis of potential environmental impacts on a topic-by-topic basis.

On the basis of the findings of the Modified Project and the provisions of the State CEQA Guidelines, the San Bernardino County LAFCO, as the Lead Agency, determined that, as documented in this Addendum to the previously Certified Final EIR, no subsequent MND or EIR is required to review the Modified Project application.

2 BACKGROUND

The Approved Project proposed development and operation of a 1,175,720 square foot logistics facility on approximately 76 acres (Logistics Site); the realignment of a segment of Lytle Creek Road; the annexation of 152 acres, inclusive of the 76-acre Logistics Site; and related components and entitlements as shown in Figure 1: *I-15 Logistics Center Project Area*. The Approved Project was previously analyzed in the Final EIR certified by the City of Fontana in June, 2020. The Approved Project can be identified with State Clearinghouse Number (SCH) 2018011008. The Final EIR analyzed two options for the Approved Project, Option 1 and Option 2. Option 1 was adopted which analyzed impacts of Annexation No. 16-001, General Plan Amendment No. (GPA) 15-005, GPA 17-001, Zone Change No. (ZCA) 15-009, Tentative Parcel Map No. (TPM) 19712, Design Review No. (DR) 16-003, and Development Agreement No. (DA) 16-001 as further described below:

- Request to San Bernardino County LAFCO for a sphere of influence amendment (expansion) to include APN 0239-041-15 and portion of APNs 0239-091-13 and -14, and the westerly right-of-way (ROW) of Lytle Creek Road encompassing approximately 2.14 acres, into the City of Fontana's existing SOI
- Annexation No. 16-001 to annex a total of 21 parcels and portions of road ROW encompassing approximately 152 acres into the City of Fontana
- GPA 15-005 to
 - Assign a General Plan land use designation of Residential Estate (R-E) to APN 0239-041-15 and to a portion of APN 0239-091-14
 - Change the General Plan land use designation on approximately 76 acres from Residential Estate (R-E) to Light Industrial (I-L)
- GPA 17-001 to change the General Plan Circulation Element designation for Lytle Creek Road from a four-land Secondary Highway to a two-lane Collector
- ZCA 15-009 to:
 - Assign a pre-zone designation of Residential Estate (R-E) to APN 0239-041-15 and to a portion of APN 0239-091-14; and a pre-zone designation of Light Industrial

-
- (M-1) to the portion of APN 0239-091-13 that currently do not have a pre-zone designation
 - Change the pre-zoning on approximately 76 acres from Residential Estate (R-E) to Light Industrial (M-1)
 - AGR 16-001 for a development agreement between the City of Fontana and I-15 Logistics, LLC, for the proposed logistics facility.
 - DR 16-003 for the approval of the plan, site improvements, and building elevations (architecture) for the approximately 1,175,720 square foot logistics facility building
 - TPM 19712 created one parcel consisting of approximately 76 acres for the Logistics site

The Final EIR Option 1 proposed land use and zoning designations of Light Industrial (I-L), Public Utility (P-UC), Residential Estates (R-E), and General Commercial (C-2). The certified Final EIR identified Air Quality, Cultural Resources, Greenhouse Gas Emissions, and Transportation that would experience significant and unavoidable impacts. Environmental impacts related to Biological Resources, Geology and Soils, Hazards and Hazardous Materials, Land Use and Planning, Tribal Cultural Resources, and Wildfire Hazards were all identified to experience impacts that would be less than significant with mitigation incorporated. Aesthetics, Agriculture and Forestry Resources, Energy, Hydrology and Water Quality, Mineral Resources, Noise, Population and Housing, Public Services, Recreation, and Utilities and Service Systems would experience less than significant impacts.

3 Existing Setting

3.1 PROJECT LOCATION

The Modified Project is located within unincorporated San Bernardino County, just north of the previously Approved Project. Regional access to the Modified Project site is provided by Interstate 15 (I-15), located approximately 0.24 mile southeast. Local access is provided via Lytle Creek Road which abuts the site directly to the south. The site is located in the northern portion of the City of Fontana's Sphere of Influence (SOI) and is located at the base of the lower slopes of the San Gabriel Mountains, with the San Bernardino National Forest to the northwest. The Modified Project site and surrounding area is shown in Figure 2, *Regional Location*, and Figure 3, *Local Vicinity*.

3.2 EXISTING PROJECT SITE

The Modified Project site consists of one parcel encompassing approximately 5.35 -acres. The site is identified by APN 0239-072-02. The Modified Project site is comprised of vacant and undeveloped land, with trees and shrubs located on the site. The terrain contains natural sloping with elevations ranging between 2,063 and 1,973 feet above sea level and a steep decline from the property line to Lytle Creek Road to the south. The Modified Project site's existing conditions are shown in Figure 4, *Aerial View*, and Figure 5, *Existing Site Photos*.

Area uphill from the Modified Project site has experienced wildfires in the past year which have resulted in the ground becoming scorched and barren which makes it susceptible to mudflows as a result. The stability of land is currently compromised and at risk of mudflows, which could cause significant damage to I-15 facilities to the south and adjacent land uses, including the Approved Project.

3.3 EXISTING LAND USES AND REGULATORY SETTING OF THE PROJECT SITE

The Modified Project site is included in the City of Fontana's SOI and has a City of Fontana General Plan Land Use designation and zoning designation of Residential Estate (R-E). The R-E zone is intended for low density residential uses, as well as accessory agricultural uses in outlying rural areas. The low-density designation reflects natural, environmental, and other constraints adjacent to the hillside areas in the community, as well as the lack of infrastructure in the area. Development in R-E areas is intended to evoke a rural feeling. Additionally, the site has a County of San Bernardino zoning designation of Special Development-Residential (SD-RES). The SD (Special Development) land use provides sites for a combination of residential, commercial, industrial, agricultural, open space and recreation uses, and similar and compatible uses. The Project site is within the Residential zoning of the Special Development.

3.4 SURROUNDING LAND USES

The surrounding land uses are described in Table 1, along with their corresponding General Plan land use and zoning designations.

Table 1: Surrounding Land Use and Zoning Designations

	Existing Land Use	General Plan Designation	Zoning Designation
North	Vacant and undeveloped land	Open Space (OS)	Resource Conservation (RC)
Northeast	Vacant and undeveloped land	Open Space (OS)	Resource Conservation (RC)
Southeast	I-15 Logistics Project	City of Fontana - Residential Estates (R-E), General Commercial (C-G), Light Industrial (M-1), and Public Utility Corridor (P-UC)	City of Fontana - Residential Estates (R-E), General Commercial (C-G), Light Industrial (M-1), and Public Utility Corridor (P-UC)
South	I-15 Logistics Project	General Industrial (I-G)	General Industrial (M-2)
West	Vacant and undeveloped land	Residential Estate (R-E)	Residential Estate (R-E)

Project Area

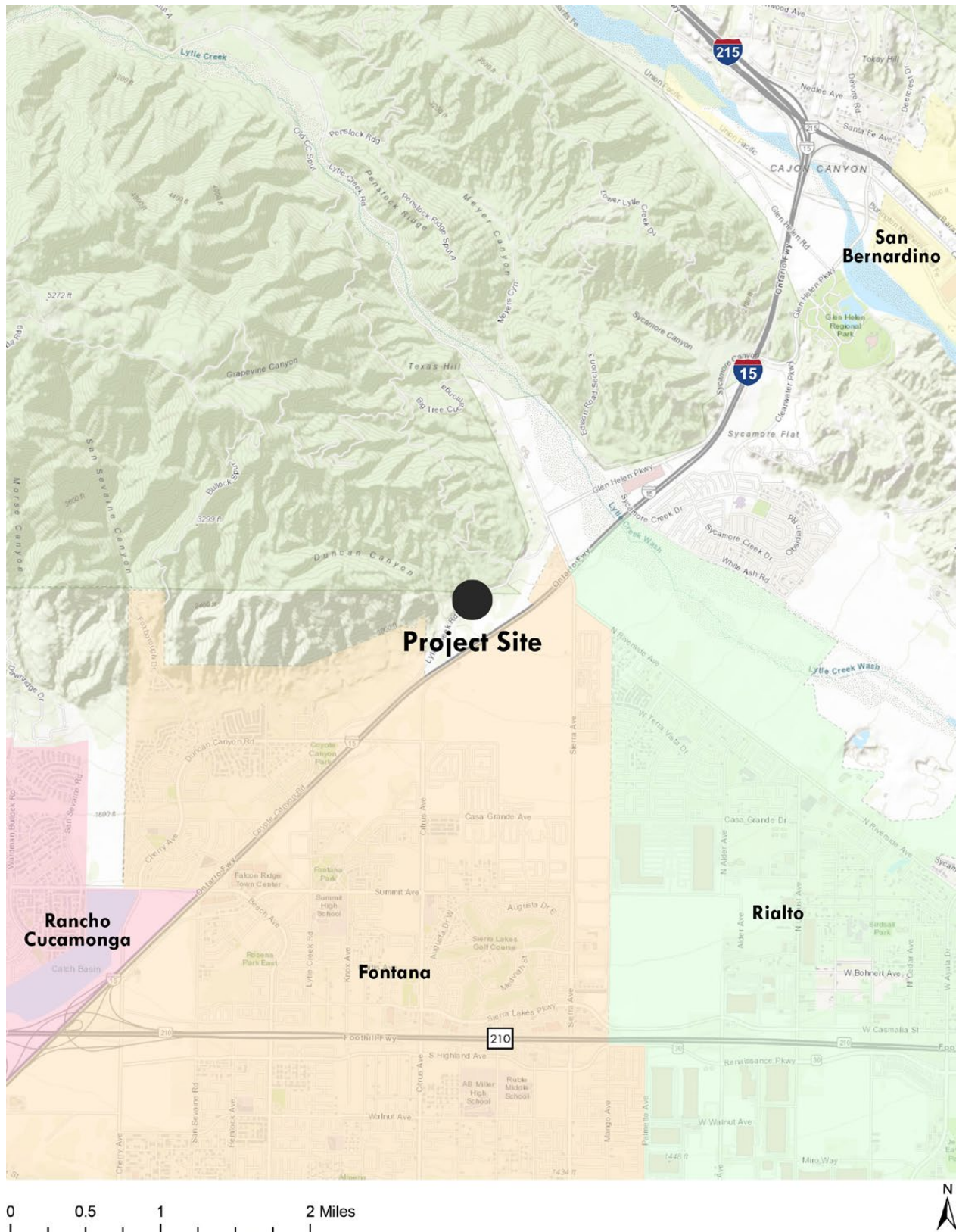


I-15 Logistics Center Debris Basin
San Bernardino

Figure 6

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Regional Location



I-15 Logistics Center Debris Basin
San Bernardino

Figure 2

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Local Vicinity



I-15 Logistics Center Debris Basin
San Bernardino

Figure 3

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Aerial View



I-15 Logistics Center Debris Basin
San Bernardino

Figure 4

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Site Photos



View from the northeast corner of the site on Lytle Creek Rd.



The view along Lytle Creek Rd. from the southwest corner of the site.

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4 PROJECT DESCRIPTION

The Final EIR analyzed the 152 acre I-15 Logistics Project site which included an annexation, two General Plan Amendments, a Zone Change, Development Agreement, Design Review, Tentative Parcel Map, and the development of a 1,175,720 square foot logistics facility. The Applicant, I-15 Logistics LLC, is requesting to annex APN 0239-072-02 into the City of Fontana to use for a debris basin to serve the approved I-15 Logistics Project. The Modified Project site would be developed as a debris basin ancillary to the previously Approved Project.

4.1 PROJECT OVERVIEW

The Modified Project includes the annexation to the City of Fontana of approximately 5.35 acres for development of the I-15 Logistics Project property as shown in Figure 6: *Project Area*. The land is specifically required for a debris basin and connection to a 60-inch diameter storm drain. The debris basin would total approximately 0.44 acres and would be located at the south central portion of the parcel, as shown in Figure 6. The basin will utilize the natural topography of the site. The debris basin area will be graded, and a 12-foot-wide access road will be constructed to access the basin. Additionally, a minimum of 6-foot high tubular steel fence with pilasters will secure the basin from the south. See Figure 7, *Conceptual Basin Plan*.

Debris basins capture sediment, gravel, boulders, and vegetative debris that are washed downstream during storms, and filter water into the storm drain system. As discussed above, the area has experienced wildfires in the past year which have resulted in the ground becoming scorched and barren which makes it susceptible to mudflows as a result. The basin is required and would aid in protecting the previously Approved Project, as well as development and the I-15 to the south from damage due to mudflows caused by rain and the lack of vegetation.

The basin and associated storm drain line would be maintained by the property owner, I-15 Logistics LLC, under a maintenance agreement with the City. City-provided services for the debris basin parcel would be limited to general government services.

No other development would occur within the annexation area and no water, wastewater, or other public services would be required.

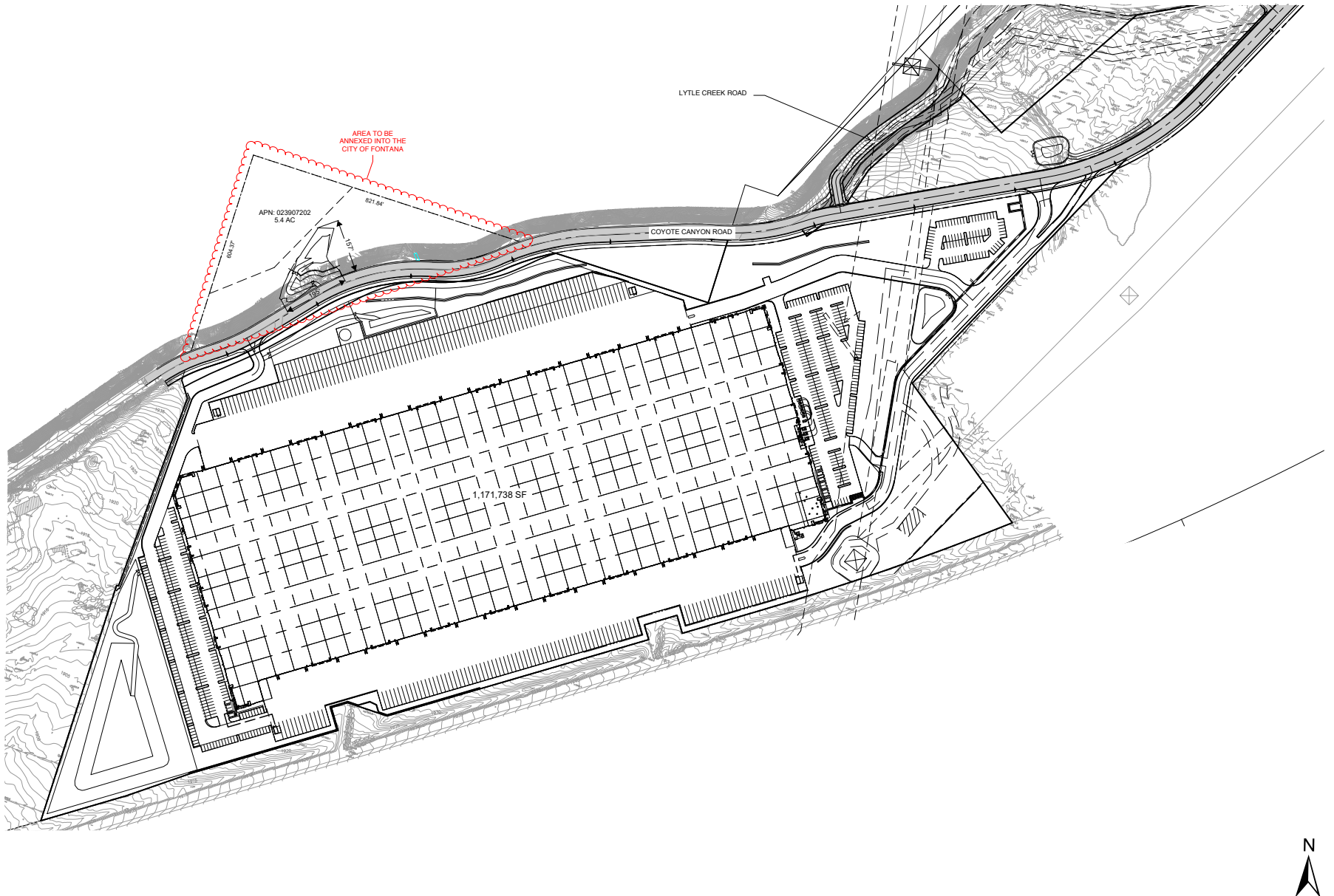
5 DISCRETIONARY APPROVALS, PERMITS, AND STUDIES

The following discretionary approvals, permits, and studies are anticipated to be necessary for implementation of the Modified Project:

- Annexation of 5.35 acres (APN 0239-072-02 and right-of-way along Lytle Creek Road) into City of Fontana (approval required from San Bernardino County LAFCO)
- Adoption of Addendum to I-15 Logistics Center Project Final EIR – Adopted June 2020 (SCH # 2018011008)
- Approvals and permits necessary to execute the Modified Project, including but not limited to grading permit, etc. (City of Fontana)

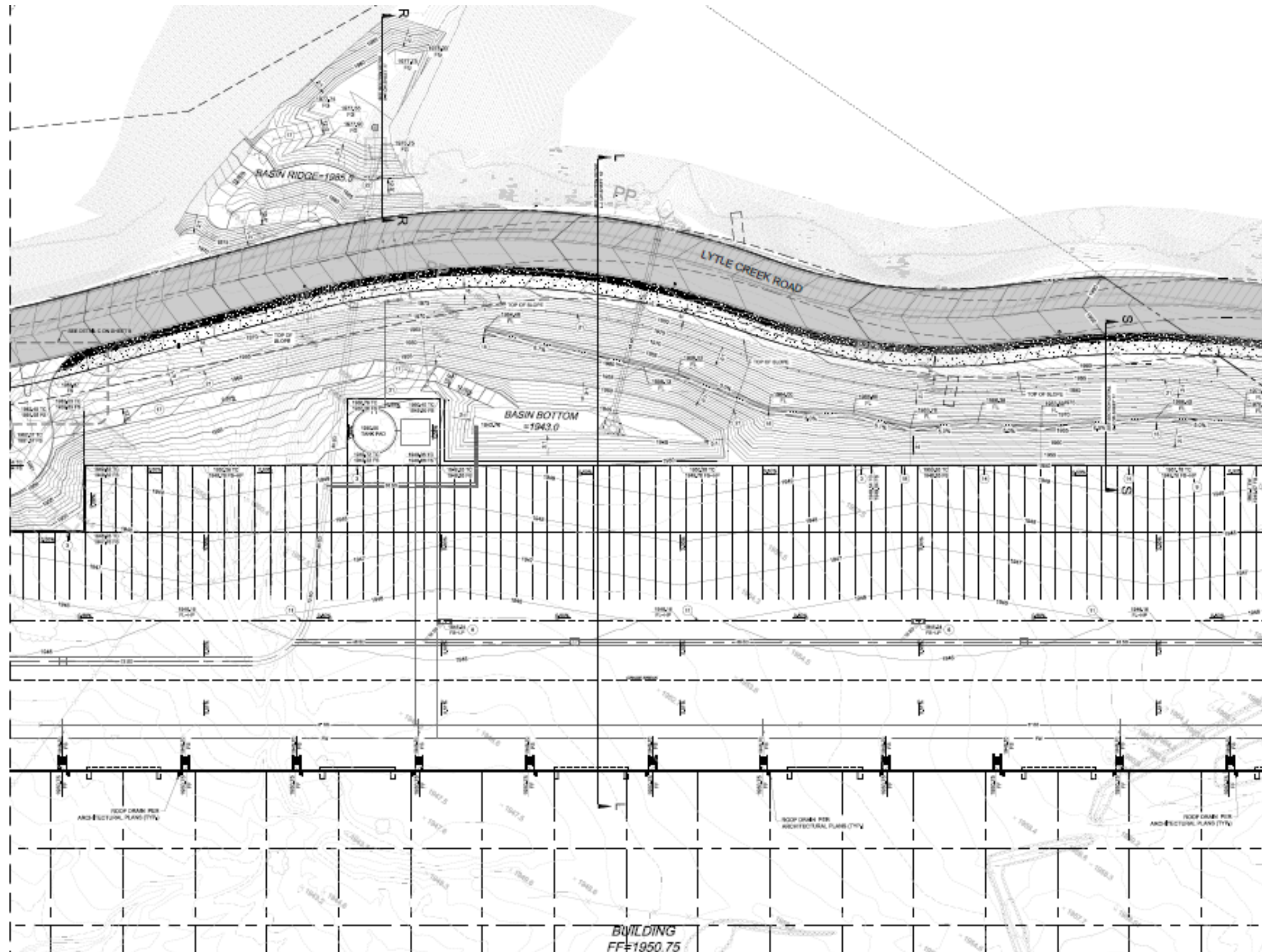
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Project Area



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Conceptual Basin Plan



I-15 Logistics Center Debris Basin
San Bernardino

Figure 7

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6 CEQA ANALYSIS

The Modified Project proposes the annexation of APN 0239-072-02 into the City of Fontana to be utilized as a debris basin for the I-15 Logistics Project. A summary of the Project's impacts are provided in Table 2 below.

Table 2: Project Impacts

Environmental Topic	Impacts
Aesthetics:	The previously approved Final EIR determined the Approved Project would result in less than significant impacts. Motorists traveling along I-15 experience partial, fleeting views of the San Gabriel Mountains and San Bernardino National Forest, located to the north. However, I-15 is not identified as a scenic route by the City of Fontana General Plan nor the California Department of Transportation's (Caltrans) State Scenic Highway Mapping System. The Modified Project does not propose a building nor any structure that would physically obstruct views of the San Gabriel Mountains and San Bernardino National Forest that the site is located at the base of. The Modified Project would not include additional sources of light and glare. Construction-related activities would largely utilize the existing topography of the site. The Final EIR found that impacts would be less than significant and therefore, the Modified Project would be consistent with findings from the Final EIR.
Agriculture and Forest Resources:	The previously approved Final EIR determined the Approved Project would result in less than significant impacts. According to the California Department of Conservation's Important Farmland Finder, the site is classified as Nonagricultural or Natural Vegetation. Additionally, the site is zoned Special Development-Residential (SD-RES) and is not designated as agricultural or forest land. The Modified Project site is not currently being used for agricultural or foresting purposes. Therefore, no impacts would occur.
Air Quality:	The previously approved Final EIR determined the Approved Project would result in less than significant construction air quality impacts and significant and unavoidable operational impacts. The proposed debris basin would result in negligible operational emissions related to periodic debris clearing and maintenance activities. Basin construction would require grading and emissions from construction equipment would be nominal due to the nature of the Modified Project. As illustrated in Appendix H, Project construction would result in slightly higher air quality criteria pollutant regional and local construction emissions. However, the cumulative combination of previously identified emissions and emissions anticipated to result from the Modified Project would not result in exceedance of the SCAQMD regional or local construction thresholds. Though nominal emissions would occur during construction of the Modified Project, mitigation measure AQ-1 from the Final EIR would be implemented to provide for additional dust suppression. Therefore, no new impacts would occur as a result of the Modified Project.

Biological Resources:	<p>The previously approved Final EIR determined the Approved Project would result in less than significant impacts with mitigation. The Modified Project site was not within the original Habitat Assessment prepared for the Approved Project (2017) as included in Appendix A. However, the Modified Project site was surveyed and analyzed for biological impacts prior to completion of the Streambed Alteration Agreement (SAA) pursuant to Fish and Game Code section 1602 (Appendix B) that was completed for both the Approved Project and Modified Project sites.</p> <p>The Modified Project site was reviewed for vegetation mapping (map included as Appendix C), tree survey (Appendix D), and jurisdictional delineation (Appendix E) purposes in 2021 and was surveyed for special-status plant species in 2020 (Appendix B). The SAA documentation did not identify potential for or the presence of any additional species than what was analyzed previously under the approved I-15 Logistics Center Habitat Assessment in support of the Final EIR.</p> <p>However the Addendum to the Jurisdictional Delineation Report (Appendix E) identified previous features, Drainages 1-3, and four new features (Drainages 3-1, 3-2, 4, and 5) within the Modified Project area. Additionally, the 2020/2021 jurisdictional review found that previously identified drainage widths have increased. Overall, the Modified Project would include 1.63 acres of additional CDFW jurisdictional waters and 0.38 acre of regional board jurisdictional waters.</p> <p>Therefore, the Modified Project will include the following mitigation measures from the Final EIR to mitigate any potentially significant impacts to levels below the significance thresholds.</p> <ul style="list-style-type: none"> • Due to the potential for the Southern California black walnut to be located on the site, BIO-1 has been included to require a qualified biologist to flag the any trees on the disturbance area prior to construction related activities and to require a tree removal permit if avoidance is not feasible. The Modified Project would include implementation of Mitigation Measure BIO-1. • The Plummer's mariposa lily also was identified as having potential to be located on the previously analyzed Approved Project site (Appendix A), therefore, BIO-2 was included to require a qualified biologist to conduct a floristic survey in the development area within the blooming period prior to the approval of grading permits (Appendix F), and if found, to prepare a replanting plan. However, the Plummer's Mariposa Lily Mitigation and Monitoring Plan for the I-15 Logistics Project was updated in June 29, 2021 to include the Modified Project site. There were no instances of Plummer's mariposa lilies identified within the site. The Modified Project site area was surveyed in
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	<p>June and July of 2020 and Plummer's mariposa lily was not identified. Therefore, additional surveys are not required, and there would be no impact.</p> <ul style="list-style-type: none"> Based on the results of the previously approved Habitat Assessment, it was determined that the Approved Project site had a high potential to support Cooper's hawk (<i>Accipiter cooperii</i>) and San Diego black-tailed jackrabbit (<i>Lepus californicus bennettii</i>); and a moderate potential to support California glossy snake (<i>Arizona elegans occidentalis</i>), coastal whiptail (<i>Aspidoscelis tigris stejnegeri</i>), northern harrier (<i>Circus cyaneus</i>), and coast horned lizard (<i>Phrynosoma blainvillii</i>). BIO-3 was included to require a biological monitor on-site during ground-disturbing activities to monitor construction activities to reduce impacts to special-status wildlife species with high to moderate potential to occur on the site. The Modified Project would include implementation of Mitigation Measure BIO-3. Trees and shrubs exist on the site that may provide habitat for nesting birds, and therefore, BIO-4 was included in compliance with the Migratory Bird Treaty Act and the California Fish and Game Code if the removal of trees or shrubs occur from February through August. The Modified Project would include implementation of Mitigation Measure BIO-4. Additional jurisdictional impacts would be required to attain necessary permitting and mitigate impacts according to provisions of the permits and agency agreements. The Modified Project would include implementation of Mitigation Measure BIO-6, which requires the obtainment of permits for jurisdiction impacts and subsequent mitigation. <p>With implementation of mitigation measures BIO-1, BIO-3, and BIO-4, impacts from the Modified Project would be less than significant.</p> <p>The Approved Project was previously subject to the North Fontana Conservation Program (NFCP) and the payment of applicable mitigation fees. However, the NFCP has since been terminated, and species and habitats previously covered under the plan are no longer protected by the NFCP. The SAA included mitigation for the Approved and Modified Project's impacts to Riversidean Alluvial Fan Sage Scrub (RAFSS) habitat pursuant to NFCP despite termination of the NFCP since Final EIR certification. Therefore, no additional habitat impacts associated with the NFCP would occur under the Modified Project.</p> <p>To avoid potentially significant impacts, BIO-1, BIO-3, and BIO-4 have been included from the Final EIR to mitigate impacts to less than significant levels and no new impacts would occur.</p>
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Cultural Resources:	<p>The previously approved Final EIR determined the Approved Project would result in significant and unavoidable impacts. The previously approved Final EIR identified a historic resource that would be removed as part of the Approved Project. The Modified Project does not contain any existing structures on the site and would not result in additional impacts to historical resources. The Cultural Resource Assessment, included as Appendix G, prepared for the previously approved Final EIR found that the closest prehistoric resource to the Approved Project area was a prehistoric artifact concentration located 0.5 mile to the north of the northern edge of the Approved Project site. The resource is not located on the Modified Project site. Although no cultural resources have been identified on the site, construction activities related to the debris basin would have the potential to disturb unknown archaeological resources on the site. Therefore, in the unlikely event that archaeological resources are encountered during grading activities, mitigation measures CR-2 and CR-3 from the Final EIR have been included to ensure that an archaeological monitor is present during ground disturbing activities and a Treatment and Disposition Plan (TDP) be established prior to the commencement of ground disturbing activities to provide a process for infield treatment of inadvertent discoveries. With implementation of CR-2 and CR-3, no new impacts would occur.</p>
Energy:	<p>The previously approved Final EIR determined the Approved Project would result in less than significant impacts. Construction of the proposed basin would require a slight increase in energy consumption from the previously Approved Project; however, the Modified Project would not result in wasteful, inefficient, or unnecessary consumption of energy to complete construction. Operation of the debris basin would require near negligible use of energy resources due to low periodic clearing of debris and maintenance of the basin. The Modified Project is consistent with what was analyzed in the Final EIR and no new impacts would occur.</p>
Geology and Soils:	<p>The previously approved Final EIR determined the Approved Project would result in less than significant impacts with mitigation. The Modified Project site is located in an Alquist-Priolo Fault Zone as shown in the California Department of Conservation's <i>California Earthquake Hazards Zone Application</i>, and like most of California, is subject to ground-shaking hazards from earthquakes on regional fault systems capable of producing moderate to severe groundshaking. However, the Modified Project does not include the development of any structures, and therefore, would not result in impacts. As the Modified Project does not include any structures, impacts related to landslides, erosion/loss of topsoil, and expansive soils and seismic-related ground failure such as liquefaction would not occur. Due to the nature of the Modified Project, the debris basin that would be created would benefit the I-15 Logistics Project to the south by preventing flooding and debris flows from rain events. Fires in the area within the past year have</p>

	<p>increased the potential for these events to occur due to the loss of vegetation.</p> <p>The Cultural Resources Assessment prepared for the I-15 Logistics Project included a paleontological resources overview and found that the I-15 Logistics Project site contains Quaternary alluvial fan deposits and that the Approved Project would be unlikely to encounter significant vertebrate fossils. However, deeper excavations could extend into older finer-grained Quaternary deposits that may well encounter significant remains of fossil vertebrates. Due to the close proximity to the I-15 Logistics Project site, the Modified Project would reflect the same soil composition and mitigation measures GEO-5 and GEO-6 would be incorporated as part of the Modified Project to provide monitoring, sampling, and if needed, collection of fossils in appropriate deposits if fossils are uncovered during grading activities. Compliance with GEO-5 and GEO-6 would reduce potential adverse effects related to the destruction of a unique paleontological resource or site or unique geological feature to less than significant. Therefore, the Modified Project impacts would be consistent with the I-15 Logistics Project and no new impacts would occur.</p>
Greenhouse Gas Emissions:	<p>The previously approved Final EIR determined the Approved Project would result in significant and unavoidable impacts. The Modified Project would result in negligible operational GHG emissions related to periodic debris clearing and maintenance activities. As illustrated in Appendix H, Modified Project construction would result in slightly higher GHG than previously identified GHG emissions anticipated from the previously approved project. The Modified Project would result in a total of approximately 0.5 MTCO₂E amortized over 30 years, which would increase previously identified total emissions from 134.4 to 134.9 MTCO₂E. GHG emissions related to construction activities would be nominal. Therefore, no impacts would occur.</p>
Hazards and Hazardous Materials:	<p>The previously approved Final EIR determined the Approved Project would result in less than significant impacts with mitigation. The Modified Project would create a 0.44-acre debris basin in relation to the I-15 Logistics Project. The Modified Project site is not located on the Department of Toxic Substances Control's date management system, EnviroStor, as a contamination site. Additionally, the Modified Project would not require demolition of structures, and therefore, would not result in the potential exposure of the public and/or workers to asbestos or lead based paint. Therefore, no new impacts would occur.</p>
Hydrology and Water Quality:	<p>The previously approved Final EIR determined the Approved Project would result in less than significant impacts. The purpose of the proposed debris basin is to improve the hydrology related impacts on the previously approved I-15 Logistics Project. The Modified Project would create a 0.44-acre debris basin to accommodate upstream flows of the previously Approved Project and capture and prevent debris from rainfall events from flowing onto the site below. As included in I-15</p>

	Final EIR Appendix C, the jurisdictional map (Exhibit 6) illustrates the existing discharge path of drainage D-3 from the unimproved debris basin area to the I-15 Logistics project site. The proposed flow path would be consistent with the previously approved I-15 Final EIR, and further, the drainage capture area of the proposed project would be consistent with the previously approved project and would not contribute to additional downstream discharge. The basin has been sized to accommodate the flow coming from the foothills located to the north. Due to recent fires resulting in a lack of established vegetation, the foothills are susceptible to mudflows due to unsteady soil during heavy rain events. The basin would aid in capturing flows that would otherwise encroach onto the adjacent I-15 Logistics Project to the south. The Modified Project would not result in impacts related to hydrology and water quality and would reduce previously identified hydrologic impacts.
Land Use and Planning:	The previously approved Final EIR determined the Approved Project would result in less than significant impacts with mitigation. The Modified Project would not divide an established community nor conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the Modified Project. However, Municipal Code Chapter 28, Article III established the City's tree preservation ordinance which describes the preservation of heritage, significant, and specimen trees in the City and procedures to follow if any protected trees are proposed for removal. Implementation of Mitigation Measure BIO-1 would ensure Modified Project impacts to on-site Southern California black walnut (<i>juglans californica</i>) are reduced to less than significant measures. With implementation, no new impacts related to land use and planning would occur.
Mineral Resources:	The previously approved Final EIR determined the Approved Project would result in less than significant impacts. The Modified Project is consistent with what was analyzed in the Final EIR and no impacts would occur.
Noise:	The previously approved Final EIR determined the Approved Project would result in less than significant impacts. Construction of the Modified Project would be compliant with the City's noise ordinance, City Municipal Code Section 18-63, limiting construction between the hours of 7:00 a.m. and 6 p.m. on weekdays and 8:00 a.m. and 5:00 p.m. on Saturdays. Additionally, operation of the debris basin would result in near negligible amounts of noise generation due to periodic cleaning of debris and maintenance of the basin. Therefore, the Modified Project is consistent with what was analyzed in the Final EIR and no new impacts would occur.
Population and Housing:	The previously approved Final EIR determined the Approved Project would result in less than significant impacts. The Modified Project would not include the removal or construction of housing on the site. The Modified Project is consistent with what was analyzed in the Final EIR and no impacts would occur.
Public Services:	The previously approved Final EIR determined the Approved Project would result in less than significant impacts. The

	proposed debris basin would not require employees or implement residential uses on the site, and therefore, would not result in any impacts related to public services. No new impacts would occur from the implementation of the Modified Project.
Recreation:	The previously approved Final EIR determined the Approved Project would result in less than significant impacts. The Modified Project is consistent with what was analyzed in the Final EIR and no impacts would occur.
Transportation:	The previously approved Final EIR determined the Approved Project would result in significant and unavoidable impacts. The Modified Project would generate periodic operational trips due to cleaning and maintenance of the basin. The trips anticipated to result from maintenance of the basin during future operations is anticipated to be near negligible due to the low frequency of trips. Construction related trips would be temporary and nominal due to the scope of the Modified Project. Construction activities, which are anticipated to be minimal in nature, may temporarily restrict vehicular traffic and would be required to comply with the construction traffic management plan (TMP) to facilitate the passage of persons and vehicles through/around any required road closures. The Final EIR contains Mitigation Measure TR-1 which requires the preparation of a TMP prior to construction related activities. Implementation of Mitigation Measure TR-1 would ensure construction-related traffic impacts and impacts to emergency access are reduced to less than significant levels. Therefore, no new impacts would occur.
Tribal Cultural Resources:	The previously approved Final EIR determined the Approved Project would result in less than significant impacts with mitigation. As part of the AB52 AB18 process for the I-15 Logistics Project, the City distributed letters notifying nearby tribes of the opportunity to consult on the Approved Project and assist the City. The San Manuel Band of Mission Indians and the Gabrieleno Indians both participated in a formal consultation with the City of Fontana regarding the Approved Project and the San Manuel Band of Mission Indians raised concerns regarding the potential for tribal cultural resources to be present. There are no known archaeological resources on the Approved Project site as per the Cultural Resources Assessment (Appendix G). However, there is potential for the accidental discovery of archaeological resources. Therefore, the mitigation measures CR-2 and CR-3 from the Final EIR are included to provide for archaeological monitoring and require the preparation of a TDP which provides details regarding the process for the infield treatment of inadvertent discoveries and the disposition of non-funerary resources. With implementation of CR-2 and CR-3, impacts would be less than significant and no new impacts would occur.
Utilities/Service Systems:	The previously approved Final EIR determined the Approved Project would result in less than significant impacts. The Modified Project would construct a debris basin in relation to the previously approved I-15 Logistics Project directly south. The Modified Project would not require water nor create waste or require the construction of onsite utilities. Rather, it would

	prevent water and debris flows from flowing south to the I-15 Logistics Project and other downstream land uses. Therefore, no impacts would occur.
Wildfire:	The previously approved Final EIR determined the Approved Project would result in less than significant impacts with mitigation. According to the CalFire Fire Hazard Severity Zones map, the Modified Project site is within a designated high fire hazard severity zone (HFHSZ) and is within a State Responsibility Area (SRA). Additionally, the Modified Project is included within the City's Local Hazard Mitigation Plan (LHMP) and Emergency Operations Plan. Construction activities, which are anticipated to be minimal in nature, may temporarily restrict vehicular traffic and would be required to comply with the construction traffic management plan (TMP) to facilitate the passage of persons and vehicles through/around any required road closures (refer to Mitigation Measure TR-1 within the Final EIR). In addition, all proposed construction activities would be subject to compliance with all applicable State and local regulations in place to reduce risk of construction-related fire, such as installation of temporary construction fencing to restrict site access and maintenance of a clean construction site. Implementation of Mitigation Measure TR-1, in conjunction with minimum construction standards for fire safety, would minimize impacts to construction-related impacts to adopted emergency response plans or emergency evacuation plans to less than significant. Therefore, no new impacts would occur.

The Modified Project would not result in further major modifications to the previously Approved Project. Therefore, Modified Project changes would not be anticipated to result in new or greater significant impacts beyond those identified in the previously adopted Final EIR and overall Modified Project impacts would be less than significant after mitigation. The Modified Project would be required to comply with all applicable mitigation, local, State, and federal regulations and policies included in the approved environmental documentation.

7 APPLICABLE GENERAL PLAN EIR MITIGATION MEASURES

The Modified Project would implement the following mitigation measures from the Final EIR. With implementation, all impacts would be less than significant. Therefore, the Modified Project would not introduce any new Project-specific mitigation measures.

AQ-1: The construction contractor will use the following dust suppression measures from the SCAQMD CEQA Air Quality Handbook to reduce the Project's emissions:

- Suspend all excavating and grading operations when wind speeds exceed 25 mph.
- Sweep all streets once per day if visible soil materials are carried to adjacent streets.
- Install "shaker plates" prior to construction activity where vehicles enter and exit unpaved roads, or wash trucks and equipment prior to their leaving the site.

- Water all active portions of the construction site every three hours during daily construction activities and when dust is observed migrating from the Project site to prevent excessive amounts of dust.

BIO-1: Prior to construction, a qualified biologist shall flag all Southern California black walnut (*Juglans californica*) individuals located within the Project footprint for avoidance. If avoidance of the Southern California black walnuts is not feasible, a tree removal permit shall be obtained from the City in compliance with the City of Fontana Municipal Code Chapter 28, Article III.

BIO-3: A biological monitor shall be present on-site during all ground-disturbing activities to monitor construction activities and limits to ensure that specialstatus wildlife species with high to moderate potential to occur on-site (i.e., loggerhead shrike [*Lanius ludovicianus*], Cooper's hawk [*Accipiter cooperii*], northern harrier [*Circus cyaneus*], San Diego black-tailed jackrabbit [*Lepus californicus bennettii*], California glossy snake [*Arizona elegans occidentalis*], coastal whiptail [*Aspidoscelis tigris stejnegeri*], and coast horned lizard [*Phrynosoma blainvillii*]) and that are observed on-site are not adversely affected, , at the discretion of the biological monitor, by construction activities. The biological monitor shall have the authority to halt construction activities should any special-status wildlife species be observed on-site until the species has left the active construction areas.

BIO-4: Pursuant to the Migratory Bird Treaty Act and the California Fish and Game Code, removal of any trees, shrubs, or any other potential nesting habitat shall be conducted outside the avian nesting season. The nesting season generally extends from early February through August, but it can vary slightly from year to year based on seasonal weather conditions. If ground disturbance and vegetation removal cannot occur outside of the nesting season, a preconstruction clearance survey for nesting birds shall be conducted within 30 days of the start of any vegetation removal or ground-disturbing activities to ensure no nesting birds will be disturbed during construction. The biologist conducting the clearance survey shall document a negative survey with a brief letter report indicating that no impacts to active avian nests will occur.

If an active avian nest is discovered during the preconstruction clearance survey, construction activities shall stay outside of a 300-foot buffer around the active nest. For raptor species, this buffer is expanded to 500 feet. A biological monitor shall be present to delineate the boundaries of the buffer area and to monitor the active nest to ensure nesting behavior is not adversely affected by the construction activity. Once the young have fledged and left the nest, or the nest otherwise becomes inactive under natural conditions, normal construction activities can occur.

As part of the nesting bird clearance survey, a preconstruction burrowing owl clearance survey shall be conducted within 30 days of the start of ground disturbing activities to ensure burrowing owl remain absent from the Project Area.

BIO-6: Prior to issuance of any grading permits for permanent impacts in jurisdictional features, the Project Applicant shall provide to the City of Fontana Planning Division documentation from the USACE, RWQCB and CDFW of the lack of federal and state jurisdictional waters on the Project site, or documentation that a Federal Clean Water Act Section 404 permit, a Report of Waste Discharge certification from the Regional Water Quality Control Board (RWQCB); and/or 32 a Streambed Alteration Agreement permit under Section 1602 of the California Fish and Game Code from the California Department of Fish and Wildlife (CDFW) have been obtained. The type, amount, and location of any required mitigation (including payment of fees or purchase of credits) shall be established by each regulatory agency during the review of any required permit.

CR-2: An archaeological monitor with at least 3 years of regional experience in archaeology and tribal monitors representing the consulting tribes (San Manuel Band of Mission Indians) shall be present for all ground-disturbing activities below 2 feet that occurs within the Modified Project area (which includes, but is not limited to, tree/shrub removal and planting, clearing/grubbing, grading, excavation, trenching, compaction, fence/gate removal and installation, drainage and irrigation removal and installation, hardscape installation [benches, signage, boulders, walls, seat walls, fountains, etc.]).

A Monitoring Plan shall be created prior to any and all ground-disturbing activity in consultation with the consulting tribes and agreed to by all parties. The Monitoring Plan shall include details regarding the monitoring process, as well as the Treatment and Disposition Plan described in Mitigation Measure CR 3. A sufficient number of archaeological and tribal monitors shall be present each workday to ensure that simultaneously occurring ground-disturbing activities receive thorough levels of monitoring coverage.

CR-3: A Treatment and Disposition Plan (TDP) shall be established, prior to the commencement of any and all ground-disturbing activities for the Project, including any archaeological testing. The TDP will provide details regarding the process for the in-field treatment of inadvertent discoveries and the disposition of inadvertently discovered non-funerary resources. Inadvertent discoveries of human remains and/or funerary object(s) are subject to California Health and Safety Code Section 7050.5. The subsequent disposition of those discoveries shall be decided by the most likely descendant (MLD), as determined by the Native American Heritage Commission (NAHC), should those findings be determined as Native American in origin.

GEO-5 Monitoring. Any excavations in the finer-grained sedimentary deposits on the Project Area shall be monitored closely by a qualified paleontologist, defined as a paleontologist who meets the Secretary of the Interior's Professional Qualification Standards for paleontology, to quickly and professionally recover any fossil remains while not impeding development.

GEO-6 Prior to any excavation in the finer-grained sedimentary deposits on the Project Area, sediment samples shall be collected by a qualified paleontologist, defined as a paleontologist who meets the Secretary of the Interior's Professional Qualification Standards for paleontology, from the finer-grained deposits on the Project Area and processed to determine their fossil potential. If subsurface fossils are discovered during earth-moving activities associated with the Modified Project, a qualified paleontologist or qualified designee shall divert these activities temporarily around the fossil site until the remains have been recovered, a rock sample has then been collected to process to allow for the recovery of smaller fossil remains, if warranted, and construction has been allowed to proceed through the site by a qualified paleontologist or qualified designee. If a qualified paleontologist or qualified designee is not present when fossil remains are uncovered by earth-moving activities, these activities shall be stopped, and a qualified paleontologist or qualified designee shall be called to the site immediately to recover the remains. Any fossils collected shall be placed in an accredited scientific institution for the benefit of current and future generations.

TR-1: Prior to issuance of any grading and/or demolition permits, whichever occurs first, the Project applicant shall prepare a Construction Traffic Management Plan (TMP) to be submitted for review and approval by the City Engineer. The TMP shall, at a minimum, address the following:

- Traffic control for any street closure, detour, or other disruption to traffic circulation.

-
- Identify the routes that construction vehicles will utilize for the delivery of construction materials (i.e., lumber, tiles, piping, windows, etc.), to access the Project site, traffic controls and detours, and proposed construction phasing plan for the Project.
 - Specify the hours during which transport activities can occur and methods to mitigate construction-related impacts to adjacent streets.
 - Require the Project applicant to keep all haul routes clean and free of debris including, but not limited to, gravel and dirt, as a result of its operations. The applicant shall clean adjacent streets, as directed by the City of Fontana Public Works Department, of any material which may have been spilled, tracked, or blown onto adjacent streets or areas.
 - Hauling or transport of oversize loads shall be subject to the requirements of the City of Fontana Public Works Department and/or the County of San Bernardino.
 - Use of local streets shall be prohibited.
 - Haul trucks entering or exiting public streets shall at all times yield to public traffic.
 - If hauling operations cause any damage to existing pavement, street, curb, and/or gutter along the haul route, the applicant will be fully responsible for repairs. The repairs shall be completed to the satisfaction of the City Engineer.
 - All construction-related parking and staging of vehicles shall be kept out of the adjacent public roadways and shall occur on-site.
 - Should the Project utilize State facilities for hauling of construction materials, the Construction Management Plan shall be submitted to the California Department of Transportation (Caltrans) for review and comment.
 - Should Project construction activities require temporary vehicle lane, bicycle lane, and/or sidewalk closures, the applicant shall coordinate with the City Engineer regarding timing and duration of proposed temporary lane and/or sidewalk closures do not impact operations of adjacent uses or emergency access.

The TMP shall be monitored for effectiveness and be modified in conjunction with the City Engineer if needed to improve safety and/or efficiency.

8 DETERMINATION

As set forth in State CEQA Guidelines Section 15164(b), an agency may prepare an addendum to a prior CEQA document: “An addendum to an adopted negative declaration may be prepared if only minor technical changes or additions are necessary or none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred.”

This Addendum is the appropriate CEQA documentation for the Project because:

-
- the Project does not change the land use that was previously approved, the impacts of which were previously analyzed in the Final EIR for the project approved under MCN15-078;
 - the Project would not permit an intensification of uses that would lead to increased environmental impacts beyond those that are already analyzed in the Final EIR;
 - the Project does not modify previously analyzed project in a substantive way;
 - no new Project-specific mitigation measures are required;
 - none of the conditions identified in Public Resources Code Section 21166 or Section 15162 of the CEQA Guidelines apply; and,
 - no new significant adverse Project-specific or cumulative impacts in any environmental areas were identified, nor would any project-specific or cumulative impacts in any environmental areas be made worse as a result of implementing the Project.

Therefore, pursuant to State CEQA Guidelines Section 15164, this document serves as an Addendum to the Certified Final EIR prepared for the original Approved Project - MCN15-078. It is the independent judgment of San Bernardino County LAFCO that the proposed changes to the Modified Project do not require the preparation of a subsequent MND or EIR as described in State CEQA Guidelines Section 15162.

9 REFERENCES

BCRConsulting, LLC. Cultural Resources Assessment. November 17, 2021. Appendix G.

California Department of Conservation. California Important Farmland Finder. Accessed:
<https://maps.conservation.ca.gov/dlrp/ciff/>

California Department of Conservation. Earthquake Zones of Required Investigation. Accessed:
<https://maps.conservation.ca.gov/cgs/EQZApp/app/>

California Department of Fish and Wildlife. Streambed Alteration Agreement. Map 5, 2020.
Appendix B.

CALFire. Fire Hazard Severity Zone Map. Accessed: <https://egis.fire.ca.gov/FHSZ/>

City of Fontana Municipal Code. (October 5, 2022). Accessed:
https://library.municode.com/ca/fontana/codes/code_of_ordinances

City of Fontana General Plan Land Use Map. April 20, 2022. Accessed:
<https://www.fontana.org/DocumentCenter/View/28163/General-Plan-Land-Use-Map-04-20-2022?bidId=>

City of Fontana Zoning District Map. April 20, 2022. Accessed:
<https://www.fontana.org/DocumentCenter/View/30623/Zoning-District-Map-04-20-2022?bidId=>

Department of Toxic Substances Control EnviroStor Database: Accessed:
<https://www.envirostor.dtsc.ca.gov/public/>

Glenn Lukos Associates, Inc. Addendum to the Jurisdictional Delineation Report for the I-15 Logistics Project. August 23, 2021. Appendix E.

Glenn Lukos Associates, Inc. Plummer's Mariposa Lily Mitigation and Monitoring Plan. June 29, 2021. Appendix G.

Glenn Lukos Associates, Inc. Tree Survey and Report. June 29, 2021. Appendix D.

Glenn Lukos Associates, Inc. Vegetation Map. April 1, 2021. Appendix C.

Michael Baker International. Habitat Assessment. October 2017. Appendix A.

ADDENDUM #1 APPENDICES:
Addendum #1 to the Final Environmental Impact Report for the
I-15 Logistics Project (SCH No. 218011008)

- [Addendum Appx A – Habitat Assessment](#)
- [Addendum Appx B – Streambed Alteration Agreement](#)
- [Addendum Appx C – Vegetation Layout Map](#)
- [Addendum Appx D – Tree Survey and Report](#)
- [Addendum Appx E – Jurisdictional Delineation Addendum](#)
- [Addendum Appx F – Plummer’s Mariposa Lily Mitigation & Monitoring Plan](#)
- [Addendum Appx G – Cultural Resources Assessment](#)

Environmental Documents Related to the City of Fontana’s
Approval of the I-15 Logistics Project (SCH No. 2018011008)

- ❖ [Notice of Determinations \(Filed June 26, 2020, and July 16, 2020\)](#)
- ❖ [Resolution No. 2020-072 Certifying the EIR \(SCH #2018011008\)](#)
- ❖ [Ordinance No. 1812 \(Rezoning\)](#)

- ❖ [Final Environmental Impact Report \(FEIR\)](#)
 - [FEIR Errata Dated 06-10-2020](#)
 - [FEIR Errata Dated 06-26-2020](#)
 - [FEIR Errata Dated 06-29-2020](#)

- ❖ [Draft Environmental Impact Report \(DEIR\)](#)
 - [DEIR Appx A – Notice of Preparation, Initial Study](#)
 - [DEIR Appx B – Air Quality Impact Analysis, Health Risk Assessment, GHG Emissions Report](#)
 - [DEIR Appx C – Habitat Assessment](#)
 - [DEIR Appx D – Cultural Resources Assessment](#)
 - [DEIR Appx E – Geotechnical/Fault Rupture Hazard Investigation Report](#)
 - [DEIR Appx F – Phase 1 Environmental Site Assessment Report](#)
 - [DEIR Appx G – Water Quality Management Plan](#)
 - [DEIR Appx H – Acoustical Analysis](#)
 - [DEIR Appx I – Traffic Impact Analysis](#)
 - [DEIR Appx J – Water Supply Assessment](#)

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

1170 West Third Street, Unit 150, San Bernardino, CA 92415-0490
(909) 388-0480 • Fax (909) 388-0481
lafco@lafco.sbcounty.gov
www.sbclafco.org

PROPOSAL NO.: LAFCO 3261

HEARING DATE: APRIL 19, 2023

RESOLUTION NO. 3368

A RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY MAKING DETERMINATIONS ON LAFCO 3261 - REORGANIZATION TO INCLUDE ANNEXATION TO THE CITY OF FONTANA AND DETACHMENT FROM FONTANA FIRE PROTECTION DISTRICT AND COUNTY SERVICE AREA 70

On motion of Commissioner _____, duly seconded by Commissioner _____, and carried, the Local Agency Formation Commission adopts the following resolution:

WHEREAS, an application for the proposed reorganization in San Bernardino County was filed with the Executive Officer of this Local Agency Formation Commission (hereinafter referred to as "the Commission") in accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Sections 56000 et seq.), and the Executive Officer has examined the application and executed his certificate in accordance with law, determining and certifying that the filings are sufficient; and,

WHEREAS, at the times and in the form and manner provided by law, the Executive Officer has given notice of the public hearing by the Commission on this matter; and,

WHEREAS, the Executive Officer has reviewed available information and prepared a report including his recommendations thereon, the filings and report and related information having been presented to and considered by this Commission; and,

WHEREAS, the public hearing by this Commission was called for April 19, 2023 at the time and place specified in the notice of public hearing; and,

WHEREAS, at the hearing, this Commission heard and received all oral and written support and/or opposition; the Commission considered all plans and proposed changes of organization, objections and evidence which were made, presented, or filed; it received evidence as to whether the territory is inhabited or uninhabited, improved or unimproved; and all persons present were given an opportunity to hear and be heard in respect to any matter relating to the application, in evidence presented at the hearing.

RESOLUTION NO. 3368

NOW, THEREFORE, BE IT RESOLVED, that the Commission does hereby determine, find, resolve, and order as follows:

SECTION 1. The proposal is approved subject to the terms and conditions hereinafter specified:

CONDITIONS:

Condition No. 1. The boundaries of this change of organization are approved as set forth in Exhibits “A” and “A-1” attached.

Condition No. 2. The following distinctive short-form designation shall be used throughout this proceeding: LAFCO 3261.

Condition No. 3. All previously authorized charges, fees, assessments, and/or taxes currently in effect by the City of Fontana (annexing agency) shall be assumed by the annexing territory in the same manner as provided in the original authorization pursuant to Government Code Section 56886(t).

Condition No. 4. The I-15 Logistics, LLC shall indemnify, defend, and hold harmless the Local Agency Formation Commission for San Bernardino County from any legal expense, legal action, or judgment arising out of the Commission’s approval of this proposal, including any reimbursement of legal fees and costs incurred by the Commission.

Condition No. 5. Pursuant to Government Code Section 56886.1, public utilities, as defined in Section 216 of the Public Utilities Code, have ninety (90) days following the recording of the Certificate of Completion to make the necessary changes.

Condition No. 6. The date of issuance of the Certification of Completion shall be the effective date of the reorganization.

SECTION 2. The Commission determines that:

- a) this proposal is certified to be legally uninhabited;
- b) it has 100 % landowner consent; and,
- c) no written opposition to a waiver of protest proceedings has been submitted by any subject agency.

Therefore, the Commission does hereby waive the protest proceedings for this action as permitted by Government Code Section 56662(d).

SECTION 3. DETERMINATIONS. The following determinations are required to be provided by Commission policy and Government Code Section 56668:

1. The reorganization area is legally uninhabited containing zero registered voters as certified by the Registrar of Voters as of March 24, 2023.

RESOLUTION NO. 3368

2. The County Assessor's Office has determined that the total assessed value of land within the reorganization area is \$1,191,323 as of November 29, 2022.
3. The reorganization area is within the sphere of influence for the City of Fontana.
4. Legal notice of the Commission's consideration of the proposal has been provided through publication in *The Sun*, a newspaper of general circulation within the area. As required by State law, individual notification was provided to affected and interested agencies, County departments, and those individuals and agencies having requested such notice.
5. In compliance with the requirements of Government Code Section 56157 and Commission policies, LAFCO staff has provided individual notice to landowners (10) and registered voters (6) surrounding the reorganization area (totaling 16 notices). Comments from registered voters, landowners, and other individuals and any affected local agency in support or opposition have been reviewed and considered by the Commission in making its determination.
6. The City of Fontana pre-zoned the reorganization area as Residential Estate (R-E) and Open Space – Natural (OS-N).
7. The Southern California Associated Governments ("SCAG") recently adopted its 2020-2045 Regional Transportation Plan and Sustainable Communities Strategy (RTP-SCS) pursuant to Government Code Section 65080. LAFCO 3261 has no direct impact on SCAG's Regional Transportation Plan and Sustainable Communities Strategy; however, the reorganization area is close to the I-15 Freeway, which is part of the RTP-SCS's regional express lane network that will be adding two express lanes on both freeways in each direction for completion by 2040.
8. The City of Fontana approved and adopted its 2017 Local Hazard Mitigation Plan on August 14, 2018 that shows the reorganization area is adjacent to both high and very high Fire Hazard Severity Zones.
9. A Complete Final Environmental Impact Report (EIR) was prepared and certified as adequate by the City of Fontana for the I-15 Logistics Project (SCH No. 218011008). This Complete Final EIR addresses environmental impacts of the Project and an Addendum, Addendum #1 to the Final EIR was prepared for the Commission's use in considering the reorganization proposal (Copies of the City's Complete Final EIR and Addendum #1, including all associated documents, were provided to Commission). The Commission's staff and its Environmental Consultant have independently reviewed the Complete Final EIR and Addendum #1 and found them to be adequate for the LAFCO 3261 decision.

The Commission certified that it had reviewed and considered the City's Complete Final EIR and Addendum #1 and the environmental effects outlined therein prior to reaching a decision as a CEQA lead agency. The Commission acknowledged the mitigation measures and Mitigation Monitoring and Reporting Program contained in the City's Complete Final EIR and found that no additional alternatives or mitigation measures would be adopted by the Commission. The Commission found that all changes, alterations, and mitigation measures are within the responsibility and jurisdiction of the City and other agencies, not the Commission. The Commission

RESOLUTION NO. 3368

found that it is the responsibility of the City to oversee and implement these measures and the Mitigation Monitoring and Reporting Program.

10. The reorganization area is served by the following local agencies: County of San Bernardino, Inland Empire Resource Conservation District, Fontana Fire Protection District, West Valley Water District, San Bernardino Valley Municipal Water District, and County Service Area 70 (multi-function unincorporated area Countywide)

County Service Area 70 will be detached and its sphere of influence reduced upon successful completion of this proposal.

11. A Plan of Service was prepared for the extension of services to the reorganization area, as required by law. The Plan for Service and the Fiscal Impact Analysis, as certified by the City indicates that the City can maintain and/or improve the level and range of services currently available in the area.

The Plan for Service and Fiscal Impact Analysis has been reviewed and compared with the standards established by the Commission and the factors contained within Government Code Section 56668. The Commission finds that the Plan for Service and the Fiscal Impact Analysis conform to those adopted standards and requirements.

12. The reorganization proposal complies with Commission policies that indicate the preference for areas proposed for development at an urban-level land use be included within a City so that the full range of municipal services can be planned, funded, extended and maintained.
13. The reorganization area can benefit from the availability and extension of municipal services from the City of Fontana, as evidenced by their Plans for Service.
14. This proposal will not have an effect on the City of Fontana's ability to achieve its fair share of the regional housing needs since a debris basin is being built on the property.
15. With respect to environmental justice, which is the fair treatment of people of all races, cultures, and incomes approval of the reorganization to annex the parcel into the City of Fontana to be used for a debris basin to serve the I-15 Logistics Project will not result in the deprivation of service or the unfair treatment of any person based on race, culture or income.
16. The County of San Bernardino and the City of Fontana have successfully negotiated a transfer of property tax revenues that will be implemented upon completion of this reorganization. This fulfills the requirements of Section 99 of the Revenue and Taxation Code.
17. The maps and legal descriptions, as revised, are in substantial compliance with LAFCO and State standards through certification by the County Surveyor's Office.

SECTION 4. The primary reason the property owner/developer initiated the reorganization proposal is to construct a debris basin (and storm drain connection) within the property that is needed to support the I-15 Logistics Project—a 1,171,788 sq. ft. high-cube warehouse logistics facility that was previously annexed into the City of Fontana.

RESOLUTION NO. 3368

SECTION 5. The affected territory shall not be taxed for existing bonded indebtedness or contractual obligations of the City of Fontana through the reorganization. The City also utilizes the regular County assessment rolls.

SECTION 6. Approval by the Local Agency Formation Commission indicates that completion of this proposal would accomplish the proposed change of organization in a reasonable manner with a maximum chance of success and a minimum disruption of service to the functions of other local agencies in the area.

SECTION 7. The Commission hereby orders the territory described in Exhibits "A" and "A-1" reorganized. The Commission hereby directs, that following completion of the reconsideration period specified by Government Code Section 56895(b), the Executive Officer shall prepare and file a Certificate of Completion, as required by Government Code Section 57176 through 57203, and a Statement of Boundary Change, as required by Government Code Section 57204.

SECTION 8. The Executive Officer is hereby authorized and directed to mail certified copies of this resolution in the manner provided by Section 56882 of the Government Code.

THIS ACTION APPROVED AND ADOPTED by the Local Agency Formation Commission for San Bernardino County by the following vote:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN BERNARDINO)

I, SAMUEL MARTINEZ, Executive Officer of the Local Agency Formation Commission for San Bernardino County, California, do hereby certify this record to be a full, true, and correct copy of the action taken by said Commission by vote of the members present as the same appears in the Official Minutes of said Commission at its regular meeting of April 19, 2023.

DATED:

SAMUEL MARTINEZ
Executive Officer

EXHIBIT "A"
LEGAL DESCRIPTION
ANNEXATION

**LAFCO 3261 – REORGANIZATION TO INCLUDE ANNEXATION TO THE CITY OF
FONTANA AND DETACHMENT FROM COUNTY SERVICE AREA 70
(APN 0239-072-02)**

THAT PORTION OF THE NORTHWEST QUARTER OF SECTION 18, TOWNSHIP 1 NORTH, RANGE 5 WEST, SAN BERNARDINO MERIDIAN, LOCATED IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

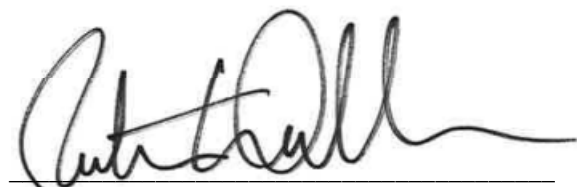
BEGINNING AT A POINT ON THE EXISTING BOUNDARY OF THE CITY OF FONTANA PER ANNEXATION NO. _____, (LAFCO 3243), RECORDED MARCH 29, 2021, AS INSTRUMENT NO. 2021-0140584, OFFICIAL RECORDS OF SAID COUNTY, SAID POINT BEING THE INTERSECTION OF THE NORTH LINE OF SAID NORTHWEST QUARTER OF SECTION 18 WITH THE NORTHWESTERLY RIGHT OF WAY LINE OF LYTLE CREEK ROAD (60.00 FEET WIDE) AS DESCRIBED IN DEED DATED JULY 16, 1934 AND RECORDED IN BOOK 982, PAGE 158 OF OFFICIAL RECORDS OF SAID COUNTY;

1. THENCE ALONG SAID CITY BOUNDARY AND SAID NORTHWESTERLY RIGHT-OF-WAY LINE AS ESTABLISHED PER ANNEXATION NO. _____, (LAFCO 3243), THROUGH ITS VARIOUS COURSES IN A GENERALLY WESTERLY, SOUTHERLY, AND SOUTHWESTERLY DIRECTION TO THE INTERSECTION OF SAID NORTHWESTERLY RIGHT-OF-WAY LINE OF LYTLE CREEK ROAD AND THAT CERTAIN AGREED BOUNDARY LINE DESCRIBED IN DEED RECORDED NOVEMBER 23, 1949 IN BOOK 2491, PAGE 324, OFFICIAL RECORDS OF SAID COUNTY;
2. THENCE LEAVING SAID NORTHWESTERLY RIGHT OF WAY LINE, AND ALSO LEAVING SAID EXISTING CITY BOUNDARY, ALONG SAID AGREED BOUNDARY LINE, NORTH 00°30'32" WEST, 637.97 FEET MORE OR LESS TO THE INTERSECTION OF SAID AGREED BOUNDARY LINE WITH SAID NORTH LINE OF THE NORTHWEST QUARTER OF SECTION 18;
3. THENCE ALONG SAID NORTH LINE OF THE NORTHWEST QUARTER OF SECTION 18, NORTH 89°51'25" EAST, 838.74 FEET MORE OR LESS TO THE **POINT OF BEGINNING**.

CONTAINING: 233,114 SQUARE FEET, OR 5.352 ACRES, MORE OR LESS

EXHIBIT "B": ATTACHED HERETO AND MADE A PART HEREOF FOR CLARIFICATION PURPOSES IF NECESSARY.

THIS LEGAL DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECTION.



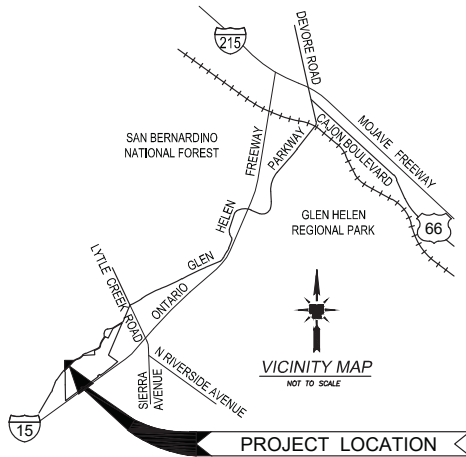
ROBERT WALKER, L.S. 7137

03/14/2023

DATE

EXHIBIT B ANNEXATION MAP

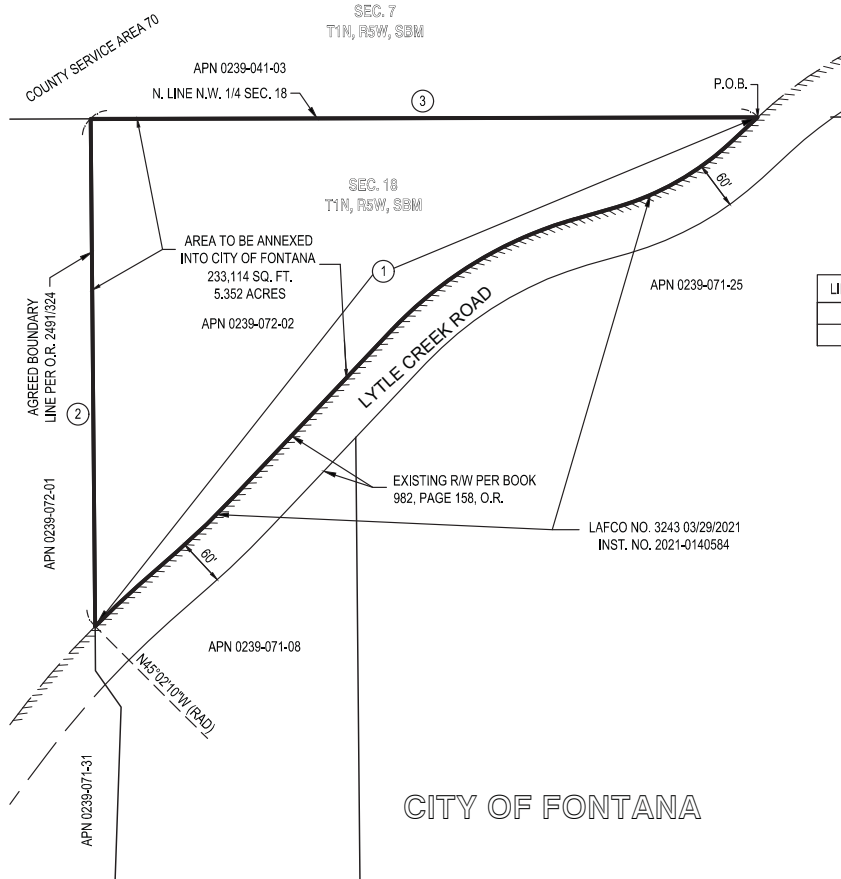
LAFCO 3261 - REORGANIZATION TO INCLUDE ANNEXATION TO THE CITY OF FONTANA
AND DETACHMENT FROM COUNTY SERVICE AREA 70 (APN 0239-072-02)



LEGEND

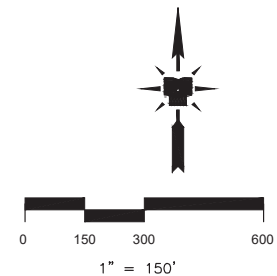
- P.O.B. = POINT OF BEGINNING
- [Solid Line] = ANNEXATION/DETACHMENT BOUNDARY
- [Dashed Line] = EXISTING CITY OF FONTANA BOUNDARY AND LAFCO 3243 BOUNDARY
- # = COURSE NUMBER

Robert Walker
 LICENSED LAND SURVEYOR
 ROBERT WALKER
 No. 7137
 STATE OF CALIFORNIA
 ROBERT WALKER, PLS 7137
 DATE PREPARED: 03/14/2023



LINE #	BEARING/DELTA	RADIUS	LENGTH
2	N00°30'32"W		637.97'
3	N89°51'25"E		838.74'

AFFECTED AGENCIES
 CITY OF FONTANA
 COUNTY SERVICE AREA 70



ANNEXATION TO THE CITY OF FONTANA

DAVID EVANS
 ASSOCIATES INC.
 4141 E. Inland Empire Blvd., Suite 220
 Fontana, CA 92335
 Phone: (909) 481-0700

REVISIONS: APPD.

DATE: March 14, 2023
 DESIGN: SKZ
 CHECKED: RW
 REVISION NUMBER:

SCALE: 1"=150'

PROJECT NUMBER:
 CPRK115L0001


DRAWING FILE:
 CPRK115L0001 Annexation Exhibit B.

SHEET NO.

1
 OF 1

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

1170 West Third Street, Unit 150, San Bernardino, CA 92415-0490
(909) 388-0480 * Fax (909) 388-0481
lafco@lafco.sbcounty.gov
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DATE: APRIL 12, 2023 
FROM: SAMUEL MARTINEZ, Executive Officer
MICHAEL TUERPE, Senior Analyst
TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: AGENDA ITEM #11 – PROPOSED AMENDMENTS TO LAFCO POLICY
AND PROCEDURE MANUAL

RECOMMENDATION:

Staff recommends that the Commission:

1. Provide staff with any additional changes, corrections or amendments to the Policy and Procedure Manual as presented.
2. Schedule a public hearing for May 17, 2023 for formal approval of the amendments to the Policy and Procedure Manual.

BACKGROUND:

At this hearing, LAFCO staff is presenting the Commission with several amendments to the Policy and Procedure Manual for its consideration. The Ad Hoc Policy Committee and the Executive Officer have reviewed and discussed these policy changes.

The proposed amendments consist of substantive and non-substantive changes. The substantive changes relate more to Commission operations as there is one amendment that has a fiscal impact (additional steps in the salary range). Non-substantive changes include legal clarification, statutory changes, and deletion of obsolete language. To implement the proposed amendments, staff recommends that the Commission amend its Policy and Procedure Manual, as follows:

INTRODUCTION

ATTACHMENT PAGE 2

Delete obsolete language.

SECTION I – MISSION STATEMENT AND COMMISSION OPERATIONS

CHAPTER 1: MISSION AND AUTHORITY

- Policy 3 “Authority” *PAGES 4-7*
Delete redundant language which is recitation of law.

CHAPTER 2: ORGANIZATION

- Policy 2 “Selection/Appointment of Members” *PAGES 8-9*
For the Public Member vacancy, amend where the notice is posted by removing the press release. This location was included in the policy before the internet. Currently, posting on the Commission website and newspaper publications provide the widest reach, and posting at the library has resulted in past applications for the vacancies. Language clarification is also included.

CHAPTER 3: COMMISSION RULES OF ORDER

- Introduction paragraph *PAGE 11*
Delete obsolete language.
- Policy 2 “Election of Chair and Vice-Chair” *PAGE 11*
Currently, the Chair immediately takes control of the meeting following election as chair. This has led to instances where the newly elected Chair must conduct a meeting without full preparation. The amendment to the policy would state that, “The term of the Chair and Vice-Chair shall be effective upon adjournment of the meeting of their election.”
- Policy 3 “Chairman’s Role” *PAGE 11*
There have been instances where the Chair and Vice-Chair have both been absent from a meeting. Amending the policy would clarify that, “In the absence of the Chair and Vice Chair, the present voting members shall select a present voting member to act as Chair.”
- Policy 5 “Appointment of Standing and Special Committees” *PAGES 11-12*
Amend the policy to state that the Chair appoints the San Bernardino LAFCO representative to the Southern Region of CALAFCO and the term.

The Chair shall appoint such standing, ad hoc, and special committees as may be deemed necessary. Each Fiscal Year the Chair shall determine the need for an ad hoc committee to review Audit and Budgetary matters and identify the membership. The Chair shall also appoint two San Bernardino LAFCO representatives to the Southern Region of CALAFCO whose terms shall be limited to a four-year term unless that member is a current Southern Region of CALAFCO officer or current CALAFCO board member. A current Southern Region of CALAFCO officer or current CALAFCO board member shall automatically be one of the representatives to the Southern Region of CALAFCOs.

- Policy 6 “Regular Meeting Date” PAGE 12
Change “nine o’clock” to “9:00”
- Policy 8 “Order of Business” PAGES 12-13
The amendment moves the Public Comment agenda item from the end of the meeting towards the beginning of the meeting. The purpose would be to reduce the time that the public must wait to provide comments related to other items under the jurisdiction of LAFCO not on the agenda. The Amendment also includes Closed Session.
- Policy 9 “Speaker’s Comments” PAGE 13
The Commission does not have a policy regarding time limits for speakers. Given recent court rulings and legislation, staff recommends the following amendment to the policy:

SPEAKER’S PRESENTATION COMMENTS (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 before the Commission and provide new and relevant information into the discussion.~~

Members of the public are generally limited to three minutes of speaking time relating to either (1) agenda items or (2) non-agenda items within the Commission’s subject matter jurisdiction. During public hearings, the applicant’s or lead proponent’s comment period is generally limited to five minutes.

However, the Commission Chair has the discretion to shorten or lengthen these allotted speaking times.

- Policy 12 “Closed Sessions of Commission” PAGE 13
The amendment simplifies language.

- Policy 16 “Calling of Emergency Meetings” *PAGE 14*
The amendment replaces “by mail” with “by any other means and shall be received” when notifying a commissioner of an emergency meeting.

- Policy 17 “Legislative Support/Opposition” (New policy) *PAGES 14-15*
The Commission does not have a policy regarding positions on legislation. The new policy would identify that only the Chair or Vice-Chair can sign letters of support/opposition. In addition, the Commission has questioned San Bernardino LAFCO’s interest in legislative positions when the matter does not relate to LAFCO. Staff recommends the following policy:

LEGISLATIVE POSITIONS

Letters in support of or opposition to legislation shall only be signed by the Chair or Vice Chair following Commission discussion. Should the need arise to support or oppose legislation before Commission discussion, then the Executive Officer shall notify each commissioner of the legislation and the position to be taken and indicate that an item will be placed on the next agenda for Commission ratification, unless objection to the position is

received from a commissioner. If an objection is received from a commissioner, no letter in support of or opposition to legislation will be forwarded or sent prior to Commission discussion.

The Commission’s intent is not to consider requests for San Bernardino LAFCO to support or oppose legislation on matters not related to LAFCOs or CALAFCO unless any commissioner requests that the item be formally considered by the Commission. If such a request is received the item will be placed on the next agenda for Commission discussion and consideration.

SECTION II – INTERNAL OPERATIONS, ACCOUNTING AND FINANCIAL

CHAPTER 1: INTERNAL OPERATIONS

- “Introduction” *PAGE 16*
Delete since a listing of agreements are not policies.
- Policy 1 “Resolutions of Appreciation” *PAGE 17*
Change “retiring” Commissioner to “separating” Commissioner.
- Policy 2 “Disclosure of LAFCO Compensation and Budget” *PAGE 17*
Delete obsolete language and add clarifying language.
- Policy 3 “Expense Reimbursement” *PAGE 18*
Update language on the mechanism for authorizing travel.
- Policy 4 “Commission Stipend/Per Diem Payment” *PAGE 24*
Update the correct name of “Southern Region of CALAFCO”.
- Policy 5 “Annual Audit” *PAGES 24-25*
Clarify that San Bernardino LAFCO may participate with any LAFCO(s) for a joint RFP for auditing services, not just Southern Region of CALAFCO.
- Policy 6 “Reserve Policy” *PAGE 25*
Delete the Pension Liability Reserve as this payment is now included in the annual budget, and update the date that staff identifies the compensated absences liability.
- Policy 9 “Purchasing for Non-Budgeted Items” (New Policy) *PAGE 27*
The Policy Manual lacks a policy that limits spending by the Executive Officer for non-budgeted items. Although there is a limit of \$5,000 in practice, it would be best to have a clear and defined policy. Staff recommends that the Commission adopt the following:

PURCHASING FOR NON-BUDGETED ITEMS

For urgent purchases that are not included in the budget, the following identifies the purchasing limits and authority:

<u>Limit</u>	<u>Authority</u>
<u>\$ 5,000</u>	<u>Executive Officer approval</u>
<u>\$20,000</u>	<u>Chair or Vice-Chair approval with ratification for</u>
	<u>authorization at the next hearing</u>
<u>Over \$20,000</u>	<u>Commission authorization</u>

- Policy 10 “Authority of the Assistant Executive Officer” (New Policy) PAGE 27
The Commission authorizes the Assistant Executive Officer position, but the Policy Manual lacks a policy identifying the authority of said position should the need arise. Staff recommends that the Commission adopt the following:

Under direction of the Executive Officer, or under direction of the Chair or Vice Chair in the absence of the Executive Officer, the Assistant Executive Officer is authorized payment, purchasing, and signature authority.

CHAPTER 2: APPLICATION PROCESSING

- Policy 1 “LAFCO Fee/Waiver/Reduction Provisions” PAGE 28
Current policy for the Fee Waiver limits the waiver to 100 acres when an application that has a concurrent sphere and reorganization are the same area. Staff cannot support any reasoning for the 100-acre limit and recommends deletion of the 100-acre limit.
- Policy 2 “LAFCO Filing Fee Refunds” PAGE 29
Update the name of a milestone from “Department Review Committee” to “staff’s Technical Application Review”.
- Policy 4 “Responsibility for Payment of Special Legal Counsel Costs” PG 31
In July 2022, the Commission approved a retainer agreement with Colantuono, Highsmith & Whatley, PC to provide legal services. Having this retainer agreement to serve as on call/as needed conflicts counsel eliminates the need to serial agreements every time the Commission requires special counsel. The Policy Manual does not account for a retainer agreement for special counsel, and staff recommends that the Commission amend this policy to include such language.

...

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.
-

SECTION III – HUMAN RESOURCES

LAFCO generally mirrors the benefits that the County provides to its exempt employees and contracts with the County for payroll and accounting services. In January 2023, the County amended its ordinance related to Compensation and Terms and Conditions of Exempt Employees. Staff reviewed the amendments to the ordinance, as well as its own HR policies, and the following are presented to the Commission for amendment:

CHAPTER 1: WORKING ENVIRONMENT

PAGE 42

- Move the Safety and Desk Inspection policies from Chapter IV to Chapter I. The policies are now Policies 10 and 11, respectively.

CHAPTER 2: EMPLOYMENT

- Policy 2 “Compensation” *PAGE 46*
Effective July 15, 2023, add two top steps at approximately 2.5% each above the current top step for all salary ranges.
- Policy 4 “Performance Management” *PAGE 51*
Clean up language to the Performance Management policy regarding demotions to provide placement of demoted employees on a salary step within the demoted salary range.

CHAPTER 3: TIME OFF

PAGES 56, 58, 65, 67, 75

- Updates and clarification to language due to statute and regulations.

CHAPTER 4: ELECTRONIC COMMUNICATION, SAFETY, AND EQUIPMENT

The four policies within this Chapter would move, and this chapter would be deleted.

PAGES 82-90

- | | |
|------------------------------------|--------------------------------|
| • Computer and Email Usage | Move to new Sec. VII, Policy 1 |
| • Electronic Communications Policy | Move to new Sec. VII, Policy 2 |
| • Safety | Move to Ch. I, Policy 10 |
| • Desk Inspection Policy | Move to Ch. I, Policy 11 |

CHAPTER 4: BENEFITS PLAN

- Policy 2 “Medical and Dental Subsidies” *PAGES 92-94*
Update sections of the Medical and Dental Coverage Insurance provision to provide clarity for administration.

- Policy 4 “Life Insurance” *PAGE 97*
Reflect discontinuation of the Variable Group Life Insurance policy that was effective 9/1/22 and was replaced by a group life insurance policy option.
 - Policy 10 “Healthy Lifestyles Program” *PAGE 105*
Update eligibility for Healthy Lifestyles Program to include fitness programs as eligible for reimbursement.
-

SECTION IV – APPLICATION PROCESSING

CHAPTER 1: PROPOSALS

- Policy 10 “Waiver of LAFCO Legal Counsel Conflicts of Interest” *PGS 117-118*
Other agencies use the same legal counsel firm as San Bernardino LAFCO, and for each application LAFCO must implement the waiver of legal counsel procedure. The possibility of a blanket waiver for non-controversial items has been broached. Staff recommends that the Commission consider amending this policy a blanket legal waiver, shown below:

The Commission may enter into a blanket legal counsel conflict waiver with respect to conflicts involving a specific public agency or specific types of proposals involving a specific public agency. The issuance of the blanket waiver would be subject to approval by the San Bernardino Commission.

- Policy 14 “Disadvantaged Unincorporated Community Annexation” *PGS 119-120*
Deletion of language due to change in statute and clarification of language.

CHAPTER 2: OUT OF AGENCY SERVICE CONTRACTS

- Policy 2 “Executive Officer Authority” and “Review Procedure 2 “LAFCO Executive Officer Administrative Review Procedures” *PAGES 125, 128, 129*
The Commission has delegated review and approval for non-development related service contracts to the Executive Officer. With changes to housing laws related to ADUs that streamlines the permitting process, staff recommends that the Commission delegate to the Executive Officer all service contract review and approval to accessory dwelling units on lots where a primary unit already exists.
 - Policy 3 “Government Code Section 56133.5” *PAGE 125*
Deletion of confusing language. Section 56133.5 relates to the pilot program for Napa and San Bernardino LAFCOs.
 - Review Procedure 1 “Commission Review Procedures” *PAGES 127-128*
Deletion of confusing language. The Commission has delegated to the Executive Officer review and approval of out-of-agency service contract applications proposed to remedy a health and safety concern – inside and outside an agency’s boundary and inside and outside an agency’s sphere of influence.
-

CHAPTER 2: OUT OF AGENCY SERVICE CONTRACTS

- ## **SECTION VII – INFORMATION TECHNOLOGY (NEW SECTION)**

- Computer and Email Usage Moved to new Ch. VII, Policy 1 *PGS 208-210*
- Electronic Communications Moved to new Ch. VII, Policy 2 *PGS 211-215*

- Written Protest Forms PAGES 262-264
Staff has reformatted and made a non-substantial change to the Written Protest Form. Staff recommends that the Commission adopt the Written Protest Form as amended and adopt the Landowner Written Protest Form for Multiple Properties.

1. Provide staff with any additional changes, corrections or amendments to the Policy and Procedure Manual as presented.
2. Schedule a public hearing for May 17, 2023 for formal approval of the amendments to the Policy and Procedure Manual.

Proposed LAFCO Policy Amendments in Track Change Format

Policy & Procedure Manual



LAFCO

for San Bernardino County

Updated

MAY 2023

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, application processing, and environmental review. 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.~~

The intent of this 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 generally 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 eight sections: (1) Mission Statement and Commission Operations; (2) Accounting and Financial; (3) Human Resources; (4) Application Processing; (5) Environmental Review; (6) Special Districts; (7) Forms; and (8) Appendices.~~

Any questions concerning the Commission's adopted policies and procedures can be directed to LAFCO staff:

San Bernardino LAFCO
1170 W. Third Street, Unit 150
San Bernardino, CA 92415-0490

(909) 388-0480

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SECTION I

MISSION STATEMENT AND COMMISSION OPERATIONS

CHAPTER 1: MISSION AND AUTHORITY

1. **TITLE:**

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

2. **MISSION:**

San Bernardino LAFCO is the guardian of the public interest in ensuring our local public agencies are providing efficient and cost-effective public services in order to maintain or improve our citizens' quality of life.

3. **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, [\[Government Code Title 5, Division 3 \(Section 56000 et seq.\)\]](#). ~~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. 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.~~

~~• Establishment and amendment of a sphere of influence which is defined as a planning tool to determine the "probable physical boundary of an agency.~~

~~• The activation or divestiture of functions and/or classes of service for special districts pursuant to their principal act.~~

~~• Review and approval, approval with conditions, 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:~~

~~• 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.)~~

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

~~• 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.~~

- ~~• 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.~~

- ~~• 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.~~

- ~~• 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 change of organization or reorganization 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.~~

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- ~~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.~~

CHAPTER 2: 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 V 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. Independent Special Districts: The Independent Special Districts Selection Committee shall select two regular commissioners and one alternate commissioner from the independent special districts within the County (§56332). Such appointment shall be made in accordance with the procedures established by the Special Districts Selection Committee as outlined in Section VI of this Manual.
- D. Public Member: The public member and one alternate public member are appointed by the other six commissioners (§56325(d)).

POLICY (adopted June 14, 1978, amended April 16, 1997, January 1, 2001, August 2010, August 19, 2015):

Upon announcement of a vacancy for the public member or alternate public member, 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, mailed, or ~~and~~-posted as follows:
 - a. Posted at the LAFCO staff office, on the LAFCO website, at the regular LAFCO ~~hearing~~-meeting chamber ~~and at~~

~~the Board of Supervisors hearing chamber;~~

- b. ~~Any other location directed by the Commission~~Mailed to Public Libraries; and
- c. Publish a Notice of Vacancy in newspapers of general circulation in the County and provide mailed Notice of Vacancy to all clerks or secretaries of each local agency within the County~~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.

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 term 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.

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- 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.

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CHAPTER 3: 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 (available on the LAFCO website).

2. ELECTION OF CHAIR AND VICE CHAIR (Amended August 19, 2015; April 15, 2020)

The Chair and Vice Chair shall be elected each year, during the first meeting in the month of May, by a majority of the Commission. [The term of the Chair and Vice-Chair shall be effective upon adjournment of the meeting of their election.](#) The Chair and Vice Chair positions shall be limited to two consecutive one-year terms. Should a member serve two consecutive one-year terms as Chair or Vice Chair, the member is not eligible for election to their former Chair or Vice Chair position for at least two years.

3. CHAIRMAN'S ROLE

The Chair of the Commission shall preserve order and decorum and shall decide questions of order subject to appeal by the Commission. In the Chair's absence, the Vice Chair shall act as Chair. [In the absence of the Chair and Vice Chair, the present voting members shall select a present voting member to act as Chair.](#)

4. CHAIR'S VOTING PRIVILEGES

The Chair of the Commission shall, in voting procedures, have all the rights and obligations of other members.

5. APPOINTMENT OF STANDING AND SPECIAL COMMITTEES (Amended August 21, 2013)

The Chair shall appoint such standing, ad hoc, and special committees as may be deemed necessary. Each Fiscal Year the Chair shall determine the need for an ad hoc committee to review Audit and Budgetary matters and identify the membership. The Chair shall also appoint two San Bernardino LAFCO representatives to the Southern Region of CALAFCO whose terms shall be limited to a four-year term unless that member is a current Southern Region of CALAFCO officer or current CALAFCO board member. A current Southern Region of CALAFCO officer or current CALAFCO board member shall automatically be one of the representatives to the Southern Region of CALAFCOs.

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~~ 9:00 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 Chair

B. Salute to the Flag

C. Closed Session

D. Public Comment

~~C.E.~~ E. Presentation of Consent Items; which shall include Approval of Minutes of Previous Meeting and Approval of Resolution for Previous Actions, as necessary

~~D.F.~~ F. Public Hearing Items

~~E.G.~~ G. Discussion Items

- H. Information Items ~~or Special Matters including Commissioner~~
~~Comments~~
F. ~~and Comments from the Public~~
G. Adjournment

9. **SPEAKER'S PRESENTATION COMMENTS** (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 before the Commission ~~and provide new and relevant information into the discussion.~~

Members of the public are generally limited to three minutes of speaking time relating to either (1) agenda items or (2) non-agenda items within the Commission's subject matter jurisdiction. During public hearings, the applicant's or lead proponent's comment period is generally limited to five minutes.

However, the Commission Chair has the discretion to shorten or lengthen these allotted speaking times.

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, August 19, 2015)

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~~ matters permitted by law for a closed session. 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. All members of the Commission, both regular and alternate, are encouraged to participate in the closed session; however, only regular members may vote on the closed session item.

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. 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.

15. 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.

16. CALLING OF EMERGENCY OR SPECIAL HEARINGS

An emergency or special meeting may be called at any time by the Chair of the Commission, or by a majority of the members of the Commission. Notice of such meeting must be delivered personally or by ~~mail~~[any other means and shall be received](#) 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.

17. LEGISLATIVE POSITIONS

[Letters in support of or opposition to legislation shall only be signed by the Chair or Vice Chair following Commission discussion. Should the need arise to support or oppose legislation before Commission discussion, then the Executive Officer shall notify each commissioner of the legislation and the position to be taken and indicate that an item will be placed on the next agenda for Commission ratification, unless objection to the position is](#)

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received from a commissioner. If an objection is received from a commissioner, no letter in support of or opposition to legislation will be forwarded or sent prior to Commission discussion.

The Commission's intent is not to consider requests for San Bernardino LAFCO to support or oppose legislation on matters not related to LAFCOs or CALAFCO unless any commissioner requests that the item be formally considered by the Commission. If such a request is received the item will be placed on the next agenda for Commission discussion and consideration.

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SECTION II **INTERNAL OPERATIONS, ACCOUNTING, AND FINANCIAL**

CHAPTER 1: FINANCIAL POLICIES FOR **INTERNAL OPERATIONS**

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:

- Production Support Agreement with the San Bernardino County Information Services Department. San Bernardino LAFCO contracts for the provision of IT services from the County of San Bernardino for its network system, computer operations, and geographic information systems services. The current contract was entered into October 2012 and continues until terminated or amended. San Bernardino LAFCO pre-approves all projects and maintenance prior to any Information Services Department (ISD) time being expended for such purposes. ISD provides San Bernardino LAFCO with an itemized monthly bill for services rendered per the Board of Supervisors' approved fees, and processes payment monthly via an interdepartmental transfer.
- Agreement with Auditor for Services. In October 2014 the County, County Auditor, and San Bernardino LAFCO entered into an agreement to formulate and maintain a cooperative working relationship in which the County and County Auditor will provide accounting and payroll services to LAFCO. The term of this agreement is from January 1, 2015 to June 30, 2017, and shall be automatically renewed for successive one-year periods unless otherwise amended or terminated.
- 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.

POLICIES:

1. RESOLUTIONS OF APPRECIATION (Adopted September 12, 1979)

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

In respect to ~~retiring~~separating Commissioners, the public purpose being served by such expenditure is that through publicly adopted resolutions of appreciation, 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.

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

~~In order to~~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. Budget - Current and preceding four ~~F~~fiscal ~~Y~~years ~~Budget~~.
- B. Financial Statements - Most ~~R~~recent ~~Audit~~and preceding four fiscal years.
- C. Annual compensation paid to each Commissioner from ~~the Local Agency Formation Commission~~San Bernardino LAFCO for the preceding ~~c~~calendar ~~y~~year.
- D. Annual compensation paid by San Bernardino LAFCO for each filled 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.~~for the preceding calendar year.
- E. Fair Political Practices Commission Form 700 – Statement of Economic Interests for those positions designated to file a Form 700 for the preceding five calendar years. ~~San Bernardino LAFCO Commissioners and Management Staff.~~

3. **EXPENSE REIMBURSEMENT** *(Added to the Human Resources Policies and Procedures June 16, 2011; transferred and revised June 20, 2012 to general accounting policies; Amended August 19, 2015; April 15, 2020)*

A. GENERAL PROVISIONS

The purpose of this section is to define the policies 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 Manual.

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. Failure to obtain prior approval may result in denial of any expense claim (or excess amount) not pre-approved.

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.~~ Travel requests will follow the rules and controls of San Bernardino County via its financial accounting system.

(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 and within one year of the date that the expense was incurred.
- (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. Telephone, fax or other communication-related charges including Wi-Fi and internet access fees if needed to conduct San Bernardino LAFCO business.
 - d. 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, personal grooming, alcoholic beverages, etc.
- (6) Except as otherwise provided in this section, expense reimbursements shall be made on an actual cost basis.
- (7) If the receipt is unavailable, the employee may submit a signed statement with an explanation of expenses (i.e., itemized list of

expenses with location, date, dollar amount, and reason for expenses) and an explanation as to why the receipt is unavailable.

- (8) Expense reimbursements may be made via electronic fund transfer into the financial institution of the employee's choice or by pay card. Employees who fail to make arrangements for direct deposit shall receive reimbursements via pay card.

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. Where an employee or Commissioner is given the choice between several means of travel (e.g., own personal vehicle, flying vs. driving, etc.) and the employee or Commissioner chooses the option that is more costly, the employee or Commissioner shall only be reimbursed for the lesser cost option. For example, if the cost of flying on an airplane is less than the cost of driving, the employee or Commissioner shall only be reimbursed for the amount the County would have paid for the flight.

(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.
- c. Travel via Ride-Share Service, Taxi, or Public/Mass Transit. Reimbursement will be provided for the cost of using a ride-share service, (e.g., Uber or Lyft), taxi, or public/mass transit (e.g., bus, streetcar, and ferry) if such expenses are incurred for County business and approved by the appointing authority.
- d. Incidental Travel Expenses. Reimbursement will be provided for the cost of incidental travel expenses such as bridge tolls, road tolls and parking fees if such expenses are incurred as part of County business and approved by the appointing authority. Valet parking will not be reimbursed unless self-parking is not available or security is a concern.

(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 San 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/Commissioner or owner of the aircraft must maintain on file, with the San Bernardino LAFCO Office, a current policy for aviation comprehensive general liability insurance, which includes San Bernardino LAFCO as an additional insured and covers all operations performed by or on behalf of the employee or owner of the aircraft for bodily injury and property damage with a combined single limit of not less than one million dollars (\$1,000,000), per occurrence and two million dollars (\$2,000,000), general aggregate.

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. Meal and lodging selections should represent a reasonable cost to San Bernardino LAFCO and be generally consistent with the rates established by the General Services Administration (GSA). Excess charges greater than the allowances listed below in paragraph (2) and (3) may be authorized under

special conditions, such as a convention or conference requirement (e.g., lodging at the hotel where the conference is held) or if San Bernardino LAFCO business requires lodging and meals in an area of unusually high cost (i.e., Non-Standard Areas as established by the GSA). Employees may be reimbursed for expenses in high cost areas for the actual cost incurred, but generally not to exceed the per diem amounts established by the GSA for that area and month. Receipts are mandatory to obtain reimbursement for all lodging expenses, and except as provided below, for all meal expenses claimed.

- (2) An employee may be reimbursed for lodging expenses at actual cost, generally not to exceed the standard lodging per diem rate as established by the GSA, except as otherwise provided in paragraph (1) above.
- (3) Except as otherwise provided in paragraph (1) above, reimbursement for meal expenses for up to three separate meals per day may be provided as follows:
 - a. With receipts: actual cost not to exceed eleven dollars (\$11.00) for breakfast; fifteen dollars (\$15.00) for lunch; and twenty-four dollars (\$24.00) for dinner, all plus tax and up to 15 percent gratuity.
 - b. Without receipts: at per diem rates not to exceed six dollars (\$6.00) for breakfast; nine dollars (\$9.00) for lunch; and nineteen dollars (\$19.00) for dinner, all plus tax and up to 15 percent gratuity.
- (4) Where the cost of a meal is included as part of a registration charge for an event (e.g., continental breakfast at a conference or training seminar) or in the cost of lodging, an employee may not claim reimbursement for that meal.
- (5) Expense Advances. Advancement of funds for business expenses can be obtained from the County 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 CARDS

- (1) The County may issue a County credit 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 County may recover any unauthorized charges from the employee's pay.

4. **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~~ Southern Region 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. 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 3 above.

5. **ANNUAL AUDIT** *(Adopted September 28, 2011)*

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.

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 at least every five years to ensure competitive pricing and a high quality of service. San Bernardino LAFCO may ~~participates~~ with other LAFCOs ~~the members of the~~

~~Coalition of California LAFCOS (CCL)~~ for a joint Request for Proposal (RFP) for auditing services.

6. **RESERVE POLICY** (Adopted April 21, 2011, Amended October 22, 2014, Amended May 20, 2020)

The Commission will require the maintenance of ~~four~~ three 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~~ February 1 of each fiscal year shall be funded and placed in a committed reserve account in the following fiscal year budget;
- B. Annually the Commission shall set aside a minimum of \$200,000 in an assigned reserve account for payment of potential litigation or other special need; and,
- ~~C. A committed reserve account shall set aside funds for future payment of the Commission's net pension liability to the San Bernardino County Employees Retirement Association (SBCERA).~~
- D.C. A committed reserve shall set aside funds for future payment of the extra pay period that occurs every tenth year.

7. **RECORDS RETENTION POLICY** (Adopted October 21, 2009, Amended March 21, 2018)

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

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

<u>TYPE OF RECORD</u>	<u>RETENTION PERIOD</u>
Records of Proceedings	Government Code § 56382
Electronic Communications	Six months following issuance of the Certificate of Completion, Certificate of Termination, or withdrawal notification by the applicant.
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 for financial documents and records. 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 financial 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.

8. APPORTIONMENT (Adopted August 17, 2016)

In apportioning the Commission’s net operating costs to the county, cities, and independent special districts pursuant to Government Code Section 56381, the apportionment distribution provided by the Auditor-Controller based upon State Controller data available at the time of the proposed LAFCO budget shall be used for billing purposes - regardless if new State Controller data are issued prior to July 1 of each year.

9. PURCHASING FOR NON-BUDGETED ITEMS

For urgent purchases that are not included in the budget, the following identifies the purchasing limits and authority:

<u>Limit</u>	<u>Authority</u>
<u>\$ 5,000</u>	<u>Executive Officer approval</u>
<u>\$20,000</u>	<u>Chair or Vice-Chair approval with ratification for authorization at the next hearing</u>
<u>Over \$20,000</u>	<u>Commission authorization</u>

10. AUTHORITY OF THE ASSISTANT EXECUTIVE OFFICER

Under direction of the Executive Officer, or under direction of the Chair or Vice Chair in the absence of the Executive Officer, the Assistant Executive Officer is authorized payment, purchasing, and signature authority.

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CHAPTER 2: ~~FINANCIAL POLICIES FOR~~ **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—~~provided the reorganization/sphere proposal does not exceed 100 acres~~. 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 ~~Department Review Committee~~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 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.

SECTION III
HUMAN RESOURCES

Internal Operating Guidelines consolidated into Human Resources Policies and Procedures – June 16, 2011

Human Resources Policies and Procedures and Benefit Plan incorporated into Policy and Procedure Manual as separate sections – September 28, 2011

Benefit Plan section consolidated into Human Resources Policies and Procedures section as Chapter V – August 19, 2015

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CHAPTER 1: WORKING ENVIRONMENT

1. EMPLOYEE ACKNOWLEDGEMENT FORM *(Amended June 16, 2011)*

Consistent with applicable laws, the following policies represent the Human Resources Policies and Procedures established by the San Bernardino Local Agency Formation Commission (hereinafter “SB LAFCO”). These policies and procedures 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 Procedures by signing the form titled “Employee Receipt of San Bernardino LAFCO Human Resources Policies and Procedures” with placement of the signed form in the employee’s personnel file.

2. AT- WILL-EMPLOYMENT *(Amended June 16, 2011)*

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.

3. EQUAL EMPLOYMENT OPPORTUNITY *(Amended June 16, 2011)*

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.

4. DISABILITY ACCOMMODATION

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.

5. POLICY AGAINST HARASSMENT

- 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 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.

6. WORKPLACE ANTI-VIOLENCE POLICY (Amended June 16, 2011)

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.

7. DRUG AND ALCOHOL 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.

8. RELOCATION

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:

- A. 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.
- B. 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.
- C. 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
250*-1000 Miles	\$1,000.00
1001-2000 Miles	\$2,000.00
More than 2000 Miles	\$2,500.00

*The 250-mile distance shall only apply if the relocation is from outside San Bernardino County

- D. 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.

9. WORK-AT-HOME/TELECOMMUTE (Adopted April 15, 2020)

- A. This Work-at-Home Policy applies to employee work-at-home arrangements, whether on a continuous basis or for a specific, limited period of time. This policy and its procedures applies to LAFCO staff, and will be administered by the Executive Officer.
- B. Working at home is not an employee right or benefit and may be discontinued by the Commission or Executive Officer for any reason that is not arbitrary or capricious, at any time. Employees will be permitted to work at home at the discretion of the Executive Officer. Employees may be removed from the Telecommuting Program if they do not comply with the terms of this policy and its procedures.
- C. Telecommuting does not change the duties, obligations, responsibilities, or terms and conditions of LAFCO employment. Whether or not specifically articulated in the policy and procedures, work-at-home employees are subject to the same federal and State of California laws and LAFCO policies and procedures applicable to employees at the regular LAFCO worksite.
- D. A telecommuting employee must perform work during scheduled telecommuting hours. Employees may not engage in activities while telecommuting that would not be permitted at the regular worksite, such as child, elder, or other dependent care. Telecommuting employees may take care of personal business during unpaid lunch periods, as they would at the regular worksite. Any exceptions to deviating from the normal work hours must receive Executive Officer authorization beforehand. Additionally, orders from a health authority, safety authority, governor, etc... regarding shelter-in-place, safer-at-home, school closures, etc... may necessitate alternate working hours and must receive Executive Officer authorization before work begins.

PROCEDURE:

Work-at-Home Criteria

To be eligible to work at home, employees must, among other things: (1) have portable job duties; (2) have a work site and equipment (telephone, Internet, supplies, etc.) suitable for working at home; and (3) be able to work independently and productively.

Some positions, responsibilities and projects are more suitable for working from home than others and may be appropriate to maintain continuity in the event of an emergency, or as part of a flexible work arrangement. Also,

responsibilities that do not require face-to-face interaction, require minimal supervision, involve the extensive use of computers and/or telephones, and have clearly defined and easily measurable tasks are more appropriate for a work-at-home arrangement. The Executive Officer must examine the distinct activities, functions and tasks to determine whether a work-at-home arrangement is appropriate.

Work Schedule

In addition to Section D, as is required for the LAFCO worksite, the Executive Officer will establish the employee's home work schedule. The employee will document all time worked and account for hours not worked with the appropriate leave designation (vacation, administrative, sick, holiday, leave without pay, etc.) and, if eligible for overtime, must receive Executive Officer authorization before working overtime.

Documentation

The Executive Officer must complete the Work-At-Home Approval Form. Work-at-home documentation must include the following components:

- a description of the work to be accomplished as well as clearly defined performance requirements that are measurable and results oriented—especially when the work differs from the employee's regular job description and performance plan;
- the work schedule, including as required above, the actual hours worked each day, with the start and end times of the work day and of any breaks and meal periods;
- a telephone number where the employee can be reached during the agreed-upon work schedule; and,
- if LAFCO equipment is used at home, a record of such equipment

In the event of an emergency closure or situation for which the Work-at-Home Approval Form cannot be formalized ahead of time, the work-at-home approval must be documented in an email between the employee and the Executive Officer.

Equipment, Supplies, and Telephone/Data Connection

The employee will use his/her own equipment, supplies, and telephone/Internet connection to perform his/her job duties. In special cases where the Executive Officer determines it is in the best interest of the organization, the Executive Officer may provide equipment necessary for the

employee to perform the desired work at home. LAFCO equipment, software, data and supplies may be used only for official LAFCO business, and must be returned to LAFCO at the termination of the work-at-home arrangement, or upon request by LAFCO. The employee is responsible for operating costs, home maintenance and any other cost associated with the use of the home as an alternate work location. In the event of equipment failure or malfunction, the employee will immediately notify the Executive Officer. In the event of delay in repair or replacement, or any other circumstance which makes work from the home location impracticable, the employee understands that the Executive Officer may require the employee to report to the regular work site. The Executive Officer has the sole discretion to reimburse employees for the costs of using personal equipment while telecommuting.

Employees authorized to work from home under this policy may be entitled to reimbursement for additional expenses incurred as a result of working from home. However, to be eligible for such reimbursement and to the extent reasonably possible, employees must notify and obtain approval from the Executive Officer prior to incurring the expense.

Security

All LAFCO information security, and records management and retention policies that apply at the regular LAFCO worksite apply when the employee works from home.

All LAFCO rules regarding the use of computers and the internet apply while an employee is telecommuting, regardless of whether the employee is using LAFCO-provided or personal equipment.

Liability

LAFCO is not liable for injuries to third persons, including family members, at the home work site. LAFCO is not liable for damages to the employee's personal or real property.

Workers' Compensation/Safe Work Spaces

The employee is covered by Workers' Compensation during the performance of official LAFCO business at the home worksite during work hours. The employee must report work-related injuries immediately to the Executive Officer and will comply with all LAFCO reporting requirements established for the purpose of reporting such claims.

Employees are expected to maintain their home workspace in a safe manner, free from safety hazards.

10. SAFETY

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.

11. DESK INSPECTION 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.

CHAPTER 2: EMPLOYMENT

1. EMPLOYMENT CATEGORIES AND CLASSIFICATIONS

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.
- 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.

B. EMPLOYMENT CLASSIFICATIONS

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.

2. COMPENSATION

- 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. SALARY RANGES (*Adopted June 16, 2011; Amended May 16, 2012; October 22, 2014; April 15, 2015; January 27, 2016; July 20, 2016; April 18, 2018; May 15, 2019, Amended May 20, 2020; May 19, 2021; May 18, 2022*):

The following shall be the salary ranges for LAFCO positions.

Effective July 30, 2022 the following shall be the salary ranges for LAFCO positions (3.0% increase):

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Position	Hourly Range
Executive Officer	\$88.22 to \$120.34
Assistant Executive Officer	\$44.70 to \$60.76
Senior Analyst	\$39.75 to \$53.94
Project Manager	\$35.42 to \$47.98
LAFCO Analyst – GIS/Database Manager	\$30.10 to \$40.87
Clerk to the Commission/Office Manager	\$26.97 to \$36.28
Administrative Assistant	\$22.58 to \$30.20

Effective July 15, 2023, Each salary range shall have ~~44~~ 16 steps. The spread between steps shall be approximately two and one-half percent (2.5%). The salary schedule shows the hourly rate for each step in the salary range.

C. SPECIAL ASSIGNMENT COMPENSATION (*Amended August 19, 2015*)

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-half percent (1/2%) 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 that 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

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.

E. RETENTION *(Adopted January 27, 2016; Amended May 19, 2021)*

LAFCO employees shall be eligible for retention pay above the base rate of pay, as indicated below, based on total hours of completed continuous service with LAFCO. Retention pay shall be paid on all paid hours up to an employee's standard hours, and shall not be considered when determining the appropriate rate of pay for a promotion or demotion. For purposes of retention pay only, a year of completed LAFCO service is defined as 2,080 service hours with LAFCO.

Total Completed Service	Compensation
31,200 Continuous Service Hours (15 years)	2.0%

3. PAY POLICIES

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.

4. PERFORMANCE MANAGEMENT

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

*San Bernardino LAFCO Policy and Procedure Manual
Section III – Human Resources Policies and Procedures*

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 #2 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 (*Amended June 16, 2011, January 27, 2016; August 17, 2016; April 18, 2018, May 15, 2019*)

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 7 with the approval of the Executive Officer and through the top step with the approval of the Commission.

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. However, when an employee reaches the required number of service hours with 80 hours in each pay period, the step advance will be made at the beginning of the next pay period. 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, disability payments, medical emergency leave, and time without pay shall not count toward step advancements. Unless otherwise approved by the Commission, 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 1,040 hours and subsequent step

advancements after completion of additional increments of 2,080 hours.

C. PROBATIONARY PERIOD (*Amended June 16, 2011*)

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

Non-Exempt: The probationary period for non-exempt employees shall be 13 pay 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 Procedures. 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

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 placed on a step closest to, but not less than, their current base rate of pay on the salary range of the classification to which the employee demotes, ~~retained at the same salary rate, provided the salary rate does not~~ exceed the top step of the applicable range, in accordance with the provisions of the Downgrade section, with the approval of the Appointing Authority.

E. PROMOTIONS

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 14 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.

5. PERSONNEL RECORDS

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.

6. PROBLEM RESOLUTION PROCEDURE

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:

- A. 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.
- B. Supervisor responds to problem during discussion or after consulting with appropriate management, when necessary. Supervisor documents discussion.
- C. Employee presents problem to the Executive Officer in writing if problem is unresolved.
- D. 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.
- E. If the problem is of a nature that extends beyond or involves the Executive Officer, the employee may consult 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.

7. TERMINATION

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 intact 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.

8. **REEMPLOYMENT**

- 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.

CHAPTER 3: TIME OFF

1. SICK LEAVE

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 (*Amended April 18, 2018*)

- (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.
- (4) A FAMILY MEMBER, as defined by Labor Code § 245.5, is a parent, child, spouse, registered domestic partner, grandparent, grandchild, ~~or sibling~~, or any person designated by the employee at the time the employee requests paid sick days. An employee shall not identify more than one "designated person" as a family member in a 12-month period from the first date of designation. PARENT means a biological, foster, or adoptive parent, a stepparent, legal guardian, or a person who stood in loco parentis when the employee was a minor child of the employee or the employee's spouse or registered domestic partner. CHILD means a biological, foster, or adopted child, a stepchild, a legal ward, a child of a domestic partner, or a child to whom the employee stands in loco parentis. DOMESTIC PARTNER is defined by Family Code § 297

C. PRIOR SERVICE TIME *(Adopted 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 Procedures.

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

It shall be the responsibility of each appointing authority (as defined in Section 2 of Chapter 1) 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

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*)

(1) Sick leave may be applied to the following circumstances:

- a. An absence necessitated by an employee's personal illness, injury or disability due to pregnancy, childbirth or adoption.
- b. 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~~ an employee's family member as defined in this Section, except for a person "designated" by the employee for sick leave purposes, and for any member of the employee's extended family as defined in this Section, or any relative who resides with the employee.
- c. 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.
- d. Medical, dental, or optical appointments when absence during working hours for this purpose is authorized by SB LAFCO.
- e. 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.
- f. 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

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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.

- g. Illnesses while on paid vacation will be charged to sick leave rather than vacation only under the following conditions:
 - i. 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.
 - ii. 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.
 - iii. The agency shall be under no obligation to extend the vacation beyond the original scheduled vacation ending date.
- (2) Absence from duty because of personal emergencies not to exceed 20 working hours during the fiscal year.
- (3) An absence due to the air pollution alert, which prevents the employee traveling to his or her work location.
- (4) Sick leave shall not be applied to an absence that occurs on a SB LAFCO holiday.
- (5) 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.
- (6) 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.

2. VACATION

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 *(Adopted 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,

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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 wellbeing 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 (*Amended June 16, 2011; Amended April 18, 2018*)

(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 leave be contributed to LAFCO's section 401(k) Defined Contribution Plan or section 457(b) Deferred Compensation 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 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 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.

E. VACATION PRIOR SERVICE CREDIT *(Adopted October 22, 2014)*

New employees hired into SB LAFCO in regular positions who have been employed by a public jurisdiction or private sector in a comparable position or a position which has prepared such employees for an assignment may receive credit for such previous experience in the former agency(s) in determining their vacation accrual rate. Such determination as to the comparability of previous experience and amount of credit to be granted rests solely with the appointing authority. Requests for prior service credit should be made at the time of hire or as soon as possible thereafter but in no event later than one year from the employee's hire date.

3. **HOLIDAY**

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 in paid status 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 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	Second Monday in October
Third Monday in January	November 11
Third Monday in February	Thanksgiving Day
Last Monday in May	Day after Thanksgiving
June 19	December 24
July 4	December 25
First Monday in September	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.

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.

Effective pay period [414](#) of calendar year 2022, the maximum holiday leave accrual balance [will increase to 120 hours. The maximum holiday leave balance](#) that may be carried over to a future calendar year shall be 120 hours. However, employees with a grandfathered

balance of more than 120 hours shall carry over their maximum grandfathered accrual balance in accordance with this section.

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 (*Amended April 18, 2018*)

(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 Executive Officer. In lieu of cash, the employee may designate that part or all of the value of holiday time to be contributed to LAFCO section 401(k) Defined Contribution Plan or section 457(b) Deferred Compensation 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.

4. **OTHER TIME OFF**

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~~ family member, as defined ~~by California Family Code Section 297~~ in this Section, except for a person "designated" by the employee for sick leave purposes. 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. All employees are entitled to a total of five days of unpaid bereavement leave. The five days of leave shall include paid leave under this Section, and use of sick leave as defined in this Section. 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 1 of Chapter 3, 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; April 18, 2018; May 19, 2021*)

Effective pay period 1 of each year, an employee in a regular position who is in paid status will be provided with 80 hours of Administrative Leave time for the employee's use. An eligible employee in a regular position who is part-time or job sharing shall be eligible for a prorated number of administrative leave hours based on regularly scheduled hours. Employees hired after the beginning of pay period 1 shall receive a prorated number of hours. Such proration shall be based upon the remaining number of pay periods in the calendar year nearest the employee's appointment. Employees not in paid status in pay period 1 shall receive, upon return to paid status, a prorated number of Administrative Leave hours based on the number of pay periods remaining in the calendar year.

Administrative leave may be cashed out at the employee's then current base rate of pay in increments of one (1) hour, upon the approval of the appointing authority, during the calendar year. Any Administrative Leave accrual balances in effect at the end of the last pay period paid in the calendar year will automatically be paid at the employee's then current base rate of pay. Employees may designate that cash outs of Administrative Leave as permitted herein be allocated to SB LAFCO's 401(k) Plan or Section 457(b) Deferred Compensation Plan. Upon termination of employment, unused Administrative Leave will be paid at the current rate of pay.

E. **PERFECT ATTENDANCE LEAVE** (*Amended April 18, 2018*)

Employees in regular, full-time positions in SB LAFCO Groups B and C who do not utilize any sick leave, any leave (e.g. vacation) in lieu of sick leave, or benefits in lieu of sick leave (e.g. workers' compensation, Short-Term Disability partial/full integration, etc.) in a payroll calendar year (i.e., pay period 1 through pay period 26 or 27, when applicable, of the same year), and who do not record any sick leave without pay or absent without pay, medical emergency leave, or military leave as

provided by law 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

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

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

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

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.

5. **MILITARY LEAVE** *(Amended June 16, 2011)*

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 C and D 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 days military leave compensation, and are on an involuntary order as defined by Enclosure 4 of the Department of Defense Instruction 1215.06 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 any additional period as outlined in the County Exempt Compensation Ordinance. During this period, SB LAFCO will continue to provide the employee all the benefits and leave accruals as were provided prior to such active duty. Retirement system contributions and service credit will be granted if the employee had enough pay to cover the entire retirement system contribution. If the employee does not receive enough pay to

cover the retirement system contribution, no contribution or credit will be given. 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.

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.

6. WORKERS' COMPENSATION LEAVE

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.

7. FAMILY AND MEDICAL LEAVE

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

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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 statutes.

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8. PREGNANCY DISABILITY LEAVE

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 4: ELECTRONIC COMMUNICATION, SAFETY, AND EQUIPMENT

1. COMPUTER AND E-MAIL USAGE *(Amended June 16, 2011)*

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/tablets 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.~~

2. ELECTRONIC COMMUNICATIONS POLICY (Adopted March 21, 2018)

Background and Purpose

The Commission as the legislative body of the Local Agency Formation Commission for San Bernardino County ("LAFCO") hereby adopts the following policy regarding the conduct of LAFCO business via electronic communications by commissioners and employees. Specifically, this policy is adopted in light of the *City of San Jose* case, which held that a city employee's communications related to the conduct of public business do not cease to be public records under sent or received using a personal account or personal device.

Existing and emerging electronic communications technologies have become an integral part of the ability of Commission officials and staff members to efficiently and effectively conduct Commission business. Such technology has the potential to enhance communications with the public and provide a higher level of service to the citizens of the Commission. However, with such technology in the work environment, the Commission must ensure it continues to meet its legal obligations with respect to transparency in the conduct of the people's business, including in the area of public records disclosure and retention requirements. To that end, the following policy and procedures will be followed.

Definitions

For purposes of this policy, the following definitions apply:

"LAFCO" means the Local Agency Formation Commission for San Bernardino County.

"LAFCO official" for this policy shall mean any commissioner, employee of LAFCO, or person assigned an LAFCO electronic messaging account.

"LAFCO business" shall be construed broadly to mean information relating to the conduct of the public's business or communications concerning matters within the subject matter of LAFCO's jurisdiction, including, but not limited to, pending or potential LAFCO projects, past or prospective LAFCO agenda items, or LAFCO budgets or expenditures involving LAFCO funds. Resolution of the question will involve an examination of several factors, including: (a) the content itself; (b) the context in, or purpose for which, it was written; (c) the audience to whom it was directed; (d) the purpose of the communication; and (e) whether the writing was prepared by an LAFCO official acting or purporting to act within the scope of his or her employment.

~~"Electronic communications" includes any and all electronic transmission, and every other means of recording upon any tangible thing in any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored. Without limiting the nature of the foregoing, "electronic communications" include e-mails, texts, voicemails, and also include communications on or within commercial applications (apps) such as Facebook Messenger, Twitter, WhatsApp, etc.~~

~~"Electronic messaging account" means any account that creates, sends, receives or stores electronic communications.~~

Policy

- ~~1. All LAFCO officials shall be assigned a LAFCO electronic messaging account.~~
- ~~2. LAFCO accounts shall be used to conduct LAFCO business. LAFCO officials shall not use personal accounts for the creation, transmission or storage of electronic communications regarding LAFCO business.~~
- ~~3. All LAFCO officials shall, within 30 days following the adoption of this policy, search all private, nongovernmental electronic messaging accounts to which they have user access and locate any electronic communications that might constitute a "public record", because it involved "LAFCO business", as set forth above. All such communications shall be forwarded to the LAFCO official's LAFCO-provided account. To the extent the LAFCO official believes that any part of such communications contain personal matter not related to the conduct of the public's business, the LAFCO official shall provide a declaration, as set forth in paragraphs 10 and 11, below.~~
- ~~4. The LAFCO account, along with the attendant access to LAFCO's account server, are solely for LAFCO and LAFCO official's use to conduct LAFCO business and shall not be used for personal business or political activities. Incidental use of LAFCO electronic messaging accounts for personal use by LAFCO officials is permissible, though not encouraged.~~
- ~~5. If an LAFCO official receives an electronic message regarding LAFCO business on his/her non-LAFCO electronic messaging account, or circumstances require such person to conduct LAFCO business on a non-LAFCO account, the LAFCO official shall either: (a) copy ("cc") any communication from a LAFCO official's personal electronic messaging account to his/her LAFCO electronic messaging account; or (b) forward the associated electronic communication to his/her LAFCO account no~~

later than 10 days after the original creation or transmission of the electronic communication.

- ~~6. LAFCO officials shall endeavor to ask persons sending electronic communications regarding LAFCO business to a personal account to instead utilize the LAFCO official's account, and likewise shall endeavor to ask a person sending an electronic communication regarding non-LAFCO business to use the LAFCO official's personal or non-LAFCO electronic messaging account.~~
- ~~7. The LAFCO official shall retain all emails related to a proposal for six months following issuance of the certificate of completion, certificate of termination, or withdrawal notification by the applicant.~~
- ~~8. LAFCO officials understand they have no expectation of privacy in the content of any electronic communication sent or received on an LAFCO account or communication utilizing LAFCO servers. LAFCO provided electronic devices, including devices for which LAFCO pays a stipend or reimburses the LAFCO official, are subject to LAFCO review and disclosure of electronic communications regarding LAFCO business. LAFCO officials understand that electronic communications regarding LAFCO business that are created, sent, received or stored on an electronic messaging account, may be subject to the Public Records Act, even if created, sent, received, or stored on a personal account or personal device.~~
- ~~9. In the event a Public Records Act request is received by LAFCO seeking electronic communications of LAFCO officials, the LAFCO Clerk shall promptly transmit the request to the applicable LAFCO official(s) whose electronic communications are sought. The LAFCO Clerk shall communicate the scope of the information requested to the applicable LAFCO official, and an estimate of the time within which the LAFCO Clerk intends to provide any responsive electronic communications to the requesting party.~~
- ~~10. It shall be the duty of each LAFCO official receiving such a request from the LAFCO Clerk to promptly conduct a good faith and diligent search of his/her personal electronic messaging accounts and devices for responsive electronic communications. The LAFCO official shall then promptly transmit any responsive electronic communications to the LAFCO Clerk. Such transmission shall be provided in sufficient time to enable the LAFCO Clerk to adequately review and provide the disclosable electronic communications to the requesting party.~~
- ~~11. In the event a LAFCO official does not possess, or cannot with reasonable diligence recover, responsive electronic communications from the LAFCO~~

~~official's electronic messaging account, the LAFCO official shall so notify the LAFCO Clerk, by way of a written declaration, signed under penalty of perjury. In addition, an LAFCO official who withholds any electronic communication identified as potentially responsive must submit a declaration under penalty of perjury with facts sufficient to show the information is "personal business" and not "public business" under the Public Records Act. The form of the declaration is attached hereto as Attachment A.~~

~~12. It shall be the duty of the LAFCO Clerk, in consultation with LAFCO's Legal Counsel, to determine whether a particular electronic communication, or any portion of that electronic communication, is exempt from disclosure. To that end, the responding LAFCO official shall provide the LAFCO Clerk with all responsive electronic communications, and, if in doubt, shall err on the side of caution and should "over produce". If an electronic communication involved both public business and a personal communication, the responding LAFCO official may redact the personal communication portion of the electronic communication prior to transmitting the electronic communication to the LAFCO Clerk. The responding LAFCO official shall provide facts sufficient to show that the information is "personal business" and not "public business" by declaration. In the event a question arises as to whether or not a particular communication, or any portion of it, is a public record or purely a personal communication, the LAFCO official should consult with the LAFCO Clerk or the Legal Counsel. The responding LAFCO official shall be required to sign a declaration, in a form acceptable to the Legal Counsel, attesting under penalty of perjury, that a good faith and diligent search was conducted and that any electronic communication, or portion thereof, not provided in response to the Public Records Act request is not LAFCO business.~~

~~13. AB 1234 (ethics) training should include a discussion of the impacts of the *City of San Jose* case and this policy. Such training should include information on how to distinguish between public records and personal records. LAFCO officials who receive AB 1234 training from other providers should actively solicit training from the alternative provider on the impacts of the *City of San Jose* case.~~

~~14. LAFCO officials understand that electronic communications regarding LAFCO business are subject to LAFCO's Records Retention Policy (Section II, Chapter 1, Policy 7), even if those electronic communications are or were created, sent, received or stored on an LAFCO official's personal electronic messaging account. It is a felony offense to destroy, alter or falsify a "public record". As such, unless the LAFCO official has cc'd/transmitted electronic communications in accordance with Paragraph 5 above, that LAFCO official must retain all electronic communications~~

~~regarding LAFCO business, in accordance with LAFCO's adopted records retention policy, regardless of whether such electronic communication is originally sent or received on a personal electronic messaging account.~~

~~15. Failure of an LAFCO official to abide by this policy, following its adoption, may result in one or more of the following:~~

- ~~• Disciplinary action, up to and including termination (for employees);~~
- ~~• Removal from office (for commissioners);~~
- ~~• Censure (for commissioners);~~
- ~~• Revocation of electronic device privileges (including revocation of stipend or reimbursement);~~
- ~~• Judicial enforcement against the LAFCO official directly, by the requesting party; and~~

~~16. This policy does not waive any exemption to disclosure that may apply under the California Public Records Act.~~

~~17. Upon leave of service from LAFCO, the Email administrator will request that County ISD close the LAFCO official's Email account and copy the contents from the Email account onto an electronic medium (CD, DVD, USB flash drive) and to be retained in accordance with the Commission's Record Retention Policy.~~

ATTACHMENT A

DECLARATION

~~(on file at the LAFCO office)~~

~~10.1. SAFETY~~

~~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.~~

~~11.1. DESK INSPECTION 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.~~

CHAPTER 45: BENEFITS PLAN

(Benefit Plan Consolidated with Section III - Human Resources Policies and Procedures on August 19, 2015)

1. INTRODUCTION

A. 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.

B. BENEFIT PLAN GROUPS

For the purpose of this Benefits Plan, employees shall be divided into the following groups: *(Amended October 22, 2014; September 16, 2020)*

- (1) Group A. Executive Officer
- (2) Group B. All SB LAFCO Employees not in Groups A or C
- (3) Group C. Employees hired after September 16, 2020, except for the Executive Officer

2. MEDICAL AND DENTAL SUBSIDIES *(Amended August 17, 2005; August 20, 2008; June 16, 2011; August 19, 2015, January 27, 2016; April 18, 2018; May 19, 2021; July 21, 2021)*

- A. SB LAFCO has established a Medical Premium Subsidy (MPS) to offset the cost of medical and dental plan premiums charged to eligible employees. The MPS shall be applied first to medical plan premiums and then to dental plan premiums. The applicable MPS amount shall be paid directly to the providers of the County-sponsored medical and dental plan in which the eligible employee has enrolled. In no case, shall the MPS exceed the total cost of the medical and dental insurance premium for the coverage selected.

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~~Effective 7/17/21 the following MPS amounts shall apply:~~

	Scheduled for 40 to 60 hours	Scheduled for 61 to 80 hours
Employee Only	\$130.47	\$260.93
Employee +1	\$205.50	\$411.00
Employee +2	\$288.37	\$576.74

Effective 7/16/22 the following MPS amounts shall apply:

	Scheduled for 40 to 60 hours	Scheduled for 61 to 80 hours
Employee Only	\$143.11	\$286.21
Employee +1	\$225.41	\$450.82
Employee +2	\$316.31	\$632.61

Effective 7/15/23 the following MPS amounts shall apply:

	Scheduled for 40 to 60 hours	Scheduled for 61 to 80 hours
Employee Only	\$151.83	\$303.66
Employee +1	\$239.16	\$478.31
Employee +2	\$335.39	\$671.18

Effective 7/13/24 the following MPS amounts shall apply:

	Scheduled for 40 to 60 hours	Scheduled for 61 to 80 hours
Employee Only	\$160.56	\$321.11
Employee +1	\$252.09	\$505.80
Employee +2	\$354.88	\$709.75

Effective 7/12/25 the following MPS amounts shall apply:

	Scheduled for 40 to 60 hours	Scheduled for 61 to 80 hours
Employee Only	\$169.28	\$338.56
Employee +1	\$266.65	\$533.29
Employee +2	\$374.16	\$748.32

A dental Premium Subsidy (DPS) has been established for all employees who are enrolled in both County-sponsored medical and dental coverage whose premium costs for medical and dental exceeds the Medical Premium Subsidy. The amount of DPS shall be up to nine dollars forty-six cents (\$9.46), but not to exceed the combined total of the employee's out-of-pocket expenses. For example, an employee who selects "employee only" coverage for medical and dental with a combined per pay period premium cost of \$250.79 and receives a per pay period MPS of \$243.33 will receive a DPS in the amount of \$7.46 per pay period.

B. ELIGIBILITY FOR MPS AND DPS WHILE ON LEAVE (*Adopted August 19, 2015; Amended April 18, 2018*)

- (1) FMLA/CFRA - Employees who are on approved leave, pursuant to FMLA/CFRA law and whose paid hours in a pay period are less than the required number of hours designated by the applicable benefit provision will continue to be enrolled in a County-sponsored medical plan and receive MPS and DPS in accordance with applicable law.
- (2) Pregnancy Disability Leave (PDL) – An employee on an approved pregnancy disability leave is eligible for continuation of MPS and DPS in accordance with PDL, Government Code section 12945.
- (3) Workers' Compensation – Employees who are on an approved leave based on an approved workers' compensation claim shall continue to receive the MPS and DPS for up to a total of twenty (20) pay periods while off work due to that work injury as long as the employee pays his/her portion of the premiums on time. If any subsequent workers' compensation claims occur during the initial twenty (20) pay periods, the remaining MPS eligibility from the original claim shall run concurrent with any additional approved workers' compensation claims that occur during the initial claim. For example, if the employee is receiving the MPS and DPS for twenty (20) pay periods for an injury and after ten (10) pay periods another workers' compensation claim is approved and the employee is eligible to receive the MPS and DPS for an additional twenty (20) pay periods, ten (10) pay periods will run concurrent with the initial claim, for a total of 30 pay periods. Employees who are still on workers' compensation after the expiration of the initial twenty (20) pay periods shall continue to receive MPS and DPS provided the employee is [in paid status](#)~~fully integrating appropriate paid leave time.~~

- (4) Short Term Disability – Employees who are ~~on fully integrating paid leave time with~~ Short-Term Disability (STD) insurance provided by the County or State Disability Insurance (SDI) shall continue to receive the MPS and DPS provided the employee is in paid status.
- (5) Per Episode of Illness or Injury - 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 subsection for up to six pay periods per episode of illness or injury.

3. MEDICAL AND DENTAL INSURANCE (Amended August 17, 2005; June 16, 2011; August 19, 2015)

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 medical and dental plan offered by SB LAFCO through the County. Employees who fail to elect medical and dental plan coverage will be automatically enrolled in the medical and dental plan with the lowest biweekly minimum premium rates available in the geographical location of the employee's primary residence. Medical and dental plan coverage will become effective on the first day of the pay period following the first pay period in which the employee is scheduled to work forty (40) hours or more and be in paid status.

To continue enrollment in County-sponsored medical and dental plan coverage, a SB LAFCO employee must remain in a regular position scheduled to work for a minimum of 40 hours per pay period and be in paid status or be on approved leave for which continuation of medical and dental coverage is expressly provided for, or be eligible for and have timely paid the premium for 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 medical and dental insurance. Thereafter, newly eligible dependents may be enrolled within sixty (60) days of obtaining dependent status, such as birth, adoption, marriage, or registration of domestic partnership.

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 sixty (60) days of dependent's change in eligibility for the County plans.

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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 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. If the employee does not have sufficient earnings to cover the deduction for premiums, the employee must make alternative payment arrangements that are acceptable to the County Employee Benefits and Services Division.

Employees eligible for medical plan coverage who are also enrolled in comparable group medical plan sponsored by another employer or are covered by a spouse, domestic partner, or parent who is also employed with the County may elect to discontinue enrollment in the County-sponsored medical 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 medical plan coverage will be provided bi-weekly amounts as follows:

- A. 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 amounts:

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

- B. 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 amounts:

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

- C. New opt-outs or waivers (i.e., new employees and current employees who opted-out or waived effective July 9, 2005 and any time thereafter) will receive the following bi-weekly amounts:

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

To receive these amounts, the employee must be in paid status.

Employees eligible for County-sponsored dental plan coverage who are also enrolled in a comparable group dental plan sponsored by another employer or

are covered by a spouse, domestic partner, or parent who is also employed with the County may elect to discontinue enrollment in their County-sponsored dental plan.

The rules and procedures for electing to opt-out or waive the County-sponsored medical 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 or waive the County-sponsored medical and/or dental plan coverage(s) within 60 calendar days of the effective date of gaining other employer group coverage. Proof of initial gain of other group coverage is required at the time that opt-out or waive is elected.

Employees may elect to opt-out or waive the County-sponsored medical and/or dental plan coverage during an annual open enrollment period. All employees who are newly opting-out or waiving during an open enrollment period must provide verification of other employer group coverage.

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

Employees who voluntarily or involuntarily lose other employer group health plan coverage must enroll in a County-sponsored medical and/or dental plan within 60 calendar days. Enrollment in the County-sponsored plan will be provided in accordance with the requirements of the applicable plan.

There must be no break in the employee's medical and/or dental plan coverage between the termination date of the other employer group coverage and enrollment in a County-sponsored medical and/or dental 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 60 calendar days will require the employee to pay insurance premiums retroactively on an after-tax basis.

4. LIFE INSURANCE

A. TERM LIFE INSURANCE (*Amended June 16, 2011; August 19, 2015; May 19, 2021*)

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 is in paid status. For pay periods in which the employee is not in paid status, the employee shall have the option of continuing life insurance coverage at the employee's expense.

B. ~~VARIABLE-GROUP~~ UNIVERSAL LIFE INSURANCE (*Amended May 16, 2007; June 16, 2011; August 19, 2015*)

Eligible SB LAFCO employees may purchase, through payroll deductions, ~~variable~~-group universal life insurance subject to carrier requirements and approval. The benefit levels for such insurance shall be equivalent to no more than three (3) times the employee's annual base earnings. Employees who purchase ~~variable~~-group universal life insurance shall be provided a SB LAFCO contribution towards the bi-weekly premium based on the following:

Benefit Group A

(Executive Officer) = 50% of the premium for benefit level equal to of the ~~one-time~~ annual base salary or 100% of the premium for benefit level 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 for benefit level equal to of the ~~one-time~~ annual base salary.

C. VOLUNTARY LIFE INSURANCE (*Amended August 19, 2015; May 19, 2021*)

In accordance with the procedures established by the County Human Resources Employee Benefits and Services Division, eligible employees may purchase, through payroll deductions, term life insurance subject to carrier requirements.

New employees shall become initially eligible to participate in these programs on the first day of the pay period following the pay period in which the employee is in paid status. Participation will continue as long as premiums are paid timely. If the employee does not have sufficient earnings to cover the deduction for premiums, the employee must make alternative payment arrangements that are acceptable to the Employee Benefits and Services Division.

D. ACCIDENTAL DEATH AND DISMEMBERMENT INSURANCE
(*Amended August 19, 2015*)

Eligible employees may purchase amounts of Accidental Death and Dismemberment Insurance coverage for themselves and dependents through payroll deduction. New employees shall become initially eligible to participate in these programs on the first day of the pay period following the first pay period in which the employee is in paid status. Participation will continue as long as premiums are paid timely. If the employee does not have sufficient earnings to cover the deduction for premiums, the employee must make alternative payment arrangements that are acceptable to the County Human Resources, Employee Benefits and Services Division. The benefits will be provided subject to carrier requirements, and will be administered by the County Employee Benefits and Services Division.

E. LONG-TERM DISABILITY INSURANCE (*Amended August 19, 2015*)

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. Integration of leave balances (e.g., sick, vacation, etc.), either partially or fully, are allowed in conjunction with long-term disability benefits.

F. SHORT-TERM DISABILITY INSURANCE (*Amended June 16, 2011; August 19, 2015; April 18, 2018*)

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 positions who are regularly scheduled to work 40 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 Exempt Group employees and is subject to carrier requirements and approval. The short-term disability insurance plan benefit coverage shall include a provision for a seven (7) consecutive calendar day waiting period from the first day of disability before benefits begin. Benefits shall be fifty-five percent (55%) of base salary up to a weekly maximum established a formula that incorporates the State of California for the State Disability Insurance fund maximum. 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.

G. VISION CARE INSURANCE (*Amended August 19, 2015*)

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

5. SECTION 125 PREMIUM CONVERSION PLAN *(Amended August 19, 2015)*

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 medical insurance, dental insurance, vision insurance, voluntary life (to the IRS specified limit) and accidental death and dismemberment insurance premiums currently maintained for Exempt employees or any other program(s). The amount of the pre-tax salary reduction or after-tax payroll deduction must be equal to the required insurance premium.

Medical and dental coverage 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 eligible to participate in medical, dental, vision, AD&D, and/or life insurance and have a premium deduction for these benefit plans.

Election of pre-tax and after-tax payroll deductions shall be made within sixty (60) 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 consistent with the County's Plan Document. The employee must submit request for a change due to a mid-year qualifying event within sixty (60) days of the qualifying event.

6. FLEXIBLE SPENDING ACCOUNT *(Amended August 17, 2005; May 16, 2007; June 16, 2011; May 20, 2015; August 17, 2016; May 19, 2021)*

The County has established a medical expense reimbursement plan, Flexible Spending Account (FSA). This plan has been established in accordance with the provisions of Internal Revenue Code (IRC) Section 125. Human Resources will serve as the Plan's Administrator and will administer the FSA in accordance with the County's plan document. The FSA's plan year will

coincide with the County's benefit plan year. SB LAFCO contracts with SB County to provide this benefit to its employees.

Eligible employees may contribute to the FSA, on a pre-tax basis, up to the Internal Revenue Code's annual maximum. This annual contribution is made by the employee via equal biweekly payroll deductions. SB LAFCO will also contribute up to (\$40.00) per bi-weekly pay period, matching employee contributions dollar for dollar. Effective February 1, 2020, SB LAFCO will contribute up to an additional \$10.00 per biweekly pay period, matching Exempt employee contribution dollar for dollar, for employees who select the County-sponsored Blue Shield Access + HMO Plan or the Kaiser Choice HMO Plan and elect to enroll in the FSA.

FSA participants must elect to enroll each year in order to continue participation. 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 except as permitted by the IRC. Any unused amounts remaining in an employee's FSA account at the end of the plan year shall be forfeited except as permitted by the IRC and the County's plan document.

Contributions made to the FSA may be used for receiving non-taxable reimbursements of eligible medical expenses not covered by insurance. Eligible reimbursable expenses are those medical expenses that qualify as determined under Internal Revenue Code section 213.

7. 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.

SB LAFCO participates in the DCAP that is administered by the County's Human Resources Department, Division Chief, Employee Benefits and Services Division in accordance with the dependent care assistance plan document and applicable law.

To be eligible for this benefit, an employee must be in a regular position.

Enrollment in the Plan is required every Plan Year and is limited to the annual open enrollment period or no later than sixty (60) calendar days following the date of becoming eligible due to a mid-year change in status event. Failure to submit participation agreement within the time frame shall result in an election to not participate in the Plan.

An employee must elect to contribute to DCAP through salary reduction on forms approved by the County Human Resources Division Chief, Employee Benefits & Services Division. 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.

Pursuant to IRC §125, any amounts remaining in the employee's account at the end of a Plan year must be forfeited except as permitted by the IRC and the Plan Document.

8. SALARY SAVINGS PLANS

A. 401K PLAN (*Amended August 17, 2005; May 16, 2007; August 20, 2008; June 16, 2011, September 16, 2020*)

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 two 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 four percent of an employee's biweekly base salary.

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

(1) 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.

- (2) 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.

9. RETIREMENT

- A. SB LAFCO CONTRIBUTIONS *(Amended August 17, 2005; May 16, 2007; June 16, 2011, April 17, 2013; April 18, 2018; May 19, 2021)*

LAFCO shall pay all required employer contributions to the San Bernardino County Employee's Retirement Association (SBCERA).

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

Pursuant to the California Public Employees' Pension Reform Act of 2013 (AB 340), SB LAFCO establishes a two-tier system for retirement contribution as follows:

Tier 1 employees are employees with an SBCERA membership date prior to January 1, 2013.

Tier 2 employees are employees with an SBCERA membership date on or after January 1, 2013.

SBCERA membership date is determined based on the following:

- Date of hire as a regular or eligible contract (when applicable) employee, or
- Date of transfer from a non-qualifying position (for example: extra-help, temporary, or part-time) to a regular position that requires membership in SBCERA, or
- Date of entry into membership with another public retirement system with which the employee established reciprocity. Therefore, if the employee enters SBCERA membership under Tier 2, but establishes reciprocity with another public retirement system where the employee was a member prior to January 1, 2013, the employee will be reclassified as a Tier 1 employee.

B. REMAINING EMPLOYEE CONTRIBUTIONS *(Amended April 18, 2018)*

All employee retirement system contribution obligations shall be “picked up” for tax purposes only pursuant to this Section. SB LAFCO shall implement the pickup of such retirement system contribution under Internal Revenue Code Section 414(H) (2).

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 SBCERA 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 SBCERA.

Until retirement or separation, all contributions picked up under this section will be considered for tax purposes as employer-paid contributions.

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; April 18, 2018)*

Except as provided below, 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 contribute the applicable percent of the employee's biweekly salary as defined in this Section to the Plan, and the employee shall contribute a minimum of three percent of biweekly salary to the plan, not to exceed the annual limits of the Plan as defined in the Internal Revenue Code.

D. SURVIVOR BENEFITS *(Amended April 18, 2018)*

Survivor Benefits are payable to employed general retirement members with at least 18 months continuous retirement membership pursuant to Government Code Section 31855.12. 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; August 19, 2015; May 19, 2021)*

A Retirement Medical Trust Fund has been established for SB LAFCO employees with five (5) or more years of participation in the San Bernardino County Employees' Retirement Association (SBCERA). 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.

The Retirement Medical Trust Fund will be administered by the Employee Benefits and Services Division as the plan administrator in accordance with the plan document and applicable law.

Sick Leave Conversion Eligibility - 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 and/or participation in other public sector retirement systems may 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.

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Sick Leave Conversion Formula - At separation from SB LAFCO service for reasons other than death, all eligible employees will be required to contribute the cash value of their unused sick leave balances to the Trust, at the rate of 80% of the cash value of the employee's unused sick leave hours, up to a maximum of 1,500 hours.

SB LAFCO Contributions - SB LAFCO will contribute to the Retirement Medical Trust Fund as follows:

Years of Service	Percentage of Base Salary*
5-9 Years	2.00%
10-15 Years	2.75%
16 or more years	3.75%

*For purposes of the RMT contribution, base salary is as defined in the RMT plan document.

10. HEALTHY LIFESTYLES PROGRAM *(Amended August 17, 2005; August 20, 2008; August 19, 2015)*

SB LAFCO contracts with SB County to provide to its employees the "Healthy Lifestyles" program. Under this program SB LAFCO employees are eligible for reimbursement for health club/[fitness](#) memberships up to \$324 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.

11. PORTABLE COMMUNICATION DEVICE ALLOWANCE *(Adopted April 20, 2005; Amended July 18, 2007; August 19, 2015; May 15, 2019)*

The SB LAFCO Executive Officer, when in paid status, shall receive a bi-weekly portable communication device allowance in the amount of fifty dollars (\$50.00). 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. 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.

12. AUTOMOBILE ALLOWANCE *(Amended August 20, 2008; August 19, 2015; May 15, 2019)*

The SB LAFCO Executive Officer, when in paid status, shall receive a bi-weekly automobile allowance in the amount of three hundred dollars (\$300.00) with no mileage reimbursement. Should the Executive Officer become eligible or ineligible for this benefit in the middle of a pay period they will receive a prorated sum of automobile allowance. 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.

13. TUITION REIMBURSEMENT AND MEMBERSHIP DUES

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:

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- 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:

<u>Job-related education/ course completion date</u>	<u>Reimbursement</u>
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.

14. TUITION LOAN REPAYMENT

The Commission shall establish a Tuition Loan Repayment Program to assist employees with student loan obligations and encourage continued LAFCO employment.

- (1) Eligibility requirements - all requirements must be met before the employee is deemed eligible for loan repayment assistance:
 - (A) The employee is employed in a regular full time exempt classification.
 - (B) The employee fully completes the County's Student Loan Repayment Application.
 - (C) The employee submits proof of the following:
 - (I) A qualifying degree.
 - (II) Current statements from an unpaid loan.
 - (III) The employee is in paid status in the pay period the repayment is made.
 - (IV) The employee is not participating in another tuition loan repayment program. This does not include participation in any loan forgiveness program.
 - (V) Employee's last Work Performance Evaluation rating is a "meets standards" or above and not on a work performance improvement plan.
 - (VI) Employee is not on a current leave restriction plan.
- (2) Terms of Loan Repayment Assistance: Employees with 2 or more years of continuous service with LAFCO may apply for tuition loan repayment. Continuous service is defined as the total length of service from an employee's most recent beginning (hire) date in a regular position with no separation from employment. Employees must complete a new application and submit supporting documentation for each disbursement for loan repayment. Any additional annual incentive will require completion of new one-year continuous periods of Qualifying Service on and after the date of the implementation of this provision. In no event will the payments be combined. If the application meets LAFCO requirements, the payment shall be as follows:
 - (A) After completion of 2 continuous years with LAFCO: A single payment of up to \$1,000.
 - (B) After completion of 3 continuous years with LAFCO: A

- single payment of up to \$1,500.
- (C) After completion of 4 continuous years with LAFCO: A single payment of up to \$2,000.
- (D) After completion of 5 continuous years with LAFCO: A single payment of up to \$2,500.
- (E) After completion of 6 continuous years with LAFCO: A single payment of up to \$3,000.

Payment shall not exceed the total amount of \$10,000 per employee.

Eligible employees may receive the payment within thirty (30) days after approval of the required documentation.

(3) Restrictions

- (A) Employee must have one or more qualifying student loans (including private loans provided they qualify pursuant to all applicable State and Federal laws, rules, and regulations).
- (B) Degree must have been completed and employee must be in active repayment of the loan.
- (C) Loans must not be in default status. Employees must provide a written statement from their lender(s) substantiating that the loan(s) are not in default, dated within ten (10) business days of the application for payment.
- (D) Payments made on loans in the year prior to the repayment request that are less than the maximum yearly repayment amount will be eligible for the lesser amount paid only.
- (E) Employees who separate from LAFCO employment are not entitled to prorated payments.
- (F) The lender information must be verified annually, and must not be older than ten (10) days prior to the application for payment.
- (G) If loans have been consolidated, proof of consolidation must be provided.
- (H) Employees must show proof of loan payments for each of the prior twelve (12) consecutive months.

(4) Program Details

- (A) Payment will be made directly to the employee through EMACS. Payment will be subject to all required payroll deductions, and participants will be responsible for any and all applicable taxes resulting from the payments they receive.
- (B) Qualifying Student Loan shall mean a loan (or the portion of a loan, if consolidated) taken and used to cover the cost of an eligible qualifying degree. The determination of whether or to what extent a loan is a Qualifying Student Loan shall be made based on guidelines established by the County's Human Resources Department.

(C) Notwithstanding the foregoing, reimbursement under this Section shall be made subject to any additional conditions approved by the appointing authority.

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SECTION IV

APPLICATION PROCESSING

CHAPTER 1: PROPOSALS

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 San Bernardino County 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.

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, April 16, 1997, August 19, 2015.)*

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

- A. 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.
- B. For proposals in which the determination of inhabited or uninhabited actions is required, the date of the Certificate 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, December 20, 2000, August 19, 2015.)*

The plan for service shall be prepared and submitted by each local agency affected by a proposed change of organization or reorganization, 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.

PROCEDURES AND STANDARDS FOR REVIEW:

- A. The Plan for Service submitted shall include a narrative description of the information outlined pursuant to Government Code Section 56653.
- B. 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.
- C. 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.
- D. 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.
- E. 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.
- F. 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. EFFECTIVE DATE AS A FUNCTION OF THE CERTIFICATE OF COMPLETION *(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. REQUESTS FOR RECONSIDERATION *(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.

PROCEDURE:

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:

- A. The Commission may approve the request, and adopt a resolution superseding the resolution previously issued;
- B. The Commission may deny the request; or
- C. The Commission may continue the hearing for a maximum of seventy (70) days.

8. INCORPORATION POLICIES *(Adopted March 30, 1994.)*

- A. 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.

- B. 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.

- C. 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.
- D. 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.
- E. 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.
- F. 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.
- G. 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.
- H. 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, April 21, 2010, and October 22, 2014)*

A. 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

Less than 20 acres
20 acres or more

DISTANCE

Four (4) parcels or 700 feet
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.

PROCEDURE FOR INDIVIDUAL NOTICE:

- (1) LAFCO staff shall 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.
- (2) 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.
- (3) 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 Item B below.

B. WAIVER OF INDIVIDUAL NOTICE

- (1) Automatic Waiver - 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; incorporation or disincorporation of a city proposal or the establishment or amendment of a sphere of influence, 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. However, the

Commission retains the right to require individual notice should it deem appropriate based upon significant controversy.

- (2) Commission Waiver - 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.

PROCEDURE FOR COMMISSION WAIVER OF INDIVIDUAL NOTICE:

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.

10. WAIVER OF LAFCO LEGAL COUNSEL CONFLICTS OF INTEREST *(Adopted May 18, 2005)*

- A. Subject to procedures defined below, the Commission authorizes the Executive Officer to waive conflicts of interest under Rule 3.310 of the California Rules of Professional Conduct for LAFCO Counsel's public agency clients.

PROCEDURE:

LAFCO Counsel and the Executive Officer shall discuss each potential conflict and make the following determinations:

- A. Where controversy is identified by either party, no waiver is approved.
- B. Where no controversy is identified, a waiver will be tentatively approved subject to the following:
 - (1) In each case where a waiver is tentatively approved, the Executive Officer shall individually notify the Commission members of his/her proposed decision.
 - (2) In the event the Executive Officer receives no objection from any Commissioner, the waiver is approved.

B. The Commission may enter into a blanket legal counsel conflict waiver with respect to conflicts involving a specific public agency or specific types of proposals involving a specific public agency. The issuance of the blanket waiver would be subject to approval by the San Bernardino Commission.

11. ISLAND ANNEXATION PURSUANT TO GOVERNMENT CODE SECTION 56375.3 *(Policy was repealed and replaced by action of the Commission March 31, 2005; Amended October 18, 2006; June 20, 2012)*

- A. 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 government owned land.
- B. 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.

- C. 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.

12. CONDUCT OF PROTEST HEARINGS *(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.

13. RESOLUTION OF INITIATION REQUIREMENT *(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 Policy 3 Ch. 2 – Financial Policies for Application Processing of Section II of this Manual.

14. DISADVANTAGED UNINCORPORATED COMMUNITY ANNEXATION *(Adopted June 20, 2012, Amended October 22, 2014; August 17, 2016)*

- A. LAFCO shall utilize the ESRI Community Analyst Online, a web-based application, to develop the demographic data needed to define the "disadvantaged unincorporated community" as outlined in Government

Code Section 56033.5. The data shall be developed and mapped every five years in years ending in 1 and 6 (for example 2011 and 2016) and made available on the LAFCO website. ~~In addition, a~~ community, as identified in this section, ~~shall be defined as meaning~~ means an inhabited area that is comprised of no less than 10 dwellings adjacent or ~~in close proximity to~~ near one another.

~~B. 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~~

~~C.~~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.

~~D.~~C. The Commission determines that in implementing subsection (B) (2), 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.

15. CAMPAIGN DISCLOSURE REQUIREMENTS (Added October 22, 2014)

In order to comply with the California Government Code and Political Reform Act, the following procedure will be followed:

PROCEDURE

A. DEFINITIONS

- (1) “Contribution” as used herein shall have the same definition as provided in Government Code Section 82015, as amended.
- (2) “Expenditure” as used herein shall have the same definition as provided in Government Code Section 82025, as amended.
- (3) “Independent expenditure” as used herein shall have the same definition as provided in Government Code Section 82031, as amended, except that the term “measure” as used in Section 82031

shall be replaced with the term “proposal for organization or reorganization.”

- (4) “Political Purposes” as used herein shall mean for the purpose(s) of:
- a. Influencing public opinion;
 - b. Lobbying public officials; and/or,
 - c. Influencing legislative or administrative action as defined in Government Code § 82032.

It shall not include for the purpose(s) of complying with legal requirements and LAFCO rules for the processing of a proposal, including, but not limited to and by way of example only, preparation of a comprehensive fiscal analysis for an incorporation (Government Code Section 56800) or documents necessary to comply with the California Environmental Quality Act, Public Resources Code Section 21000 et seq., such as a mitigated negative declaration or environmental impact report.

B. DISCLOSURE REQUIREMENTS FOR PETITIONS FOR PROPOSALS FOR ORGANIZATION OR REORGANIZATION

- (1) Any person or combination of persons who directly or indirectly makes an expenditure or independent expenditure for political purposes of \$1,000 or more in support of, or in opposition to, a change of organization or reorganization submitted to the commission to which Government Code Section 56700.1 applies, shall comply with the reporting and disclosure requirements of the Political Reform Act (Government Code §§ 81000 et seq.), to the same extent and subject to the same requirements as for local initiative measures. Such reporting and disclosure requirements, except as otherwise excluded herein, extend to those required by the Fair Political Practices Commission Regulations regarding such disclosures and shall include disclosure of contributions, expenditures and independent expenditures.
- (2) Disclosures made pursuant to this Section shall be filed with the Fair Political Practices Commission as designated in Section 5 below.
- (3) For purposes of determining the deadlines by which such reports and disclosures must be filed, the term “election” as used in the Political Reform Act for determining such deadlines shall mean the date of the originally scheduled commission hearing on a proposal

for organization or reorganization. If no hearing date has been scheduled at the time a person becomes subject to disclosure under this policy, he or she shall request that the Fair Political Practices Commission establish a date to serve as the “election” date for this purpose.

- (4) In the event the originally scheduled hearing date for the proposal for organization or reorganization is rescheduled or continued to a later date, the obligation to file continues. Reports shall be filed on or before the 10th day of each month following the original hearing date with respect to contributions and expenditures received in the previous calendar month up to and including the third calendar month following final action by the commission on the proposal.

C. DISCLOSURE REQUIREMENTS FOR CONDUCTING AUTHORITY PROCEEDINGS

- (1) Any person or combination of persons who directly or indirectly makes an expenditure for political purposes of \$1,000 or more related to conducting authority proceedings for a change of organization or reorganization to which Government Code Section 57009 applies, or in support of or in opposition to those conducting authority proceedings, shall comply with the reporting and disclosure requirements of the Political Reform Act (Government Code §§ 81000 et seq.), to the same extent and subject to the same requirements as for local initiative measures. Such reporting and disclosure requirements, except as otherwise excluded herein, extend to those required by the Fair Political Practices Commission Regulations regarding such disclosures and shall include disclosure of contributions, expenditures and independent expenditures.
- (2) Disclosures made pursuant to this Section shall be filed with the Fair Political Practices Commission as designated in Section E below.
- (3) For purposes of determining the deadlines by which such reports and disclosures must be filed, the term “election” as used in the Political Reform Act for determining such deadlines shall mean the date of the originally scheduled conducting authority hearing on the proposal for organization or reorganization. If no hearing date has been scheduled at the time a person becomes subject to disclosure under this policy, he or she shall request that the Fair Political Practices Commission establish a date to serve as the “election” date for this purpose.

- (4) In the event the originally scheduled conducting authority hearing date for a proposal for organization or reorganization is rescheduled or continued to a later date, the obligation to file continues and reports shall be filed on or before the 10th day of each month following the original hearing date with respect to contributions and expenditures received in the previous calendar month up to and including the third calendar month following final action by the commission on the proposal.

D. Certain Reports and Disclosures Excluded

This policy requires only that the persons subject to it disclose via reports to the Fair Political Practices Commission contributions, expenditures and independent expenditures with respect to expenditures for political purposes related to a petition to the commission for a proposal for an organization or reorganization and does not impose on such persons the regulations regarding the names of campaign committees, disclosures of the sources of mass mailings, and disclosures of the source of automated telephone calls under Government Code Sections 84501 et seq. and the regulations of the Fair Political Practices Commission implementing those sections.

E. Where to File

All reports and disclosures required hereunder shall be filed with the Fair Political Practices Commission.

CHAPTER 2: 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 and these policies and procedures will provide guidance on their processing.

POLICIES:

(Adopted May 18, 1994; Amended December 20, 2000, March 16, 2016.)

1. DEFINITIONS

The definition of terms that follow 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:

- A. "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.
- B. "Contract or agreement" shall mean a contract, agreement, or other legal instrument, which requires or agrees to the delivery of service to a property or a defined service area.
- C. "Written approval of the Commission" shall mean the adoption of a resolution of the Commission approving the service agreement/contract at a noticed public hearing or the document signed by the Executive Officer authorizing the completion of the contract in cases where the Executive Officer has been authorized to approve the service agreement/contract (see Policy 2 below).
- D. "Affected County" shall be defined in the same manner as Government Code Section 56012 but relating to the area to which contractual service will be delivered.

- E. "Anticipation of a later change of organization." The inclusion of an area to be served within the sphere of influence of the serving agency shall be sufficient to comply with this provision.
- F. "Public Agency" shall be defined in compliance with Government Code Section 56070. 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.
- G. "Health and safety 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, and other similar threats related to health and safety.

- 2. **EXECUTIVE OFFICER AUTHORITY.** 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 health and safety concern. ~~It~~ **addition, t**he Executive Officer shall have the authority to approve or conditionally approve service extensions where the services in question will not facilitate development. In addition, the Executive Officer shall have the authority to approve or conditionally approve service extensions to accessory dwelling units being created on lots where a primary dwelling exists. 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.
- 3. **GOVERNMENT CODE SECTION 56133.5.** A proposal application by a city or district to provide new or extended services ~~outside the agency's boundaries and outside the agency's sphere of influence would come~~ under the provisions of Government Code Section 56133.5, ~~which~~ will require Commission approval at a noticed public hearing prior to the signing of an agreement/contract for the provision of the service.
- 4. In the case where a city or district authorized to provide water service 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 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 provided that the area to be served is within the service area of the private or mutual water company previously defined by the PUC or other appropriate agency.

Proposals to extend service outside this previously defined area and outside the sphere of influence of the agency providing service would come under the provisions of Government Code Section 56133.5, which will require Commission approval at a noticed public hearing prior to the signing of an agreement/contract for the provision of the service.

5. For a request for exemption pursuant to Government Code Section 56133(e), the Commission shall make the determination that the service(s) to be provided is/are exempt from LAFCO review. The Commission has, in cases where the service extension proposed does not facilitate development or directly affect employees, delegated the authority to make the determination for exemption pursuant to Government Code Section 56133(e) to the Executive Officer.

APPLICATION PROCEDURES FOR GOVERNMENT CODE SECTIONS 56133 and 56133.5:

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 an out-of-agency service agreement/contract. 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 a non-development-related agreement/contract has been delegated to the LAFCO Executive Officer by the Commission, pursuant to policies adopted on December 20, 2000.

In addition, the pilot program for Napa and San Bernardino LAFCOs pursuant to Government Code Section 56133.5, which authorizes a city or district to extend services outside an agency's boundaries and outside its sphere of influence, will also be subject to Commission approval at a noticed public hearing.

1. Application for Review:

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

- A. Official Request from Applying Agency. A written request signed by the City Manager/District General 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.

- B. Payment of Appropriate Filing Fees. The applying agency must submit as part of the application the appropriate filing fees as outlined in the LAFCO Schedule of Fees, Deposits, and Charges 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.
 - C. 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 providing 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.
 - D. Any other information deemed appropriate by the Executive Officer in order to review the service extension request based upon its special circumstances.
2. Environmental Review Requirements:
- The review of an out-of-agency service agreement/contract is subject to environmental review procedures as outlined in Section V of this Manual.

REVIEW PROCEDURES FOR GOVERNMENT CODE SECTIONS 56133 and 56133.5:

1. Commission Review Procedures:

A development-related agreement/contract associated with the development of a tract, a subdivision, a single-family dwelling unit, a commercial/industrial development and other types of development-related projects ~~or a proposal to provide new or extended services outside an agency's boundaries and outside its sphere of influence~~ will require the following review:

- A. 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.

- B. The LAFCO staff shall forward a copy of the application to various County departments for their review and comment.
- C. Completion of the CEQA review process will be required prior to placement on the Commission's agenda.
- D. If necessary, a meeting with the applying agency and/or the various County 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.
- E. 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.
- F. The Commission has the authority to approve, approve with conditions, or deny the request for authorization of an out-of-agency service agreement/contract. The Commission's determination and any required findings will be set out in a resolution which specifies the property or area to be served, the services to be provided, and the authority of the agency to provide its services outside its boundaries.

2. LAFCO Executive Officer Administrative Review Procedures:

A non-development related agreement/contract ~~(Administrative Review by LAFCO Executive Officer)~~ to provide service(s) to an existing dwelling unit or, a commercial building, structure(s), an agreement/contract to provide service(s) to accessory dwelling units created on a lot with an existing primary dwelling, an agreement/~~a~~ contract between public agencies for fire protection mutual or automatic aid, an agreement/contract where the services will not facilitate development, etc. will be processed as follows:

- A. 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.
- B. Completion of the CEQA review process will be required prior to action by the Executive Officer.

- C. The Executive Officer's administrative review will include the following determinations:
- (1) The proposed service extension is either nondevelopment-related, to accessory dwelling units created on a lot with an existing primary dwelling, and/or involves health and safety concerns as defined by Commission policy.
 - (2) ~~The area to be served is within the sphere of influence of the agency requesting to provide service outside its boundaries.~~
 - (3) The environmental analysis/assessment, as required by CEQA, has been completed.
- D. 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.

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CHAPTER 3: SERVICE REVIEWS

PURPOSE: *(Adopted May 21, 2003)*

Requirements for conducting a review of municipal services provided in the county or other appropriate area designated by the Commission are outlined in Government Code Section 56430 as well as requiring sphere of influence updates for all agencies under LAFCO purview on a reoccurring cycle pursuant to Section 56425.

POLICIES:

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

- A. 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.

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. The San Bernardino LAFCO has 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.

B. 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.

C. 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 #14 in the general Application Processing Section related to Disadvantaged Unincorporated Communities.*

PROCEDURES:

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.

Should a sphere of influence update/study be conducted in conjunction with a service review, 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)*

- A. An amendment to a retail water district sphere of influence will require a service review if both the following are met:
 - (1) The area is currently outside the sphere of influence of the appropriate wholesale purveyor.
 - (2) Objection is received from any agency that provides water service and whose Sphere of Influence underlies or is adjacent to the subject territory.
- B. Notwithstanding the foregoing, the Commission reserves the discretion to conduct a service review when it deems appropriate based upon unique conditions and circumstances.

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CHAPTER 4: SPHERES OF INFLUENCE

PURPOSE:

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.

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 overtime. 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 five "factors of consideration" in connection with any sphere of influence proposal. The factors of consideration are 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 study 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 if the Commission determines that they are relevant to the agency; and
- E. For an update of a sphere of influence of a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection, that occurs pursuant to subdivision (g) on or after July 1, 2012, the present and probable need for those public facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.

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.

POLICIES:

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. 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

CHAPTER 5: OUT OF AGENCY FIRE PROTECTION CONTRACT

BACKGROUND:

Beginning January 1, 2016, a Local Agency Formation Commission has been charged with the responsibility for reviewing and taking action on fire protection contracts that either: transfers more than 25 percent of the service area of an affected public agency or changes the employment status of more than 25 percent of the employees of an affected public agency pursuant to Government Code Section 56134. These are unique actions not directly related to the processing of other types of proposals and the following policies and procedures will provide guidance on their processing.

POLICIES:

(Adopted August 17, 2016)

1. DEFINITIONS:

- A. "Affected Public Agency(ies)" for the purpose of fire protection contracts, shall be defined as the public agency(ies), as described pursuant to Government Code Section 56070, that is(are) affected by the fire protection contract, either as the agency providing or receiving the new or extended fire protection service(s).
- B. "Employment Status" for the purpose of fire protection contracts, shall be defined as either inter-agency or intra-agency transfer of employee(s), and/or employee(s) whose employment is/are terminated as a result of the contract.
- C. "Jurisdictional boundary(ies)" for the purpose of fire protection contracts, shall be as defined pursuant to Government Code Section 56134(a)(3). Any other instance, jurisdictional boundary(ies) shall mean the actual boundaries of a public agency such as the corporate boundaries of a city or the boundary of a special district."

2. Documentation Required - The applicant must provide the Commission with documentation on whether the fire protection contract meets either threshold outlined in Government Code Section 56134(a)(1)(A) and (B):

- Transfers service responsibility of more than 25 percent of an affected public agency's service area; or,
- Changes the employment status of more than 25 percent of the employees of an affected public agency.

If the area to be served by the fire protection contract is not the entire jurisdictional boundaries of an affected agency, a map of the contract area must be provided. If the fire protection contract affects more than 25 percent of the employees of an affected agency, a document with a listing of all employees for the affected agency that clearly identifies all the employees affected by the fire protection contract must be provided.

3. For a fire protection contract application request made by a state agency, the director of the state agency must provide a letter, addressed to the Commission, outlining the agency's intent to provide service(s) outside its jurisdictional boundaries as defined by Government Code Section 56134. The letter must include, as an attachment, all supporting documents that are required to be submitted for a fire protection contract. In the case where the Director of Finance must provide approval of the fire protection contract, the Director must provide a letter, addressed to the Commission, outlining its support for the fire protection contract application request.
4. The required written agreement from an affected public agency shall be in the form of a resolution adopted by its legislative body. The written agreement from the employee organization shall be in a form of a letter signed by the President of the employee organization. In the case of providing written notice, proof that the notice was provided or delivered to each affected agency and employee organization shall be in the form of a signed affidavit or any similar type of proof that the written notices were provided. Such proof must be included as part of the application submission. In addition, all documents related to the public hearing on the resolution of application including, but not limited to, a copy of the agenda, staff report, and meeting minutes must also be included as part of the application submission.
5. The Plan for Service must include, but is not limited to, all the required information as outlined in Government Code Section 56134(e). In addition, the required independent Fiscal Impact Analysis must include, at a minimum, the following:
 - a five year projection of revenues and expenditures;
 - a discussion of the sufficiency of general existing revenues to provide the new or extended fire protection service; and,
 - a comprehensive review of all retirement plans impacting the affected agency/agencies and employees including any unfunded retirement obligations and the identification of retirement debt, if any, and the responsible agency or agencies to assume such debt.

6. Existing fire protection contracts, and their renewal, will not be subject to the requirements of Government Code Section 56134 unless a subsequent change to an existing fire protection contract either transfers more than 25 percent of the service area of an affected public agency or affects more than 25 percent of the employees of an affected public agency. In addition, mutual or automatic aid agreements are not subject to Government Code Section 56134.

APPLICATION PROCEDURES FOR AN OUT OF AGENCY FIRE PROTECTION CONTRACT (Adopted August 17, 2016; Amended April 18, 2018)

Government Code Section 56134 charges LAFCO with the responsibility to review and approve, approve with conditions, or deny requests for approval of a fire protection contract that provide new or extended fire protection services outside an agency's jurisdictional boundaries provided such contracts meet one of the following thresholds: (1) transfers service responsibility of more than 25 percent of an affected public agency's service area; or (2) affects more than 25 percent of the employees of an affected public agency. Requests under this provision are subject to Commission review.

1. Application for Review:

The filing requirements for review of a fire protection contract shall include:

- A. Official Request from Applicant. The request must be made by adoption of a Resolution of Application pursuant to Government Code Section 53134(c).
 - The resolution of application shall not be submitted to LAFCO unless the provisions outlined in Government Code Section 56134(d) have been met: 1) Submission of written agreement from each affected public agency and each affected employee organization consenting to the proposed fire protection contract, or proof that written notices were provided to each affected agency and employee organization at least 30 days prior to the public hearing on the resolution of application is held; and 2) the applicant conducts an open public hearing on the resolution of application. The resolution of application must also include a provision acknowledging the Commission's requirement for indemnification pursuant to Commission policy (see Policy and Procedure Manual, Chapter 2 - Accounting and Financial Section, Policy #3)

In addition, all documents related to the applicant's hearing on the resolution of application such as agenda, staff report, minutes, etc. shall also be submitted.

- The resolution of application must be submitted with a Plan for Service that includes, but is not limited to, all the required information as outlined in Government Code Section 56134(e).
 - The resolution of application must be submitted with an independent Fiscal Impact Analysis pursuant to Government Code Section 56134(f) that includes, at a minimum, the following: a) a five year projection of revenues and expenditures, b) a discussion of the sufficiency of general existing revenues to provide the new or extended fire protection service, and c) a comprehensive review of all retirement plans impacting the affected agencies and employees including any unfunded retirement obligations and the identification of retirement debt, if any, and the responsible agency or agencies to assume such debt.
- B. Documentation Required to Establish Thresholds Related to Service Area and Employment Status:
- Service Area: The applicant must submit a map of the fire protection contract area if the fire protection contract area is not the entirety of the affected public agency. *If the applicant already serves the affected public agency (agency receiving service) by contract to a portion of its current jurisdictional boundaries, the map must clearly identify the area it currently serves by contract and the new area it is proposing to serve by contract.*
 - Employment Status: The applicant must submit a document with a listing of all employee classifications/titles of an affected public agency that clearly identify the employee classifications/titles that are affected by the fire protection contract.
- C. Payment of Appropriate Filing Fees. The applicant must submit, as part of the application, the appropriate filing fee as outlined in the LAFCO Schedule of Fees, Deposits, and Charges in effect at the time of submission. In addition, a review of a fire protection contract is also subject to the following deposits: legal counsel, environmental review, and individual notice. Applicants will be required to reimburse the Commission for all charges and costs in excess of the deposits outlined above. If charges billed are less than the amount of deposits, the balance will be refunded at the close of the application.

Should a fire protection contract require the extension of an existing per parcel special fee or charge, the applicant will be required to submit an

additional deposit for the direct costs associated with mailing individual notices to each billed landowner within the fire protection contract area.

- D. A completed Application Form for Fire Protection Contracts including the submission of a copy of the fire protection contract that has been signed by one of the affected public agencies. Submission of additional map(s) showing the jurisdictional boundaries of the affected public agencies may also be required.
- E. Any other information deemed appropriate by the Executive Officer in order to review the fire protection contract based upon its special circumstances.

2. Environmental Review Requirements:

The review of a fire protection contract is subject to environmental review procedures as outlined in Section V of this Manual.

REVIEW PROCEDURES FOR AN OUT OF AGENCY FIRE PROTECTION CONTRACT (Adopted August 17, 2016):

A fire protection contract will require the following review:

- 1. The applicant must submit to LAFCO a completed Application Form for Fire Protection Contracts, with all its component parts as previously defined, for review and consideration. Within 30 days, the LAFCO Executive Officer will notify the applicant and any other affected public agency whether or not the application filing is complete. If incomplete, the applicant and any other affected public agency will be notified of the specific insufficiencies.
- 2. The LAFCO staff shall forward a copy of the application to various County departments, all local fire authorities and other affected/interested agencies for their review and comment.
- 3. Completion of the CEQA review process will be required prior to placement on the Commission's agenda.
- 4. A meeting with the applicant and any other affected public agency, and/or the various County departments and other affected/interested agencies will be held to discuss the circumstances and/or issues related to the fire protection contract.
- 5. Once these required elements have been completed and the application deemed complete, the item will be placed on the next agenda for which notice can be provided but no more than 90 days from the date the application is deemed complete. At least 21 days prior to the date of the hearing, notice of the hearing

will be mailed to each affected local agency or affected county, and to any interested party who has filed a written request for notice. In addition, at least 21 days prior to the hearing, notice of hearing will be published in a newspaper of general circulation and posted on the Commission's website.

At least 21 days prior to the date of the hearing, individual notice will be mailed to each billed landowner within the fire protection contract area if the fire protection contract will require the extension of an existing per parcel special fee or charge.

6. 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.
7. The Commission has the authority to approve, approve with conditions, or deny a fire protection contract. The Commission's determination regarding 56134(h)(2)(i) and (j) 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.
8. Reconsideration: Following an action by the Commission on the contract request, reconsideration by the Commission may be requested pursuant to existing Commission policies.

SECTION V
ENVIRONMENTAL REVIEW
**ADMINISTRATIVE GUIDELINES, POLICIES,
AND PROCEDURES**

Amended April 15, 2020

CHAPTER 1: 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 CEQA 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 under CEQA. This version of LAFCO's Environmental Review guidelines incorporates changes in the State CEQA Guidelines through 2019.

These provisions and procedures incorporate by reference (and are to be utilized in conjunction with) the State CEQA Guidelines, a copy of which is on file with the LAFCO Clerk. 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 that the California Legislature makes to the CEQA Statutes as soon as those statutory changes become effective, even if not expressly stated herein.

The Commission hires an environmental consultant to assist the Commission in carrying out its duties under CEQA. The Commission's environmental consultant reviews proposals that are filed with LAFCO for CEQA compliance. The Commission's environmental consultant's recommendation is advisory to the Commission and its staff. The Commission makes the final determination and takes the final action based on its independent review of the recommendation, the project and the environmental analysis.

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.

LAFCO's more prominent roles include, but are not limited to, creation of spheres of influence, formation of new districts, incorporation of new cities, and annexations/reorganizations to cities or special districts. These types of LAFCO actions generally require more in-depth analysis, especially if they result in the direct or indirect physical change in the environment, like 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, and creation of unincorporated "islands," etc.

The following general information from the State CEQA Guidelines provides context for the Commission's CEQA actions:

1. GENERAL CEQA CONCEPTS

The following General Concepts outlined in the State CEQA Guidelines, section 15002 apply to LAFCO's consideration of projects presented to it:

- (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.*
- (f) *Environmental Impact Reports and Negative Declarations. An Environmental Impact Report (EIR) is the public document used by the governmental agency to analyze the*

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significant environmental effects of a proposed project, to identify alternatives, and to disclose possible ways to reduce or avoid the possible environmental damage.

- (1) *An EIR is prepared when the public agency finds substantial evidence that the project may have a significant effect on the environment. (See: State CEQA Guidelines section 15064(a)(1))*
 - (2) *When the agency finds that there is no substantial evidence that a project may have a significant environmental effect, the agency will prepare a "Negative Declaration" instead of an EIR. (See: State CEQA Guidelines section 15070.)*
- (g) *Significant Effect on the Environment. A significant effect on the environment is defined as a substantial adverse change in the physical conditions which exist in the area affected by the proposed project. (See: State CEQA Guidelines section 15382.) Further, when an EIR identifies a significant effect, the government agency approving the project must make findings on whether the adverse environmental effects have been substantially reduced or if not, why not. (See: State CEQA Guidelines section 15091.)*
- (h) *Methods for Protecting the Environment. CEQA requires more than merely preparing environmental documents. The 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 State CEQA Guidelines 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: State CEQA Guidelines 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: State CEQA Guidelines 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*

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county and only ministerial controls in another. (See: State CEQA Guidelines 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: State CEQA Guidelines 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: State CEQA Guidelines sections 15061 and 15062.)*
 - (2) If the project is not exempt, the Lead Agency takes the second step and conducts an Initial Study (State CEQA Guidelines 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: State CEQA Guidelines 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: State CEQA Guidelines sections 15080 et seq.)*

2. CEQA POLICIES

The following Policies outlined in the State CEQA Guidelines, section 15003 provide further information about the policies that underlie the Commission's CEQA decisions:

- (c) The EIR is to inform other governmental agencies and the public generally of the environmental impact of a proposed project. (No Oil, Inc. v. City of Los Angeles, 13 Cal. 3d 68.)*
- (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)*

3. 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 that 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. When making decisions that trigger some type of CEQA review, LAFCO's duty is to minimize the environmental damage that may result from those decisions and to balance the competing public objectives as outlined in the State CEQA Guidelines, section 15021, which are as follows:

- (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.*

4. AUTHORITY PROVIDED BY CEQA (State CEQA Guidelines, section 15040)

- (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.*

5. AUTHORITY TO MITIGATE (State CEQA Guidelines, section 15041)

Within the limitations described in State CEQA Guidelines section 15040:

- (a) *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.).*
- (b) *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.*

CHAPTER 2: LAFCO ENVIRONMENTAL PROCESS AND PROCEDURES

1. LAFCO's Role as an "Interested" Agency

In situations where LAFCO is not a "Responsible Agency" but has an interest in reviewing a project to ensure that LAFCO related information are correctly identified, LAFCO play a more limited role in the CEQA process. In those instances, 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.

2. LAFCO's Role as a Responsible Agency

"Responsible" Agency status occurs when LAFCO is not the "Lead" Agency, but nevertheless has discretionary approval authority over a project or some aspect of a project, in tandem with, or separate from that of the Lead Agency in accordance with Section 15096 of the State CEQA Guidelines.

Examples of situations where LAFCO may be 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 decision.
- The County approving a development related project that requires services from an Agency (City or Special District) through an Out-of-Agency service contract/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.

LAFCO shall use the environmental document prepared by the Lead Agency for LAFCO's environmental determinations if the Executive Officer deems it adequate for such use pursuant to State CEQA Guidelines, section 15096. Procedures for determining the adequacy of the lead agency's CEQA document are summarized as follows:

A. Consultation

- (1) Regardless of whether LAFCO is a responsible agency, each Lead Agency carrying out any project within LAFCO's jurisdiction and function shall inform LAFCO in writing of its intent and process for that project at the beginning of the Lead Agency's CEQA review process, and the Lead Agency shall provide LAFCO with copies of any project applications.
- (2) 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.
- (3) 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.
- (4) 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.
- (5) When it intends to prepare an EIR, the Lead Agency shall send a Notice of Preparation by certified mail to LAFCO to solicit input in accordance with Section 15082 of the State CEQA Guidelines.
- (6) LAFCO shall respond to any Notice of Preparation submitted to LAFCO in accordance with subsection (A)(5) above 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. LAFCO shall also provide the Lead Agency with input regarding environmental

issues and the minimum content of the analysis needed to meet a standard of adequacy for use of the environmental document/determination by LAFCO as a CEQA Responsible Agency.

- (7) Where LAFCO is called upon to grant an approval for a project subject to CEQA for which another public agency was the appropriate lead agency, LAFCO shall assume the role of the lead agency when any of the following conditions occur:
- a. The lead agency did not prepare any environmental documents for the project, and the statute of limitations has expired for a challenge to the action of the appropriate lead agency.
 - b. The lead agency prepared environmental documents for the project, but the following conditions occur:
 - i. A subsequent EIR is required pursuant to State CEQA Guidelines, section 15162,
 - ii. The lead agency has granted a final approval for the project, and
 - iii. The statute of limitations for challenging the lead agency's action under CEQA has expired.
 - c. The lead agency prepared inadequate environmental documents without consulting with the responsible agency as required by State CEQA Guidelines, section 15072 or 15082, and the statute of limitations has expired for a challenge to the action of the appropriate lead agency.

B. Preparation of Environmental Documents by a Lead Agency

- (1) 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, changes of organization or reorganization, or other proposed actions requiring subsequent discretionary action by LAFCO to fully implement the project.
- (2) 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 established review period, send comments to the Lead Agency in writing (which can be transmitted either via U.S. mail or overnight delivery, or electronically by email or other messaging system), all of which LAFCO expects to be incorporated and assessed in the final document. LAFCO's comments on a draft CEQA document submitted to LAFCO by a lead agency should focus on the appropriateness of the CEQA document chosen, the adequacy of the environmental document's content, in the case of an EIR -- additional alternatives or mitigation measures, etc., that are germane to environmental impacts that could result from LAFCO's subsequent discretionary action or to the adequacy of the document for use by LAFCO as a CEQA Responsible Agency.

- (3) 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 the State CEQA Guidelines.

C. Filing with LAFCO

Applications filed by Lead Agencies with LAFCO shall include copies of one of the following environmental documents as specified in LAFCO's filing requirements and all applicable findings for an EIR per Sections 15091, 15092 and 15093 of the State CEQA Guidelines.

- Certification of Categorical Exemption;
- Certification of Statutory Exemption;
- Notice of Intent to Adopt a Negative Declaration;
- Final Negative Declaration (including copy of Initial Study);

- Final Negative Declaration with mitigation measures (including copy of Initial Study, all technical appendices, and Mitigation Monitoring/Reporting Plan);
- Notice of Subsequent Use of an Existing EIR (which was previously available or has been made available to LAFCO);
- Notice of Preparation of Draft EIR;
- Notice of Availability/Notice of Completion of Draft EIR (including copy of Draft EIR);
- Final EIR;
- Statements of Findings/Overriding Considerations, and Mitigation Monitoring Plan;
- Notice of Determination; and/or
- Copy of the California Department of Fish and Wildlife's environmental filing fee receipt including, if applicable, a CEQA Filing Fee No Effect Determination Form.

D. LAFCO's Use of Lead Agency's Environmental Documents

- (1) In making its determinations on boundary change proposals, changes of organization or reorganization, or other proposed actions requiring discretionary action by LAFCO, it will generally use the environmental document prepared by the Lead Agency if the procedures regarding consultation and preparation of environmental documents by a Lead Agency outlined above have been followed.
- (2) 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.
- (3) 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, or otherwise make findings in accordance with State CEQA Guidelines, section

15091 for each significant environmental effect that is identified in a Lead Agency's EIR.

- (4) 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, unless it adopts a Statement of Overriding Considerations (State CEQA Guidelines, section 15093);
 - If LAFCO mitigates impacts listed in the EIR to a less than significant level via the adoption of boundary alternatives 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 environmental impacts of the LAFCO decision cannot be mitigated to a less than significant level, LAFCO shall adopt a Statement of Overriding Considerations per State CEQA Guidelines, sections 15093 and 15096.
- (5) Upon project approval, LAFCO shall file a Notice of Determination in a like manner as a Responsible Agency in accordance with Section 15096(i) of the State CEQA Guidelines. The Notice of Determination shall be filed with the San Bernardino County Clerk of the Board of Supervisors.

3. LAFCO's Role as a Lead Agency

A. GENERAL INFORMATION

- (1) 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 pre-zoning for the property of interest.

Examples of projects requiring LAFCO to act as a Lead Agency include but are not limited to the following:

- Changes of organization or reorganization that include, but are not limited to, incorporation of cities, formation of districts, annexation to and detachment from cities and special districts, establishment of a subsidiary district, and merger of cities and districts.
 - Establishment of spheres of influence for cities and special districts.
 - Special District activation or divestiture of a function or class of service
 - Studies of local government agencies requiring a discretionary decision by LAFCO.
- (2) 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:
- a. 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.
 - b. Based on LAFCO review, 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.
 - c. A subsequent EIR is required pursuant to Section 15162 of the State CEQA Guidelines and the original Lead Agency chooses not to prepare a subsequent EIR.

LAFCO may assume Lead Agency responsibility under situations (a) and (b) 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 of notices.*

The decision-making body of a public agency (the Commission) shall NOT delegate the following functions:

- (1) Reviewing and considering a final EIR or approving a Negative Declaration prior to approving a project before the Commission.*
- (2) The making of findings as required by Sections 15091 and 15093.*

CHAPTER 3: LAFCO 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:

1. PROJECTS EXEMPT FROM CEQA

A. "Common Sense" Exemptions (State CEQA Guidelines, section 15061)

Projects qualifying for this status are those determined by the Executive Officer to have no possibility of causing a physical change in the environment or of creating a significant adverse environmental effect (15061(b)(3)):

15060 (c) Once an application is deemed complete, LAFCO must first determine whether an activity is subject to CEQA before conducting an initial study. An activity is not subject to CEQA if:

- (1) The activity does not involve the exercise of discretionary powers by a public agency;*
- (2) The activity will not result in a direct or reasonably foreseeable indirect physical change in the environment; or*
- (3) The activity is not a project as defined in Section 15378 of the State CEQA Guidelines.*

15061 (b) A project is exempt from CEQA if:

- (1) The project is exempt by statute (see, e.g. Article 18, commencing with Section 15260).*
- (2) The project is exempt pursuant to a categorical exemption (see Article 19, commencing with Section 15300) and the application of that categorical exemption is not barred by one of the exceptions set forth in Section 15300.2.*
- (3) The activity is covered by the common sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.*
- (4) The project will be rejected or disapproved by a public agency. (See Section 15270(b)).*
- (5) The project is exempt pursuant to the provisions of Article 12.5 of this Chapter, which define exemptions for agricultural housing, affordable housing, and residential infill projects.*

Most LAFCO projects qualify for a “common sense” exemption because the project being considered for approval by the Commission has no potential to modify the physical environment.

B. Statutory Exemptions (State CEQA Guidelines, sections 15260-15285)

Statutorily exempt projects defined by the Legislature that could apply to a LAFCO project include the following:

(1) Disapproved Projects

CEQA does not apply to projects that LAFCO rejects or disapproves. This statutory exemption is intended to allow an initial screening of projects on the merits for quick disapprovals prior to the initiation of the CEQA process where LAFCO can determine that the project cannot be approved. This statutory exemption shall not relieve an applicant from paying the costs for an EIR or negative declaration prepared for the project prior to the lead agency’s disapproval of the project after normal evaluation and processing.

(2) 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.

(3) Ministerial Projects

Actions or Ministerial Projects involve the application of fixed standards without the option of exercising personal or subjective judgment (discretion) by the Executive Officer or the Commission.

Examples include:

- a. Issuance of Certificates of Filing and Completion.
- b. Consolidation/reorganization of special districts where the district boards adopt similar resolutions of applications for said consolidation/reorganization into a

single agency (pursuant to Government Code Section 56853).

- c. Certain island annexations (pursuant to Government Code Section 56375 [a][4] or Section 56375.3) where approval is mandated if the annexation meets certain specific findings.

(4) Rates, Tolls, Fares and Charges (State CEQA Guidelines, 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,*

C. Categorical Exemptions (State CEQA Guidelines, section 15300)

The following classes of projects, specifically pertaining to LAFCO's activities, have been identified in the State CEQA Guidelines as not having the potential to cause significant environmental effects, and may be categorically exempt from the requirements of CEQA if certain specified criteria are satisfied (Note: A categorical exemption shall not be used for these activities where there is substantial evidence to support that one of the exceptions to the categorical exemptions in State CEQA Guidelines, section 15300.2 is present.):

(1) Class 3: Construction or Conversion of New, Small Structures

Included within this category are out-of-agency service contracts/agreements involving the extension of water, sewer, and/or other utility services by a city or district outside its boundaries but lying within its respective sphere of influence.

(2) Class 19: Annexations of Existing Facilities and Lots for Exempt Facilities

Included within this category are:

- a. Annexations to special districts where the district's services would be provided even without annexation and

construction has been initiated prior to the issuance of a Certificate of Filing;

- b. Annexations of areas containing existing public or private structures developed to the density allowed by current zoning or pre-zoning, whichever is more restrictive, (provided, however, that the extension of utility services within the annexed area would have a capacity to serve only those existing facilities);
- c. Detachments from cities where the land being detached is committed, by virtue of an adopted land-use plan, to remain in agricultural use or open space; or where the land is presently developed and no change in land-use can be reasonably anticipated; and
- d. Detachments from special districts which will not result in any change in zoning or land use.

(3) Class 20: Changes in Organization of Local Agencies

Included within this category are changes in the organization or 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:

- a. Establishment of a subsidiary district;
- b. Consolidation of two or more districts having identical boundaries;
- c. Merger with a city of a district lying entirely within the boundaries of the city; or
- d. Reorganization of agencies consisting of annexations or detachments providing similar services.

D. Process

When a LAFCO project qualifies for an exemption, staff will either (1) draft a memorandum to file explaining the rationale for the exemption or (2) document the exemption determination and the rationale supporting it in a staff report to the Commission. After the Commission takes action on the CEQA exemption and the project, the Executive

Officer shall file and post with the San Bernardino County Clerk of the Board of Supervisors a LAFCO "Notice of Exemption" form, to include:

- (1) A brief project description;
- (2) The project location;
- (3) The specific exemption (common sense/statutory/categorical), including the finding and citation to the State CEQA Guidelines section or statute under which it is found to be exempt;
- (4) The rationale for its selection, including a brief statement of reasons to support the finding.

2. ASSEMBLY BILL (AB) 52 – NATIVE AMERICANS

Beginning July 2015, a new process was added to the standard CEQA review for a Negative Declaration (ND, Notice of Intent to Adopt a Negative Declaration) or for an Environmental Impact Report (EIR, Notice of Preparation). LAFCO rarely prepares Negative Declarations or EIRs, but when this type of documentation is required, LAFCO will have to implement AB 52.

AB 52 establishes a consultation process between Native American tribes and government agencies only upon request of a Tribe. Once a written request for consultation is submitted to any agency, the agency must consult with the Native American Tribe(s) regarding the potential for a project to adversely impact "tribal cultural resources." Section 21074 of the Public Resources Code outlines what tribal cultural resources consist of:

21074. (a) "Tribal cultural resources" are either of the following:

(1) Sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are either of the following:

(A) Included or determined to be eligible for inclusion in the California Register of Historical Resources.

(B) Included in a local register of historical resources as defined in subdivision (k) of Section 5020.1.

(2) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Section 5024.1. In applying the criteria set forth in subdivision (c) of Section 5024.1 for the purposes of this paragraph, the lead agency shall consider the significance of the resource to a California Native American tribe.

(b) A cultural landscape that meets the criteria of subdivision (a) is a tribal cultural resource to the extent that the landscape is geographically defined in terms of the size and scope of the landscape.

(c) A historical resource described in Section 21084.1, a unique archaeological resource as defined in subdivision (g) of Section 21083.2, or a "nonunique archaeological resource" as defined in subdivision (h) of Section 21083.2 may also be a tribal cultural resource if it conforms with the criteria of subdivision (a).

LAFCO will comply with the consultation requirements and if a ND or EIR is being prepared, LAFCO will complete the notification and consultation process prior to release of the environmental document being published for public review.

3. 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 its State CEQA Guidelines; these procedures and the adopted plans and policies of cities, the 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 will be used to document the significance of specific impacts requiring a focused EIR, i.e. the Initial Study shall document the rationale for narrowing the scope of issues to be addressed in an EIR.

A. Process

The Initial Study will be prepared on a State CEQA Guidelines Standard Initial Study Environmental Checklist Form (Appendix G) 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.

The preparer shall consult with all Responsible 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 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 ND or EIR). It is a tool for modifying projects and/or identifying mitigation measures to allow a finding of 'non-significance.' It can also be used to focus the EIR on effects determined to be potentially 'significant' or to determine whether a previously prepared EIR could be used/modified for the project, etc.

The Initial Study shall contain:

- (1) A project description and location;
- (2) Environmental setting;
- (3) Identification of all environmental impacts using the most recent version of the State CEQA Guidelines environmental checklist form (Appendix G) and substantial evidence to support environmental impact findings, including ways to mitigate (avoid, minimize, compensate or otherwise reduce a significant impact to a less than significant level; and
- (4) Examination of project consistency with zoning and land-use plans, etc.

Section 15063 of the State CEQA Guidelines contains a detailed description of the content of and uses for the 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.

B. 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 will not have a significant environmental effect. Prepare a Negative Declaration and a Notice of Determination and publish a Notice of Intent to Adopt a Negative Declaration. After an appropriate public review period consistent with the applicable State CEQA Guideline's requirements, the documentation will be finalized and forwarded to the Commission with a recommendation for adoption.
- (2) 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 less than significant level. Prepare a Mitigated Negative Declaration and a Notice of Determination and publish a Notice of Intent to Adopt a Negative Declaration. After appropriate public review period consistent with State CEQA Guideline's requirements, the documentation will be forwarded to the Commission with a recommendation for adoption.

- (3) The project will have a significant environmental effect, but all such impacts have been adequately assessed in a final EIR previously reviewed by LAFCO and mitigated to the extent feasible. Submit to the Commission with appropriate findings for certification.
- (4) The project will have a significant environmental effect. An EIR will be prepared and submitted to the Commission with appropriate findings.
- (5) The project will have a significant environmental effect and an EIR has been prepared. However, new information or changed conditions affecting the project or the site warrant additional analysis. Prepare a 'subsequent' EIR or addendum to the original EIR focusing on these changes. Submit to the Commission with appropriate findings for certification.

4. NEGATIVE DECLARATION OR MITIGATED NEGATIVE DECLARATION

A Negative Declaration (finding of non-significant effect) or a Mitigated Negative Declaration (finding of non-significant effect with project changes/mitigation measures/conditions of approval) will be prepared on the State CEQA Guidelines Initial Study Environmental Checklist Form by staff per the findings of the Initial Study based on substantiating evidence. The Negative Declaration or Mitigated Negative Declaration's contents will include a brief project description, location (i.e., vicinity map), name of applicant, the 'finding of non-significance,' attached Initial Study with any applicable technical reports, data or other information constituting the substantial evidence supporting the environmental analysis, and a list of mitigation measures (if any, in the context of a Mitigated Negative Declaration). A determination of the Initial Study's adequacy and the preparation of the accompanying Negative Declaration or Mitigated Negative Declaration initially rests with the Executive Officer. The formal adoption of the Negative Declaration or Mitigated Negative Declaration rests ultimately with the Commission.

A. 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. Recommended Negative Declarations and Mitigated Negative Declaration (in the form of a Notice of Intent to Adopt a Negative Declaration or Mitigated Negative Declaration) will be noticed at least once in a newspaper of general circulation in the project area; noticed in the "local" newspaper of the affected area (if any); mailed to all

Responsible Agencies and public agencies with jurisdiction within the project area; 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 or Mitigated Negative Declaration to the State Clearinghouse for distribution to these state agencies. Review by state agency(ies) will require a 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.

B. LAFCO Consideration

The Commission will consider the proposed Negative Declaration or Mitigated Negative Declaration and any public and agency comments prior to approving a project, and will approve the Negative Declaration or Mitigated 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 the Mitigated Negative Declaration, the mitigation monitoring and reporting program (MMRP) shall assign responsibility for implementing the mitigation measure(s) when the Mitigated Negative Declaration is approved by the Commission.

C. Notice of Determination

After the Commission's approval of a project for which a Negative Declaration or Mitigated Negative Declaration has been adopted, the Executive Officer shall file a Notice of Determination.

The Notice of Determination's content shall include:

- (1) Project description, identification and location;
- (2) Date project approved by LAFCO;
- (3) Determination of "non-significant" effect, or determination that mitigation measures were imposed and made conditions of approval for the project to reduce impacts to less than significant levels;
- (4) Statement that a Negative Declaration or Mitigated Negative Declaration has been prepared and approved; and

- (5) Address of LAFCO office where a copy of Negative Declaration or Mitigated Negative Declaration is filed.

The Notice shall be filed with the San Bernardino County Clerk of the Board of Supervisors. 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 or Mitigated Negative Declaration shall be funded by the applicant for the LAFCO action.

5. 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).

A. Purpose

An EIR is an informational document; a major tool in the decision-making process, informing Commissioners and all parties involved of the environmental consequences of project decisions before they are made. An EIR's primary functions are to identify and mitigate significant adverse impacts and to provide alternative project and boundary options that may reduce potentially significant impacts of the proposed project. 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 (Sections 15091, 15092 and 15093, State CEQA Guidelines).

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, or funding the preparation of required project data for the EIR.

B. 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.

C. Notice of Preparation

At the earliest feasible date following the Executive Officer's/Commission's formal 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 and affected agencies (including the State Clearinghouse and affected state agencies, if any) 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:

- (1) Project description;
- (2) Mapped location;
- (3) Probable environmental effects; and
- (4) A copy of the Initial Study or substantial evidence in the record justifying the preparation of an EIR, etc.

The Notice of Preparation shall be sent to all responsible/trustee agencies or interested parties via certified mail or other method to document its receipt.

Within 30 days after LAFCO's release 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 to extend the public

comment period on the NOP 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.

D. Scope of EIR

LAFCO may also convene meetings involving all parties (especially at the request of a Responsible Agency) 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.

E. EIR Content

Article 9 of the State CEQA Guidelines describes the complete content of all required sections of an EIR, as modified from time to time. However, LAFCO has discretion to narrow the scope of an EIR's content during the scoping process (State CEQA Guidelines, section 15063).

F. Consultant EIRs

The Executive Officer shall use a RFP (Request for Proposal) process to select a consultant to write the EIR. The Executive Officer 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. However, the Executive Officer is ultimately 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:

- (1) Consultant selection including bid solicitation and review, submission of information to consultants, etc.;
- (2) Review of Draft EIR, corrections, additions, legal review by the Commission's legal counsel, etc.;
- (3) Compiling comments and reviewing responses to comments for preparation of Final EIR; and
- (4) Meetings with applicant, consultant and public regarding EIR preparation.

G. Public Participation (State CEQA Guidelines, 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.

Interacting with the public is an important CEQA process that allows the public to voice its concerns about environmental issues and the potential effect of a project on the physical environment. Therefore, in order to ensure public involvement in the LAFCO CEQA process, the Commission—in addition to the requirements for public notification on the NOP and/or the Notice of Completion—will provide the public with the opportunity to participate in any meetings related to the EIR, whether through a scoping meeting (optional) to provide verbal or written comments on the content of the EIR and/or through the public hearing (required) on the certification of the Final EIR.

H. Completion Notice (State CEQA Guidelines, section 15085)

Because most LAFCO EIRs will require circulation through the State Clearinghouse, the default procedure is that 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.

I. 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 San Bernardino Sun (newspaper of general circulation) 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 (upon request). 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 CEQA 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.

In instances where complex technical issues or disagreements among experts arise in the context of an EIR, the Executive Officer can convene a meeting of the County's or a local agency's Environmental Review Committee to provide a forum for a more thorough review of the EIR's adequacy.

J. 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.

K. Response to Comments on an EIR (State CEQA Guidelines, 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.

L. Preparation of Final EIR (State CEQA Guidelines, 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. Final EIR contents include:

- (1) The draft EIR and any revisions made to it in response to comments;
- (2) Comments and recommendations received on the draft EIR verbatim;
- (3) A list of persons, organizations and agencies commenting on the draft EIR;
- (4) LAFCO's responses to significant points raised during review and consultation;
- (5) Plus any other pertinent information.

Final EIRs shall be available a minimum of 10 days prior to the Commission hearing on a project and shall be provided to any commenting parties 10 days prior to a 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.

M. Certification of Final EIR (State CEQA Guidelines, section 15090)

Prior to approving a project for which an EIR has been prepared, the Commission shall certify that:

- (1) The final EIR has been completed in compliance with CEQA;
- (2) The final EIR was presented to the Commission which reviewed and considered it prior to approving the project; and,
- (3) 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 impacts, 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 and as required by State CEQA Guidelines, section 15088.5.

N. Findings (State CEQA Guidelines, 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:

- (1) Changes have been incorporated into the project which avoid or substantially reduce the significant environmental effect(s) identified in the final EIR.
- (2) 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.
- (3) Specific economic, social or other considerations make infeasible the mitigation measures or project alternatives identified in the final EIR.

O. Approval (State CEQA Guidelines, section 15092)

LAFCO shall not approve or carry out a project for which an EIR was prepared unless either:

- (1) The project, as approved, will not have a significant environmental effect; or
- (2) LAFCO has eliminated or substantially reduced all significant effects where feasible per State CEQA Guidelines, section 15091, and determined that any remaining significant effects found to be unavoidable per State CEQA Guidelines, section 15091 are acceptable due to overriding concerns described in State CEQA Guidelines, section 15093.

P. Statement of Overriding Considerations (State CEQA Guidelines, section 15093)

When LAFCO approves a project that will have a significant effect on the environment that cannot be avoided or mitigated to a less than significant level, LAFCO 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 shall balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable". The statement of overriding considerations shall be supported by substantial evidence in the record. The Commission's statement of overriding considerations should be included in the record of the project approval and so stated in the Notice of Determination.

Q. Notice of Determination (State CEQA Guidelines, section 15094)

The Executive Officer shall file a Notice of Determination following each project approval for which an EIR was certified. The notice shall include:

- (1) The final EIR has been completed in compliance with CEQA;
- (2) The final EIR was presented to the Commission which reviewed and considered it prior to approving the project;

- (3) The final EIR reflects the lead agency's independent judgment and analysis;
- (4) Determination of any significant environmental effects;
- (5) Statement that an EIR was prepared and certified pursuant to CEQA;
- (6) Whether mitigation measures were made conditions of the project;
- (7) Whether findings were made per State CEQA Guidelines, section 15091;
- (8) Whether a statement of overriding considerations was adopted; and
- (9) The address of the location of a copy of the final EIR and the project record.
- (10) If different from the applicant, the identity of the person undertaking the project which is supported, in whole or in part, through contracts, grants, subsidies, loans, or other forms of assistance from one or more public agencies or the identity of the person receiving a lease, permit, licensor, certificate, and other entitlement for use from one or more public agencies.

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.

R. Disposition of Final EIR (State CEQA Guidelines, section 15095)

The Executive Officer shall:

- (1) File a copy of the Final EIR with the San Bernardino County Planning Division and the city where significant environmental effects may occur;
- (2) Include the Final EIR in all subsequent project administration;
- (3) A copy of the Final EIR shall be kept as a permanent public record for the project; and

- (4) Require the applicant to provide a copy of the certified, final EIR to each Responsible Agency.

Pursuant to adopted Commission policy, funding for the preparation of an EIR, fees 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.

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CHAPTER 4: LAFCO POLICIES

1. COMPLETION OF ENVIRONMENTAL LITIGATION PRIOR TO CONSIDERATION OF CHANGE:

It is the policy of San Bernardino LAFCO that in those instances where LAFCO is a CEQA Responsible Agency and there has been a legal challenge to the environmental document prepared by the lead agency, LAFCO shall not take action on the proposal (application) until the legal challenge to the lead agency's document has been fully resolved and all appeals have been exhausted, if any.

[The Commission may choose to override this policy upon the request of the applicant.](#)

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.

2. RECONSIDERATION

The Cortese-Knox-Hertzberg Act establishes procedures for agencies to request amendments to, or reconsideration of resolutions adopted by the Commission (Government Code Section 56895). 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 shall be 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.

3. REVIEW OF ENVIRONMENTAL APPEALS

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:

- A. The appeal was timely filed;
- B. The time for filing an appeal has run;
- C. The appellant and/or applicant have received personal notice of the hearing;
- D. Any party who has requested in writing to be notified has received personal notice of the hearing; and
- E. The appeal is heard in advance of the agenda item.

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SECTION VI **SPECIAL DISTRICTS**

CHAPTER 1: INTRODUCTION AND POLICIES

INTRODUCTION:

In 1975 the San Bernardino LAFCO received a request from the independent special districts within the County to approve the seating of Special Districts on the Commission pursuant to the provisions of the Knox-Nisbet Act (the predecessor of the Cortese-Knox-Hertzberg Reorganization Act of 2000). The original rules and regulations were adopted concurrent with an order for representation on the Commission by Independent Special Districts in 1976. As a function of the seating of Special Districts within San Bernardino County an inventory of the existing functions and classes of service were to be determined. The process that was undertaken at that time was that the Commission would:

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.

Once the inventory was completed, the rules and regulations did 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. A listing of the Special Districts and the authorized functions and services was historically identified as the "Exhibit A" but is now outlined in Chapter 3 of the Special Districts Section of the Manual.

The San Bernardino County Special Districts Association has historically offered its services to work with the special districts and San Bernardino LAFCO to provide assistance and coordination, to act as a forum to air and discuss problems affecting all special districts, and to provide a forum for the review of candidates for the Special District seats on the Commission.

POLICIES:

1. 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.

2. SPECIAL DISTRICT REPRESENTATIVES *(Amended April 17, 2002)*

It is the policy of San Bernardino 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.

3. 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:

- A. Healthcare (Hospital) Districts shall be limited to payment of \$1,500 regardless of Total Revenue.
- B. Those districts with Total Revenue of more than \$50,000,000 shall pay \$30,000.
- C. Those districts with Total Revenue of between \$20,000,000 to \$50,000,000 shall pay \$20,000.
- D. Those districts with Total Revenue of between \$5,000,000 to \$20,000,000 shall pay \$10,000.

- E. Those districts with Total Revenue of between \$2,000,000 to \$5,000,000 shall contribute an amount not to exceed \$5,000.
- F. 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.

4. **CONVERSION TO ALL MAIL BALLOTING FOR SPECIAL DISTRICT SELECTION COMMITTEE BUSINESS** *(Adopted by Special District Vote April 2008; November 15, 2017)*

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(f).

5. **SELECTION OF INDEPENDENT SPECIAL DISTRICT REPRESENTATIVES (REGULAR AND ALTERNATE) TO THE SAN BERNARDINO COUNTYWIDE OVERSIGHT BOARD** *(Adopted November 15, 2017)*

Effective July 1, 2018, the redevelopment oversight boards in each county in the State of California will be consolidated into one seven-member board (Health & Safety Code § 34179(j)). One of the members of the consolidated board “may be appointed by the independent special district selection committee established under Government Code Section 56332 for the types of special districts that are eligible to receive property tax revenues pursuant to the redevelopment agency (RDA) dissolution law. The Auditor-Controller/Treasurer/Tax Collector for San Bernardino County has requested that such representatives (regular and alternate) be selected.

Only the agencies that receive RDA funding are deemed eligible agencies for the purposes of appointing a special district representative and alternate to the countywide redevelopment oversight board per Health and Safety Code Section 34179(j)(3) and must be members of the Special Districts Selection Committee for San Bernardino County per Government Code Section 56332. In addition, eligibility requires special districts that have territory in the territorial jurisdiction of a former RDA and are eligible to receive property tax residual for the Redevelopment Property Tax Trust Fund (RPTTF) may serve on the new Oversight Board. In San Bernardino County, the committee members for the RPTTF-qualifying districts are:

- Apple Valley Fire Protection District
- Barstow Cemetery District
- Bear Valley Community Health Care
- Big Bear Airport District
- Big Bear Municipal Water District

Chino Basin Water Conservation District
Chino Valley Independent FPD
Crestline-Lake Arrowhead Water Agency
Hesperia Park and Recreation District
Hi-Desert Water District
Inland Empire Resource Conservation
Inland Empire Utilities Agency
Lake Arrowhead Community Services District
Mojave Desert Resource Conservation District
Mojave Water Agency
Monte Vista County Water District
Morongo Basin Healthcare District (formerly known as the Hi-Desert Memorial Hospital District)
San Bernardino Valley Water Conservation District
San Bernardino Mountains Community Healthcare District
San Bernardino Valley Municipal Water District
Twentynine Palms Public Cemetery District
West Valley Water District
Yucaipa Valley Water District

The San Bernardino LAFCO Executive Officer is responsible for conducting the business of the Special Districts Selection Committee for the RPTTF-qualifying appointment and pursuant to local procedures the committee's business shall be conducted by mail to nominate and appoint a representative and alternate. Elections by mail shall be conducted in accordance with Government Code Section 56332(f). The independent special district members appointed to the consolidated redevelopment oversight board shall be appointed by a majority of those RPTTF-qualifying committee members voting once a quorum has been established. The terms of office for regular and alternate committee members shall be staggered by action of the Oversight Board following its reorganization in July 2018.

CHAPTER 2: RULES AND REGULATIONS

1. APPLICATION

These rules and regulations shall apply to and affect all special districts located within San Bernardino County or for which said San Bernardino LAFCO is the principal county of the district, as specifically provided hereinafter.

2. LIMITATIONS UPON EXERCISE OF FUNCTIONS AND SERVICES

(Amended April 17, 2002)

Following establishment of the functions and services being provided by a special district in 1976, 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 and the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. A listing of all affected special districts is outlined in Chapter 3 of the Special Districts Section of this Manual.

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 being provided by such special district.

3. APPLICATION FOR PROVISION OF NEW OR DIFFERENT FUNCTION OR SERVICE *(Amended April 17, 2002, September 28, 2011)*

Any special district proposing to provide any new or different function or service or proposing to divest the District of any existing function or service pursuant to the provisions of Government Code Section 56824.10 et seq, shall file with the Executive Officer a resolution of its governing board making application for the provision of such additional function or service or divestiture. 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:

- A. 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.
- B. A "Plan for Service" as defined by Government Code Section 56824.12. This Plan shall include financial impact analysis which, at a minimum, must include a 5-year fiscal projection to respond to the statutory financial elements.

- C. A map of the territory which is the subject of the proposal, and a legal description if the service changes is for an area less than the entirety of the District.
- D. Names and addresses of other agencies or service providers affected by this change.
- E. The names and addresses of the officers or persons, not to exceed three, who are to be given mailed notice of the hearing.
- F. 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.

4. HEARING ON APPLICATION FOR PROVISION OF NEW OR DIFFERENT FUNCTION OR SERVICE OR DIVESTITURE OF FUNCTION *(Amended April 17, 2002, September 28, 2011)*

Upon the filing of a complete application, the Executive Officer shall, after completion of environmental review and property tax transfer process as defined in the Revenue and Taxation Code Section 99, set the matter for hearing by the Commission.

- A. The date of the hearing shall not be more than ninety (90) days after such filing determined to be complete through issuance of a Certificate of Filing.
- B. 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.
- C. 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 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. As required by Government Code Section 56157 and Commission policy, individual notice shall be provided.
- D. Such hearing may be continued from time-to-time from the original date of such hearing, for no more than 70-days unless concurrence to continuance is received from the affected special district. 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.

- E. Following completion of the mandatory reconsideration process (§56895), the matter will be set for protest hearing as required by Government Code Section 57000 et seq. The Commission's standard policies for conduct of protest hearings shall apply.
- F. Based upon the level of protest, either a Certificate of Completion or a Certificate of Termination will be issued.

5. REVIEW OF FUNCTIONS AND SERVICES (Amended April 17, 2002)

The Commission may periodically review the inventory of functions and services established for each special district and is required to do so during the mandatory sphere of influence update process identified in Government Code Section 56425(i). 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, determine that the function or service is not currently being provided by the district. Further action related to this determination shall be conducted under provisions of the Cortese-Knox-Hertzberg Local Government Reorganization Act and/or the principal act of the special district.

6. 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.

7. 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.

8. **DISTRICTS AND PRINCIPAL ACTS** (Amended May 15, 1996, and April 17, 2002)

The types of districts within San Bernardino County and outlined in Government Code Section 56036 are outlined in Chapter 3 along with the code citations of their principal act. The types of districts to be excluded from representation are outlined in Government Code Section 56044.

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CHAPTER 3: LISTING OF SPECIAL DISTRICTS WITHIN SAN BERNARDINO LAFCO PURVIEW - AUTHORIZED FUNCTIONS AND SERVICES

Independent Districts

<u>DISTRICT</u>	<u>FUNCTIONS</u>	<u>SERVICES</u>
<u>AIRPORT DISTRICTS</u>		
Big Bear	Airport	Operations and maintenance
Yucca Valley	Airport	Operations and maintenance
<u>CEMETERY DISTRICTS</u>		
Barstow	Cemetery	Burials, selling plots, opening and closing of graves
Twentynine Palms (amended 11/21/12)	Cemetery	Interment, burials, selling plots, opening and closing of graves
<u>COMMUNITY SERVICES DISTRICTS</u>		
Baker (amended 7/18/13)	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
	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)
	Fire Protection	Volunteer, structural, watershed, ambulance and health related services

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<u>DISTRICT</u>	<u>FUNCTIONS</u>	<u>SERVICES</u>
	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 street lighting and landscaping on public property, public rights-of-way, and public easements
	TV Translator	Acquire, construct, improve, maintain, and operate television translator facilities
	Solid Waste	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
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

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<u>DISTRICT</u>	<u>FUNCTIONS</u>	<u>SERVICES</u>
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
	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.

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<u>DISTRICT</u>	<u>FUNCTIONS</u>	<u>SERVICES</u>
	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 11/21/12)	Fire Protection	Structural, watershed, prevention, first aid, paramedic, rescue
	Park and Recreation	Local park development, operation, maintenance
	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

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<u>DISTRICT</u>	<u>FUNCTIONS</u>	<u>SERVICES</u>
Yermo (amended 8/20/2009)	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
	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.
	Fire Protection	Structural, watershed, suppression, prevention
	Streetlighting	Streetlighting
	Park and Recreation	Local park development, operation, maintenance
Wrightwood (District formed 7/1/2017)	Water	Supply water for any beneficial use as outlined in Municipal Water District Law (commencing with Section 71000) of the Water Code
	Streetlighting	Acquire, construct, improve, maintain and operate streetlighting and landscaping on public property, public right-of-way, and public easements (§61100(g))

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<u>DISTRICT</u>	<u>FUNCTIONS</u>	<u>SERVICES</u>
	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 (§61100f))
	Solid Waste and Recycling	Collect, transfer, and dispose of solid waste and refuse 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 (§61100c)
	Wastewater	Planning and engineering for the potential development of a regional wastewater treatment system should such be required by the Lahontan Regional Water Quality Control Board in the same manner as a sanitary district, formed pursuant to Sanitary District Act of 1923 Division 6 (commencing with Section 6400) of the Health and Safety Code (§61100b)
<u>FIRE PROTECTION DISTRICTS</u>		
Apple Valley	Fire	Structural, watershed, rescue, ambulance, paramedic, suppression, prevention
Chino Valley Independent	Fire Protection	Fire protection and emergency medical care including paramedic service

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<u>DISTRICT</u>	<u>FUNCTIONS</u>	<u>SERVICES</u>
<u>HEALTH CARE DISTRICTS</u>		
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
<u>MOSQUITO ABATEMENT DISTRICTS</u>		
West Valley Vector Control	Vector Extermination	Conduct surveillance and other appropriate studies of vectors and vector-borne diseases; prevention of the occurrence of vectors and vector-borne diseases; abate or control vector and vector-borne diseases
<u>RECREATION AND PARK DISTRICTS</u>		
Hesperia	Park and Recreation	Local park development, operation, recreation
	Streetlighting	Streetlighting
Rim of the World (amended 7/21/10)	Park and Recreation	Local park development, operation, maintenance, recreation, child care
<u>RESOURCE CONSERVATION DISTRICT</u>		
Inland Empire	Resource Conservation	Control of runoff, prevention of soil erosion, development and distribution of water and improvement of land capabilities

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<u>DISTRICT</u>	<u>FUNCTIONS</u>	<u>SERVICES</u>
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

SANITATION DISTRICT

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
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WATER CONSERVATION DISTRICTS

Chino Basin	Water Conservation	Groundwater replenishment and water conservation activities, which include water conservation education functions
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

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<u>DISTRICT</u>	<u>FUNCTIONS</u>	<u>SERVICES</u>
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
Crestline Village (amended 1/20/11)	Water	Retail, domestic, operation of water, conservation, reclamation
Cucamonga Valley	Water	Wholesale and retail water
	Sewer	Sewer Collection
East Valley (effective 9/5/2018)	Water	Retail, agricultural, domestic, replenishment
	Sewer	Collection, treatment, reclamation and/or disposal of sewage, wastewater, and recharge of recycled water
	Park and Recreation	Development, maintenance in conjunction with water facilities
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

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<u>DISTRICT</u>	<u>FUNCTIONS</u>	<u>SERVICES</u>
	Sewer	Operation of Package Treatment Plants 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	Wholesale and retail water
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 7/1/2016)	Water	Retail, agricultural, domestic, replenishment
	Sewer	Planning and engineering
West Valley	Water	Domestic, irrigation, spreading
	Sewer	Collection

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<u>DISTRICT</u>	<u>FUNCTIONS</u>	<u>SERVICES</u>
Yucaipa Valley	Water	Retail, agricultural, domestic, replenishment, wholesale, recycled
	Sewer	Sewage collection, treatment, wastewater reclamation

METROPOLITAN WATER DISTRICTS

Metropolitan Water District of Southern California (San Bernardino County portion)	Water	Any services or powers identified in the Metropolitan Water District Act (Water Code Appendix Section 109-130 through 109-136)
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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 (amended 8-15-2018)	Water	Wholesale, replenishment
	Sewer	Collection, regional treatment, reclamation, disposal, recycled water, composting, non-reclaimable wastewater collection
	Energy	Energy recovery and production
	Total Basin Management	Planning for Chino hydrological basin
San Bernardino Valley	Water	Wholesale, retail, agricultural, domestic, replenishment, conservation
	Sewer	Collection, transportation, treatment, reclamation, disposal

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<u>DISTRICT</u>	<u>FUNCTIONS</u>	<u>SERVICES</u>
	Power	Generation, distribution
	Park and Recreation	Development, operation, recreation (cannot perform the function within an existing agency with park and recreation services)
	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

Dependent Districts:
Governed by City Councils – Subsidiary Districts

<u>DISTRICT</u>	<u>FUNCTIONS</u>	<u>SERVICES</u>
<u>FIRE PROTECTION DISTRICTS</u>		
Barstow (established as a subsidiary district November 17, 2010)	Fire Protection	Suppression, prevention, structural, watershed, first aid, rescue, paramedic, ambulance
Big Bear Lake	Fire Protection	Structural, watershed, suppression, prevention, rescue, first aid
Fontana (established as a subsidiary district July 1, 2008) (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 (amended 8/23/2018)	Fire Protection	Obligations for Administration of CalPERS Legacy Retirement Contract
Rancho Cucamonga (formerly named Foothill FPD)	Fire Protection	Fire protection and emergency medical
<u>WATER DISTRICTS</u>		
Hesperia	Water	Wholesale, retail, agricultural, domestic replenishment
	Sewer	Engineering, planning, operations, maintenance, construction
	Park and Recreation	Park and recreation limited to trout farm, construction
Victorville (amended 12/21/11)	Water	Retail, agricultural, domestic, replenishment, conservation, reclaimed water for irrigation/cooling towers for power plant

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Sewer

Collect, treat, and/or dispose of
sewage, wastewater, recycled
water, and storm water

SPECIAL ACT WATER AGENCIES

Odessa Water District

(Board of Directors is City Council
of the City of Barstow)

Water

Acquisition, retail, wholesale

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Dependent Districts:
Governed by the County Board of Supervisors

<u>DISTRICT</u>	<u>FUNCTIONS</u>	<u>SERVICES</u>
<u>COUNTY SERVICE AREAS</u>		
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 40 (Elephant Mountain)	TV Translator	Television translation
CSA 42 (Oro Grande) (amended 12/16/08)	Park and Recreation	Park and recreation
	Water	Water distribution and treatment
	Sewer	Sewer distribution and treatment

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<u>DISTRICT</u>	<u>FUNCTIONS</u>	<u>SERVICES</u>
CSA 53 (Big Bear) (amended 9/29/11)	Streetlighting	Streetlighting
	Sewer	Collection and transportation
	Road	Road maintenance
	Water	Water distribution and treatment
CSA 54 (Mountains)	Streetlighting	Streetlighting
CSA 59 (Deer Lodge Park) (amended 5/16/13)	Roads	Road Maintenance as defined in Government Code Section 25213(i) which includes snow removal
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)
	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)

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<u>DISTRICT</u>	<u>FUNCTIONS</u>	<u>SERVICES</u>
CSA 69 (Lake Arrowhead) (amended 5/16/13)	Roads	Road Maintenance as defined in Government Code Section 25213(i) which includes snow removal
CSA 68 (Valley of the Moon) (amended 5/16/13; amended 11/6/13 as required by Board of Supervisors Resolution 2013-225)	Roads	Snow Removal as authorized in Government Code Section 25213(i)
CSA 70 (Unincorporated County) (amended 2/16/12)	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 as defined in Government Code Section 25213(i) which includes snow removal (Confirmed 2/16/12)
	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

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<u>DISTRICT</u>	<u>FUNCTIONS</u>	<u>SERVICES</u>
	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 11/17/04)
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 120 (District formed 7/1/2009)	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

<u>DISTRICT</u>	<u>FUNCTIONS</u>	<u>SERVICES</u>
<u>FIRE PROTECTION DISTRICTS</u>		
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
<u>RECREATION AND PARK DISTRICTS</u>		
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

**DISTRICT TYPES AND PRINCIPAL ACTS
EXISTING WITHIN SAN BERNARDINO LAFCO**

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	Water Code 30000 et seq., Division 12, Water Code Section 31575
Fire Protection	Health and Safety Code 13801, et. Seq., Part 2.7, Division 12
Health Care	Health and Safety Code 32000, Division 23
Mosquito Abatement/Vector Control	Health and Safety Code Section 2200- 2395
Municipal Water	Water Code, Division 20, 71000-73000, Water Code Appendix 20-1
Park District and Park and Recreation	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
Sanitation	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 Desert View 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

DRAFT

SECTION VII

INFORMATION TECHNOLOGY

1. COMPUTER AND E-MAIL USAGE (Amended June 16, 2011)

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/tablets 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.

2. ELECTRONIC COMMUNICATIONS POLICY (Adopted March 21, 2018)

Background and Purpose

The Commission as the legislative body of the Local Agency Formation Commission for San Bernardino County ("LAFCO") hereby adopts the following policy regarding the conduct of LAFCO business via electronic communications by commissioners and employees. Specifically, this policy is adopted in light of the *City of San Jose* case, which held that a city employee's communications related to the conduct of public business do not cease to be public records under sent or received using a personal account or personal device.

Existing and emerging electronic communications technologies have become an integral part of the ability of Commission officials and staff members to efficiently and effectively conduct Commission business. Such technology has the potential to enhance communications with the public and provide a higher level of service to the citizens of the Commission. However, with such technology in the work environment, the Commission must ensure it continues to meet its legal obligations with respect to transparency in the conduct of the people's business, including in the area of public records disclosure and retention requirements. To that end, the following policy and procedures will be followed.

Definitions

For purposes of this policy, the following definitions apply:

"LAFCO" means the Local Agency Formation Commission for San Bernardino County.

"LAFCO official" for this policy shall mean any commissioner, employee of LAFCO, or person assigned an LAFCO electronic messaging account.

"LAFCO business" shall be construed broadly to mean information relating to the conduct of the public's business or communications concerning matters within the subject matter of LAFCO's jurisdiction, including, but not limited to, pending or potential LAFCO projects, past or prospective LAFCO agenda items, or LAFCO budgets or expenditures involving LAFCO funds. Resolution of the question will involve an examination of several factors, including: (a) the content itself; (b) the context in, or purpose for which, it was written; (c) the audience to whom it was directed; (d) the purpose of the communication; and (e) whether the writing was prepared by an LAFCO official acting or purporting to act within the scope of his or her employment.

"Electronic communications" includes any and all electronic transmission, and every other means of recording upon any tangible thing in any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored. Without limiting the nature of the foregoing, "electronic communications" include e-mails, texts, voicemails, and also include communications on or within commercial applications (apps) such as Facebook Messenger, Twitter, WhatsApp, etc.

"Electronic messaging account" means any account that creates, sends, receives or stores electronic communications.

Policy

1. All LAFCO officials shall be assigned a LAFCO electronic messaging account.
2. LAFCO accounts shall be used to conduct LAFCO business. LAFCO officials shall not use personal accounts for the creation, transmission or storage of electronic communications regarding LAFCO business.
3. All LAFCO officials shall, within 30 days following the adoption of this policy, search all private, nongovernmental electronic messaging accounts to which they have user access and locate any electronic communications that might constitute a "public record", because it involved "LAFCO business", as set forth above. All such communications shall be forwarded to the LAFCO official's LAFCO-provided account. To the extent the LAFCO official believes that any part of such communications contain personal matter not related to the conduct of the public's business, the LAFCO official shall provide a declaration, as set forth in paragraphs 10 and 11, below.
4. The LAFCO account, along with the attendant access to LAFCO's account server, are solely for LAFCO and LAFCO official's use to conduct LAFCO business and shall not be used for personal business or political activities. Incidental use of LAFCO electronic messaging accounts for personal use by LAFCO officials is permissible, though not encouraged.
5. If an LAFCO official receives an electronic message regarding LAFCO business on his/her non-LAFCO electronic messaging account, or circumstances require such person to conduct LAFCO business on a non-LAFCO account, the LAFCO official shall either: (a) copy ("cc") any communication from a LAFCO official's personal electronic messaging account to his/her LAFCO electronic messaging account; or (b) forward the associated electronic communication to his/her LAFCO account no

later than 10 days after the original creation or transmission of the electronic communication.

6. LAFCO officials shall endeavor to ask persons sending electronic communications regarding LAFCO business to a personal account to instead utilize the LAFCO official's account, and likewise shall endeavor to ask a person sending an electronic communication regarding non-LAFCO business to use the LAFCO official's personal or non-LAFCO electronic messaging account.
7. The LAFCO official shall retain all emails related to a proposal for six months following issuance of the certificate of completion, certificate of termination, or withdrawal notification by the applicant.
8. LAFCO officials understand they have no expectation of privacy in the content of any electronic communication sent or received on an LAFCO account or communication utilizing LAFCO servers. LAFCO provided electronic devices, including devices for which LAFCO pays a stipend or reimburses the LAFCO official, are subject to LAFCO review and disclosure of electronic communications regarding LAFCO business. LAFCO officials understand that electronic communications regarding LAFCO business that are created, sent, received or stored on an electronic messaging account, may be subject to the Public Records Act, even if created, sent, received, or stored on a personal account or personal device.
9. In the event a Public Records Act request is received by LAFCO seeking electronic communications of LAFCO officials, the LAFCO Clerk shall promptly transmit the request to the applicable LAFCO official(s) whose electronic communications are sought. The LAFCO Clerk shall communicate the scope of the information requested to the applicable LAFCO official, and an estimate of the time within which the LAFCO Clerk intends to provide any responsive electronic communications to the requesting party.
10. It shall be the duty of each LAFCO official receiving such a request from the LAFCO Clerk to promptly conduct a good faith and diligent search of his/her personal electronic messaging accounts and devices for responsive electronic communications. The LAFCO official shall then promptly transmit any responsive electronic communications to the LAFCO Clerk. Such transmission shall be provided in sufficient time to enable the LAFCO Clerk to adequately review and provide the disclosable electronic communications to the requesting party.
11. In the event a LAFCO official does not possess, or cannot with reasonable diligence recover, responsive electronic communications from the LAFCO

official's electronic messaging account, the LAFCO official shall so notify the LAFCO Clerk, by way of a written declaration, signed under penalty of perjury. In addition, an LAFCO official who withholds any electronic communication identified as potentially responsive must submit a declaration under penalty of perjury with facts sufficient to show the information is "personal business" and not "public business" under the Public Records Act. The form of the declaration is attached hereto as Attachment A.

12. It shall be the duty of the LAFCO Clerk, in consultation with LAFCO's Legal Counsel, to determine whether a particular electronic communication, or any portion of that electronic communication, is exempt from disclosure. To that end, the responding LAFCO official shall provide the LAFCO Clerk with all responsive electronic communications, and, if in doubt, shall err on the side of caution and should "over produce". If an electronic communication involved both public business and a personal communication, the responding LAFCO official may redact the personal communication portion of the electronic communication prior to transmitting the electronic communication to the LAFCO Clerk. The responding LAFCO official shall provide facts sufficient to show that the information is "personal business" and not "public business" by declaration. In the event a question arises as to whether or not a particular communication, or any portion of it, is a public record or purely a personal communication, the LAFCO official should consult with the LAFCO Clerk or the Legal Counsel. The responding LAFCO official shall be required to sign a declaration, in a form acceptable to the Legal Counsel, attesting under penalty of perjury, that a good faith and diligent search was conducted and that any electronic communication, or portion thereof, not provided in response to the Public Records Act request is not LAFCO business.

13. AB 1234 (ethics) training should include a discussion of the impacts of the City of San Jose case and this policy. Such training should include information on how to distinguish between public records and personal records. LAFCO officials who receive AB 1234 training from other providers should actively solicit training from the alternative provider on the impacts of the City of San Jose case.

14. LAFCO officials understand that electronic communications regarding LAFCO business are subject to LAFCO's Records Retention Policy (Section II, Chapter 1, Policy 7), even if those electronic communications are or were created, sent, received or stored on an LAFCO official's personal electronic messaging account. It is a felony offense to destroy, alter or falsify a "public record". As such, unless the LAFCO official has cc'd/transmitted electronic communications in accordance with Paragraph 5 above, that LAFCO official must retain all electronic communications

regarding LAFCO business, in accordance with LAFCO's adopted records retention policy, regardless of whether such electronic communication is originally sent or received on a personal electronic messaging account.

15. Failure of an LAFCO official to abide by this policy, following its adoption, may result in one or more of the following:

- Disciplinary action, up to and including termination (for employees);
- Removal from office (for commissioners);
- Censure (for commissioners);
- Revocation of electronic device privileges (including revocation of stipend or reimbursement);
- Judicial enforcement against the LAFCO official directly, by the requesting party; and

16. This policy does not waive any exemption to disclosure that may apply under the California Public Records Act.

17. Upon leave of service from LAFCO, the Email administrator will request that County ISD close the LAFCO official's Email account and copy the contents from the Email account onto an electronic medium (CD, DVD, USB flash drive) and to be retained in accordance with the Commission's Record Retention Policy.

ATTACHMENT A

DECLARATION

(on file at the LAFCO office)

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

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
- Landowner Consent Form
- Environmental Checklist (CEQA Appendix G)
- Disclosure of Political Expenditures

Form for Submission of Protest:

- Written Protest Form

Out of Agency Service Contract:

- Application for Extension of Service by Contract
- Application for Fire Protection 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 FOR SAN BERNARDINO COUNTY

1170 West Third Street, Unit 150, San Bernardino, CA 92415-0490
(909) 388-0480 • Fax (909) 388-0481
lafco@lafco.sbcounty.gov
www.sbclafco.org

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 _____ _____ _____
SIGN NAME _____ PRINT NAME _____	RESIDENCE ADDRESS _____ _____ _____	DATE _____ _____ _____	PARCEL NUMBER _____ _____ _____
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SIGN NAME _____ PRINT NAME _____	RESIDENCE ADDRESS _____ _____ _____	DATE _____ _____ _____	PARCEL NUMBER _____ _____ _____

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

1170 West Third Street, Unit 150, San Bernardino, CA 92415-0490
(909) 388-0480 • Fax (909) 388-0481
lafco@lafco.sbcounty.gov
www.sbclafco.org

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 _____ _____ _____
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 _____ _____ _____
SIGN NAME _____ PRINT NAME _____	RESIDENCE ADDRESS _____ _____ _____	DATE _____ _____ _____	FOR ROV 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 application to allow the San Bernardino LAFCO, its staff and others to adequately assess the proposal. By taking the time to fully respond to the questions on the forms, you can reduce the processing time for your proposal. 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: _____
 APPLICANT TYPE: ☐ Landowner ☐ Local Agency
 ☐ Registered Voter ☐ Other _____
 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 reason(s) that the proposed action has been requested. _____

LAND USE AND DEVELOPMENT POTENTIAL

1. Total land area of subject territory (defined in acres):

2. Current dwelling units within area classified by type (single-family residential, multi-family [duplex, four-plex, 10-unit], apartments)

3. Approximate current population within 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 use of the subject territory.

What is the proposed land use?

7. 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.

8. On the following list, indicate if any portion of the territory contains the following by placing a checkmark next to the item:

<input type="checkbox"/> Agricultural Land Uses	<input type="checkbox"/> Agricultural Preserve Designation
<input type="checkbox"/> Williamson Act Contract	<input type="checkbox"/> Area where Special Permits are Required
<input type="checkbox"/> Any other unusual features of the area or permits required: _____	

9. Provide a narrative response to the following factor of consideration as identified in §56668(p):
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. _____

2. Describe any existing improvements on the subject territory 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 proposal a part of a larger project or series of projects? YES ☐ NO ☐ If YES, please explain.

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/Town of _____, or the _____
District/Agency, _____ (the applicant) and/or the _____ (real party in
interest - landowner and/or registered voter of the application subject property) agree to defend, indemnify,
hold harmless, promptly reimburse San Bernardino LAFCO for all reasonable expenses and attorney fees,

and release 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, penalties, fines and other costs imposed upon or incurred by San Bernardino LAFCO should San Bernardino LAFCO be named as a party in any litigation or administrative proceeding in connection with this application.

As the person signing this application, I will be considered the proponent for the proposed action(s) and will receive all related notices and other communications. I understand that if this application is approved, the Commission will impose a condition requiring the applicant and/or the real party in interest 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 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

Printed Name of Applicant or Real Property in Interest
(Landowner/Registered Voter of the Application Subject Property)

Title and Affiliation (if applicable)

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

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 proposal. 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. 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.

3. For a city annexation, 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.

4. Will the territory proposed for change be subject to any new or additional special taxes, any new assessment districts, or fees?

5. Will the territory be relieved of any existing special taxes, assessments, district charges or fees required by the agencies to be detached?

6. 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.

7. 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.

8. **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.

- A. A description of the level and range of each service to be provided to the affected territory.
- B. An indication of when the service can be feasibly 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 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.
- F. 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/Town of _____, or the _____ District/Agency, _____ (the applicant) and/or the _____ (real party in interest - landowner and/or registered voter of the application subject property) agree to defend, indemnify, hold harmless, promptly reimburse San Bernardino LAFCO for all reasonable expenses and attorney fees, and release 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, penalties, fines and other costs imposed upon or incurred by San Bernardino LAFCO should San Bernardino LAFCO be named as a party in any litigation or administrative proceeding in connection with this application.

As the person signing this application, I will be considered the proponent for the proposed action(s) and will receive all related notices and other communications. I understand that if this application is approved, the Commission will impose a condition requiring the applicant and/or the real party in interest 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 acknowledge that annexation to the City/Town of _____ or the _____ District/Agency 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 XIID 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 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

Printed Name of Applicant or Real Property in Interest
(Landowner/Registered Voter of the Application Subject Property)

Title and Affiliation (if applicable)

SUPPLEMENT SPHERE OF INFLUENCE AMENDMENT

INTRODUCTION: The questions on this form are designed to obtain data about the specific sphere of influence amendment application to allow the Commission, staff and others to adequately assess the application. 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.

The present and probable need for public facilities or services related to sewers, municipal and industrial water, or structural fire protection for any disadvantaged unincorporated community, as defined by Govt. Code Section 56033.5, within the existing sphere of influence.

3. If the sphere of influence amendment 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 sphere of influence amendment includes a special district sphere of influence change, 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. Location and characteristics of disadvantaged unincorporated communities within or contiguous to the sphere of influence.
- c. Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies, including those associated with a disadvantaged unincorporated community.
- d. Financial ability of agencies to provide services.
- e. Status of, and opportunities for, shared facilities.
- f. 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/Town of _____, or the _____ District/Agency, _____ (the applicant) and/or the _____ (real party in interest - landowner and/or registered voter of the application subject property) agree to defend, indemnify, hold harmless, promptly reimburse San Bernardino LAFCO for all reasonable expenses and attorney fees, and release 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, penalties, fines and other costs, imposed upon or incurred by San Bernardino LAFCO should San Bernardino LAFCO be named as a party in any litigation or administrative proceeding in connection with this application.

As the person signing this application, I will be considered the proponent for the proposed action(s) and will receive all related notices and other communications. I understand that if this application is approved, the Commission will impose a condition requiring the applicant and/or the real party in interest 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

Printed Name of Applicant or Real Property in Interest

(FOR LAFCO USE ONLY)

(Landowner/Registered Voter of the Application Subject Property)

Title and Affiliation (if applicable)

Rev: krm – 8/19/2015

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SUPPLEMENT FORMATION OF A SPECIAL DISTRICT

INTRODUCTION: The questions on this form are designed to obtain data about the specific district formation application to allow the Commission, staff and others to adequately assess the proposal. 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.

CERTIFICATION

As a part of this application, the _____ District/Agency, _____ (the applicant) and/or the _____ (real party in interest - landowner and/or registered voter of the application subject property) agree to defend, indemnify, hold harmless, promptly reimburse San Bernardino LAFCO for all reasonable expenses and attorney fees, and release 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, penalties, fines and other costs imposed upon or incurred by San Bernardino LAFCO should San Bernardino LAFCO be named as a party in any litigation or administrative proceeding in connection with this application.

As the person signing this application, I will be considered the proponent for the proposed action(s) and will receive all related notices and other communications. I understand that if this application is approved, the Commission will impose a condition requiring the applicant and/or the real party in interest 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 acknowledge that the formation of the _____ District/Agency may result in the imposition of taxes, fees, and assessments on the effective date of the change of organization. I hereby waive any rights I may have under Articles XIIIC and XIID 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 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

Printed Name of Applicant or Real Property in Interest
(Landowner/Registered Voter of the Application Subject Property)

Title and Affiliation (if applicable)

**SUPPLEMENT
SPECIAL DISTRICT SERVICES
ACTIVATION 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 proposal. You may also include any additional information which you believe is pertinent, using additional sheets, where necessary, and including any relevant documents.

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/Agency agrees to defend, indemnify, hold harmless, promptly reimburse San Bernardino LAFCO for all reasonable expenses and attorney fees, and release 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, penalties, fines and other costs imposed upon or incurred by San Bernardino LAFCO should San Bernardino LAFCO be named as a party in any litigation or administrative proceeding in connection with this application.

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 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 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 8/19/2015

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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.*

LAFCO FOR SAN BERNARDINO COUNTY
ENVIRONMENTAL CHECKLIST FORM (CEQA APPENDIX G)

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.)

11. Have California Native American tribes traditionally and culturally affiliated with the project area requested consultation pursuant to Public Resources Code section 21080.3.1? If so, has consultation begun? _____

Note: Conducting consultation early in the CEQA process allows tribal governments, lead agencies, and project proponents to discuss the level of environmental review, identify and address potential adverse impacts to tribal cultural resources, and reduce the potential for delay and conflict in the environmental review process. (See Public Resources Code section 21083.3.2.) Information may also be available from the California Native American Heritage Commission's Sacred Lands File per Public Resources Code section 5097.96 and the California Historical Resources Information

System administered by the California Office of Historic Preservation. Please also note that Public Resources Code section 21082.3(c) contains provisions specific to confidentiality.

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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.

- | | | |
|---|---|--|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Agriculture and Forestry Resources | <input type="checkbox"/> Air Quality |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Geology /Soils |
| <input type="checkbox"/> Greenhouse Gas Emissions | <input type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Hydrology / Water Quality |
| <input type="checkbox"/> Land Use / Planning | <input type="checkbox"/> Mineral Resources | <input type="checkbox"/> Noise |
| <input type="checkbox"/> Population / Housing | <input type="checkbox"/> Public Services | <input type="checkbox"/> Recreation |
| <input type="checkbox"/> Transportation/Traffic | <input type="checkbox"/> Tribal Cultural Resources | <input type="checkbox"/> Utilities / Service Systems |
| <input type="checkbox"/> 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

DRAFT

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.

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- 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:

	Air Resourc es Board. Would the project:	Potentially Significant Impact	Less Than Significan t with Mitigation Incorpora ted	Less Than Significan t Impact
<u>I.AESTHETICS.</u> Would the project:				
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

No Impact

☐☐☐

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	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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Result in the loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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V.CULTURAL RESOURCES. Would the project:

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|--------------------------|
| a) Cause a substantial adverse change in the significance of a historical resource as defined in § 15064.5? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| d) Disturb any human remains, including those interred outside of dedicated cemeteries? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

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: | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 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. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| ii) Strong seismic ground shaking? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| iii) Seismic-related ground failure, including liquefaction? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| iv)) Landslides? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| b) Result in substantial soil erosion or the loss of topsoil? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

	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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

IX. HYDROLOGY AND WATER QUALITY.

Would the project:

a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
j) Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

X. LAND USE AND PLANNING.

Would the project:

a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

	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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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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)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

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: | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Fire protection? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Police protection? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Schools? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Parks? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Other public facilities? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

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? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|--|--------------------------|--------------------------|--------------------------|--------------------------|

	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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

XVI. TRANSPORTATION/TRAFFIC. 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
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XVII. TRIBAL CULTURAL RESOURCES.

Would the project cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

a) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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b) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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XVIII. UTILITIES AND SERVICE SYSTEMS.

Would the project:

a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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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?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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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?

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g) Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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 April 2020

Authority: Public Resources Code sections 21083 and 21083.09

Reference: Public Resources Code sections 21073, 21074, 21080.3.1, 21080.3.2, 21082.3/ 21084.2 and 21084.3

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Disclosure of Political Expenditures

Effective January 1, 2008, political expenditures related to a proposal for a change of organization or reorganization that will be or has been submitted to LAFCO are subject to the reporting and disclosure requirements of the Political Reform Act of 1974 and the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

Please read carefully the following information to determine if reporting and disclosure provisions apply to you.

- Any person or combination of persons who, for political purposes, directly or indirectly contributes \$1,000 or more, or expends \$1,000 or more in support of, or in opposition to a proposal for a change of organization or reorganization that will be submitted to the Commission, shall disclose and report the contribution to the Commission pursuant to the requirements of the Political Reform Act of 1974 (Government Code Section 81000 *et seq.*) as provided for local initiative measures, and Section 56700.1 of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.
- Pursuant to Government Code Section 57009, any person or combination of persons who directly or indirectly contributes \$1,000 or more, or expends \$1,000 or more in support of, or in opposition to, the conducting authority proceedings for a change of organization or reorganization, must comply with the disclosure requirements of the Political Reform Act of 1974, (Government Code section 81000 *et seq.*). Applicable reports must be filed with the Secretary of the State and the appropriate city or county clerk. Copies of the report must also be filed with the San Bernardino County Executive Officer for LAFCO.

Evaluation Checklist for Disclosure of Political Expenditures

The following checklist is provided to assist you in determining if the requirements of Government Code Sections 81000 *et seq.* apply to you. For further assistance contact the Fair Political Practices Commission at 428 J Street, Suite 450, Sacramento, CA 95814, (866) 275-3772, or at <http://www.fppc.ca.gov>.

1. Have you directly or indirectly made a contribution or expenditure of \$1,000 or more related to the support or opposition of a proposal that has been or will be submitted to LAFCO?

☐ Yes

☐ No

Date of contribution: _____

Amount: _____

Name/ Ref. No of LAFCO Proposal: _____

Date proposal was submitted to LAFCO: _____

2. Have you, in combination with other person(s), directly or indirectly contributed or expended \$1,000 or more related to the support or opposition of a proposal that has been or will be submitted to LAFCO?

☐ Yes

☐ No

Date of contribution: _____

Amount: _____

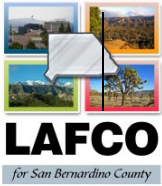
Name/ Ref. No of LAFCO Proposal: _____

Date proposal was submitted to LAFCO: _____

3. If you have filed a report in accordance with FPPC requirements, has a copy of the report been filed with San Bernardino County LAFCO?

☐ Yes

☐ No



Written Protest Form

This form is to be used only if you protest the proposal. If you are in favor of the proposal, do nothing.

I am opposed to the LAFCO proposal known as _____.
(LAFCO Proposal No.)

Check all that apply:

- ☐ I am a **REGISTERED VOTER** at the following address (exactly as it appears on voter records to permit verification) within the ~~boundary~~ territory of the proposed change of organization /reorganization:

{Name}

Mailing Address (Street Address, City, State and Zip)

- ☐ I am a **LANDOWNER** of the following property within the ~~boundary~~ territory of the proposed change of organization /reorganization:

{Name}

Property Address (Street Address, City, State and Zip, or designation sufficient to readily identify the property(ies))*

Assessor's Parcel Number(s)*

- ☐ I am an **AGENT** authorized to protest on behalf of the landowner, with respect to the property within the proposed change of organization /reorganization (**attach required authorization**):

{Name}

Property Address (Street Address, City, State and Zip, or designation sufficient to readily identify the property(ies))*

Assessor's Parcel Number(s)*

*If landowner owns multiple properties within the boundary of the proposed change of organization and would like to submit a protest for each ~~of the property~~ ies, list all properties on the space above. If additional space is needed, ~~attach a separate sheet with the required information needed to identify the properties; i.e., assessor parcel numbers of the properties, or street property addresses of the properties or designation sufficient to readily identify the properties~~ please use the "Landowner Written Protest Form for Multiple Properties" accessible at <https://sbclafco.org/applications/>.

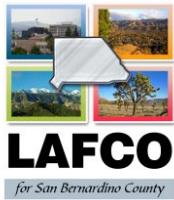
Signature: _____ Date: _____

I personally signed and dated this protest under penalty of perjury as either a registered voter and/or a landowner or an agent of a landowner within the territory of the proposed change of organization/reorganization.

The written protest must have an original signature and dated during the official protest period. Any protest forms without 262

signature, without a date, bearing a date prior to the start of the protest period, received after the conclusion of the Protest Hearing, or—if mailed—postmarked after the Protest Hearing date, shall be disregarded for purposes of determining the value of any written protests. Written protest cannot be accepted by fax or email.

DRAFT



Landowner Written Protest Form For Multiple Properties

This form is to be used only if you protest the proposal. If you are in favor of the proposal, do nothing. If you wish to protest as a registered voter as well, please use the "Written Protest Form".

I am opposed to the LAFCO proposal known as _____.
(LAFCO Proposal No.)

- ☐ I am a **LANDOWNER** of the following properties within the territory of the proposed change of organization/reorganization:

Name

- ☐ I am an **AGENT** authorized to protest on behalf of a landowner of the following properties within the proposed change of organization/reorganization (**attach required authorization**):

Name

Assessor's Parcel Number	Property Address (Street Address, City, State, & Zip)	Official Use Only			
		Owner (Y/N)	% Interest	Land Value	LV Based on % Interest

If additional space is needed, fill out another "Landowner Written Protest Form for Multiple Properties".

Signature: _____ Date: _____

I personally signed and dated this protest under penalty of perjury as either a registered voter and/or a landowner or an agent of a landowner within the territory of the proposed change of organization/reorganization.

The written protest must have an original signature and dated during the official protest period. Any protest forms without a signature, without a date, bearing a date prior to the start of the protest period, received after the conclusion of the Protest Hearing, or—if mailed—postmarked after the Protest Hearing date, shall be disregarded for purposes of determining the value of any written protests. Written protest cannot be accepted by fax or email.

**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:

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	<input type="checkbox"/>
Permit (Conditional Use Permit, General Plan Amendment, etc.)	<input type="checkbox"/>
Conditions of Approval	<input type="checkbox"/>
Negative Declaration (Initial Study)	<input type="checkbox"/>
Notice of Determination (NOD)/Notice of Exemption (NOE)	<input type="checkbox"/>
Department of Fish and Game (DFG) Receipt	<input type="checkbox"/>
Others (please identify below)	<input type="checkbox"/>

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. Plan for Service:

- (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.

- [illegible]

-

- (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/Town of _____, or the _____ District/Agency agree to defend, indemnify, hold harmless, promptly reimburse San Bernardino LAFCO for all reasonable expenses and attorney fees, and release 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, penalties, fines and other costs imposed upon or incurred by San Bernardino LAFCO should San Bernardino LAFCO be named as a party in any litigation or administrative proceeding in connection with this application.

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 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.

*Extension of Service by Contract
Application Form*

(FOR LAFCO USE ONLY)

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 for San Bernardino County

1170 West 3rd Street, Unit 150
San Bernardino, CA 92415-0490

PHONE: (909) 388-0480 • FAX: (909) 388-0481

Rev: krm – 8/19/2015

SAN BERNARDINO LAFCO APPLICATION FORM FOR FIRE PROTECTION CONTRACTS

A certified copy of the resolution of application from the public agency requesting approval of the fire protection contract must be submitted together with this application form.

AFFECTED PUBLIC AGENCY (APPLICANT):

PUBLIC AGENCY NAME: _____

CONTACT PERSON: _____

ADDRESS: _____

PHONE: _____

EMAIL: _____

AGENCY FUNCTION: ☐ AGENCY PROVIDING SERVICE; ☐ AGENCY RECEIVING SERVICE;
☐ OTHERS (SPECIFY) _____

AFFECTED PUBLIC AGENCY:

PUBLIC AGENCY NAME: _____

CONTACT PERSON: _____

ADDRESS: _____

PHONE: _____

EMAIL: _____

AGENCY FUNCTION: ☐ AGENCY PROVIDING SERVICE; ☐ AGENCY RECEIVING SERVICE;
☐ OTHERS (SPECIFY) _____

OTHER AFFECTED PUBLIC AGENCY, IF APPLICABLE:

PUBLIC AGENCY NAME: _____

CONTACT PERSON: _____

ADDRESS: _____

PHONE: _____

EMAIL: _____

AGENCY FUNCTION: ☐ AGENCY PROVIDING SERVICE; ☐ AGENCY RECEIVING SERVICE;
☐ OTHERS (SPECIFY) _____

The following questions are designed to obtain information related to the fire protection contract to allow the Commission and staff to adequately assess the contract. You may include any additional information which you believe is pertinent. Please use additional sheets where necessary.

1. Please provide a description of the fire protection contract and the general terms of the agreement.

2. A) Please provide a description of the services to be provided including an assessment of the level of service, whether it is anticipated to increase, be the same level of service, or reduced.

- B) Are any of the services identified above "new" service to be provided by the affected agency that is proposed to provide the service? ☐ YES ☐ NO. If yes, please provide a description of the new service(s) to be provided and an explanation of how the affected agency will provide the service, including funding.

3. Please provide a description of any special arrangements related to the fire protection contract such as start-up cost, if applicable.

4. Please provide a description of the assumption of assets and liabilities, if applicable.

5. Please provide a description of the use (assumption/leasing) of facilities and equipment for the fire protection contract.

6. Please provide a description of the assumption of personnel and/or retirement obligation, if applicable.

7. Plan for Service:

Please provide a detailed description of the plan for service. The response should include, but not be limited to, all of the following information:

- a) The total estimated cost to provide the new or extended fire protection services in the affected territory.
- b) The estimated cost of the new or extended fire protection services to customers in the affected territory.
- c) An identification of existing service providers, if any, of the new or extended services proposed to be provided and the potential fiscal impact to the customers of those existing providers.

- d) A plan for financing the exercise of the new or extended fire protection services in the affected territory.
- e) Alternatives for the exercises of the new or extended fire protection services in the affected territory.
- f) An enumeration and description of the new or extended fire protection services proposed to be extended to the affected territory.
- g) The level and range of new or extended fire protection services.
- h) An indication of when the new or extended fire protection services can feasibly be extended to the affected territory.
- i) An indication of any improvements or upgrades to structures, roads, sewer or water facilities, or other conditions the public agency would impose or require within the affected territory if the fire protection contract is completed.

8. Fiscal Impact Analysis:

An independent fiscal impact analysis must be submitted that includes, at a minimum, a five year projection of revenues and expenditures. The information should include a discussion of the sufficiency of general existing revenues to provide the new or extended fire protection service, and the costs to provide the service, a comprehensive review of all retirement plans impacting the affected agencies and employees including any unfunded retirement obligations and the identification of retirement debt, if any, and the responsible agency or agencies to assume such debt. If financing is to occur, please provide any special financial arrangement between the agencies.

CERTIFICATION

As a part of this application, the following affected public agency/agencies:

(Affected public agency[ies])

Agree to defend, indemnify, hold harmless, promptly reimburse San Bernardino LAFCO for all reasonable expenses and attorney fees, and release 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, penalties, fines and other costs imposed upon or incurred by San Bernardino LAFCO should San Bernardino LAFCO be named as a party in any litigation or administrative proceeding in connection with this application.

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 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: (Applicant)

NAME:

POSITION TITLE:

AGENCY NAME:

DATE:

SIGNED: (Other Affected Public Agency)

NAME:

POSITION TITLE:

AGENCY NAME:

DATE:

SIGNED: (Other Affected Public Agency)

NAME:

POSITION TITLE:

AGENCY NAME:

DATE:

REQUIRED EXHIBITS TO THIS APPLICATION:

1. Copy of the agreement/contract signed by one of the affected public agencies.
2. Resolution of Application including the following:
 - a. Required documentation contract transfers service responsibility of more than 25 percent of an affected public agency's service area or affects more than 25 percent of the employees of an affected public agency pursuant to Government Code Section 56134(a)(1)(A) and (B)
 - b. Required written agreement from affected agency (adopted resolution) and from the employee organization (letter signed by the President of the employee organization) or proof that notice was provided or delivered to each affected agency and employee

- organization and all documents related to the applicants hearing on the resolution of application pursuant to Government Code Section 56134(d)
- c. Certified plan for service pursuant to Government Code Section 56134(e)
 - d. Independent fiscal impact analysis pursuant to Government Code Section 56134(f)
3. Map(s) showing the jurisdictional boundaries of all affected public agencies.

Please forward the completed form and related information to:

Local Agency Formation Commission for San Bernardino County

1170 West 3rd Street, Unit 150
San Bernardino, CA 92415-0490
PHONE: (909) 388-0480 • FAX: (909) 885-8170

llj – 5/16/2018

DRAFT

**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 five 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.

e) The present and probable need for those public facilities and services related to sewers, municipal and industrial water, or structural fire protection for any disadvantaged unincorporated community, as defined by Govt. Code Section 56033.5, within the existing sphere of influence.

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 -- 6/20/2012

DRAFT

**Appendices for the
LAFCO Policy and Procedure Manual**

DRAFT



Gray Davis
GOVERNOR

State of California



Tal Finney
INTERIM DIRECTOR

A GUIDE TO THE LAFCO PROCESS FOR INCORPORATIONS

DRAFT

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

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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.

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- Charon Browning, SMB Associates
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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.

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.

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.

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.

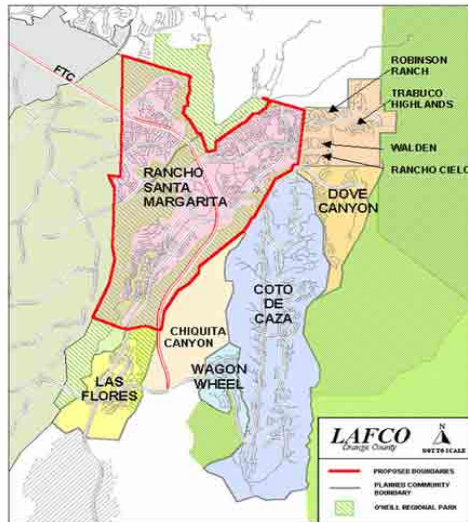
b. Facilitate Early Discussions with Affected Agencies

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.

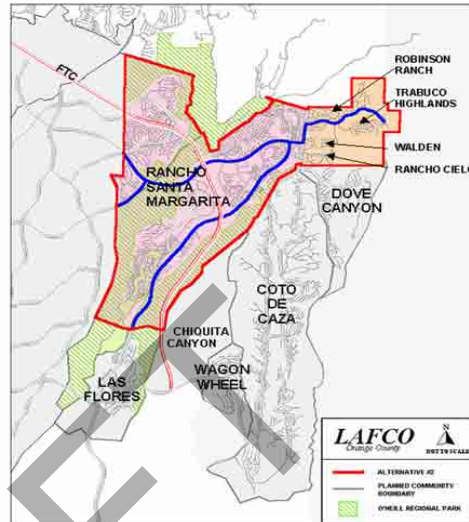
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EXHIBIT 1 EXAMPLE: INCORPORATION BOUNDARY AND ALTERNATIVE BOUNDARIES

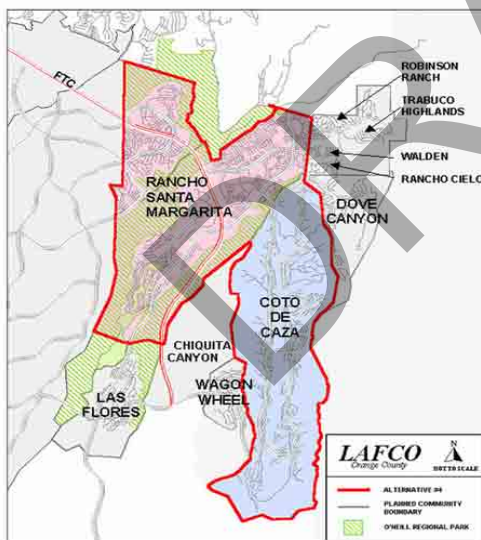
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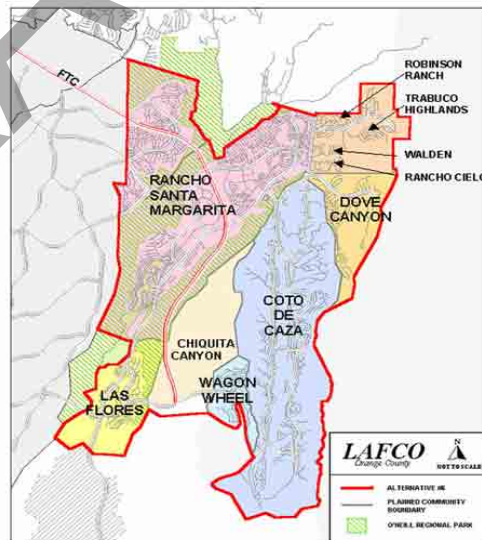
Proposed Incorporation Boundary



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 policies 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.

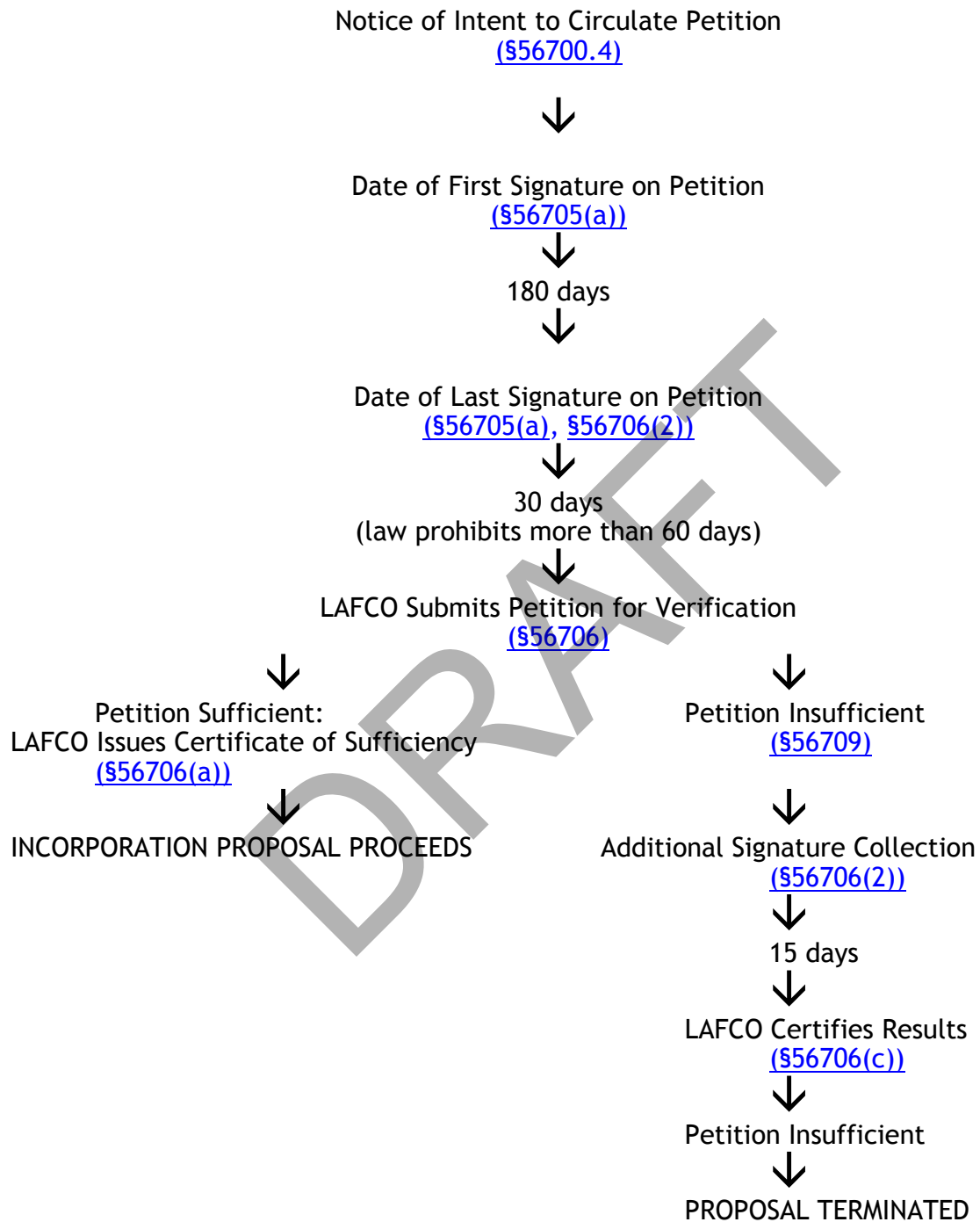
C. INITIATION BY RESOLUTION OF AN AFFECTED AGENCY

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**



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](#)):

- 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.
- 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.

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.

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 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

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.

prepare, or cause to be prepared by contract, a CFA and will release that analysis for public review ([§56800](#)).

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

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](#)).

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.

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 be excluded from the new city and what impact the inclusion and exclusion will have on both the residents of the new 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.

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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

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.

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.

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.

SAMPLE CITY BUDGETS AVAILABLE FROM LEAGUE OF CALIFORNIA CITIES

Through a joint service of the California Society of Municipal Finance Officers (CSMFO) and the League, more than 100 city budgets are available through the League library. (www.cacities.org)

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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.

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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 be obtained from the county and is based on the approved TOT rate, average daily room rates, and estimated daily occupancy rates.

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	<u>381,810</u>
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 \$347,438
($\$1,737,190 \div 5$)

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."

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.

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.

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.

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.

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.

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:

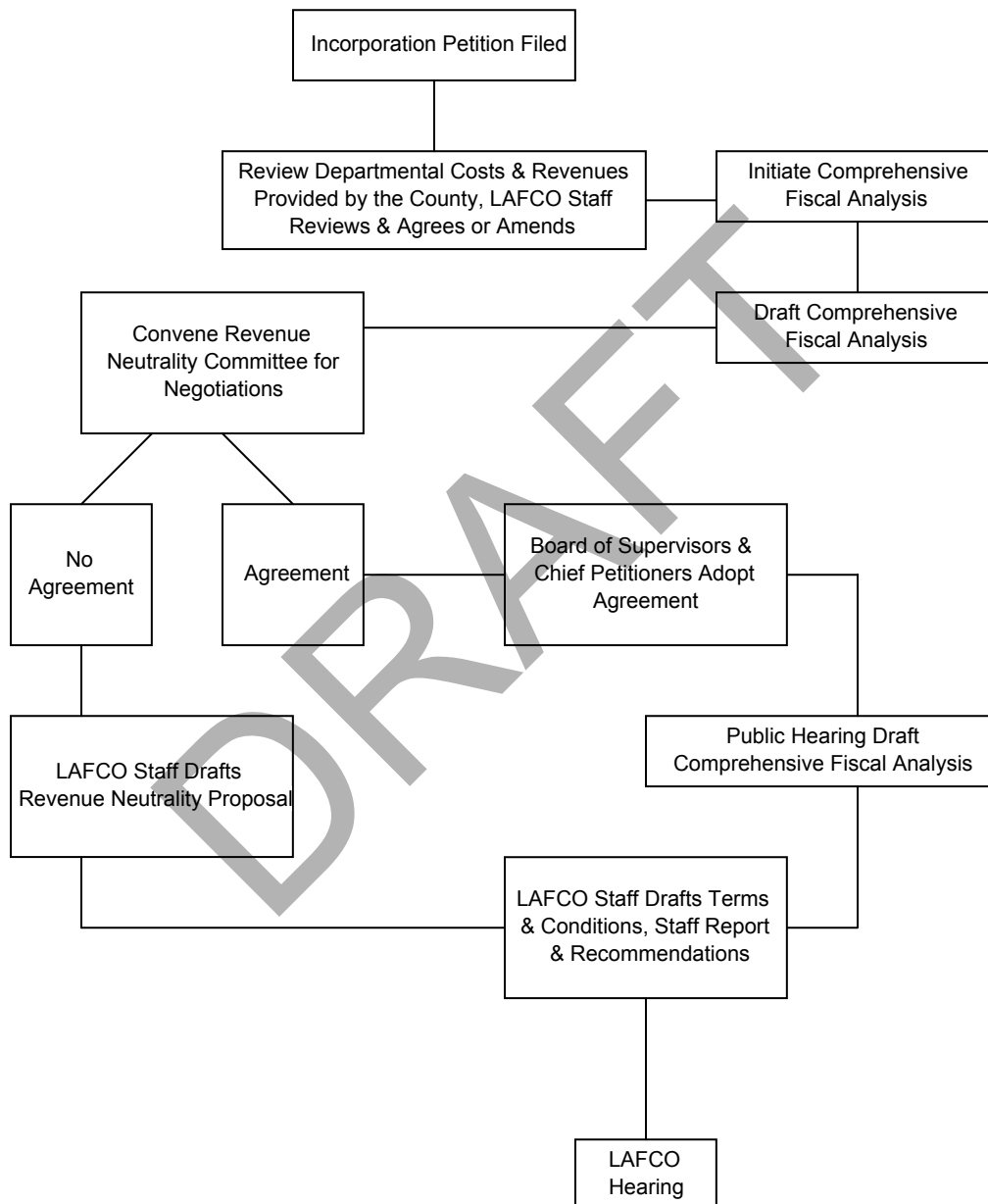
- Prescribe the process for data collection, analysis and discussion of the elements that must be included in a revenue neutral transaction.
- Assist participants in the process to develop proposed terms and conditions that will meet the standards prescribed in the law and enable LAFCO to make the necessary 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.

DRAFT

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
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County Surplus or (Deficit)	(\$1,348,800)
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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 del gate its conducting authority function to LAFCO's Executive Officer

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.



Gray Davis
GOVERNOR

STATE OF CALIFORNIA



Tal Finney
INTERIM DIRECTOR

A GUIDE TO THE LAFCO PROCESS FOR INCORPORATIONS

APPENDICES

Governor's Office of Planning and Research

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APPENDIX A

INCORPORATION PRIMER

The purpose of this document is to provide basic information and practical advice on the entire incorporation process—starting with a group of residents discussing their community’s future to the first months of a newly incorporated city’s life. It is hoped this will help both citizens and Local Agency Formation Commission (LAFCO) staff unfamiliar with incorporations to avoid potential risks or pitfalls.

I. INTRODUCTION

This primer is **NOT** intended to be an all-inclusive and definitive guide to the requirements for incorporations. Interested parties should obtain a copy of The Governor’s Office of Planning and Research (OPR) Incorporation Guidelines which explain the minimum legal requirements of the

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.

Cortese-Knox-Hertzberg Act of 2000. In addition, many individual LAFCOs have adopted policies and procedures augmenting the minimum legal requirements. It is critical that any individual, group, agency or community interested in incorporation carefully review the OPR Incorporation Guidelines and meet with your LAFCO staff.

II. BEFORE YOU START

Incorporations usually start with a group of residents forming a committee to explore the possible incorporation of their community. An incorporation committee defines and articulates incorporation goals, raises funds, collects signatures, assembles application materials, works with LAFCO staff and consultants, testifies at hearings and negotiates changes in the proposal. While each incorporation is unique, a committee of interested local residents is typically the impetus for incorporation.

A. Be Realistic

For any incorporation to succeed, it must have widespread community support since the voters

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.

must approve all successful incorporations. Therefore, ensuring that the residents are educated about the incorporation is critical during the incorporation process. It is recommended that the incorporation committee meet with people living in the incorporation area and in adjoining communities which may be directly affected by the proposal. Fund raising is another crucial task because the proponents of the incorporation are responsible for developing the information that will go into an

application and for paying the costs of processing the application.

B. Look at Alternatives

Most unincorporated communities face the same challenges that cities face—changes in the character of their community, housing/jobs balance, provision of services, increased traffic and growth. Some communities see incorporation as a means to help address their problems without being aware of other alternatives. OPR strongly encourages any community investigating incorporation to explore a range of alternatives with their fellow residents, elected representatives, LAFCO and county officials before embarking on an incorporation effort.

WHAT IS A LOGICAL INCORPORATION BOUNDARY?

A logical incorporation boundary does the following:

- Is realistic in its recognition of political opportunities and constraints.
- Recognizes existing jurisdictional boundaries of other agencies including special districts and cities.
- Includes a variety of land uses for a balanced community. While LAFCO has no direct authority to set or alter existing land use patterns, it will consider if a proposed new city will have a variety of land uses for fiscal balance.
- Considers topography, geography, historic boundaries and urban limit lines if adopted.
- Recognizes existing spheres of influence (SOI).
- Recognizes communities of interest or areas which may have financial, geographic or other various links to the incorporation area.
- Recognizes the ability and readiness of the area to provide municipal level services.
- Is consistent with the stated goals of incorporation. If the goal of incorporation is to give an area control over land use decisions, then the boundary should include areas which might have an impact on land use decisions.
- A logical incorporation boundary should not, if at all possible: Split a parcel by city boundaries.
- A logical incorporation boundary should not, if at all possible: Create islands which are unincorporated areas surrounded by incorporated territory. LAFCO is prohibited by law from creating islands.
- A logical incorporation boundary should not, if at all possible: Use school districts, zip codes, postal addresses or other boundaries which often serve multiple jurisdictions.

C. Consult with LAFCO

Of all the actions incorporation proponents can take which will help to ensure a successful incorporation process, early and frequent consultation with LAFCO is the most important. The incorporation process can seem long and complicated and LAFCO staff can help the incorporation proponents avoid the most common pitfalls. It is strongly recommended that proponents develop the proposed boundaries of the new city with LAFCO staff early in the process—even before deciding to move forward with any incorporation efforts. The inclusion (or exclusion) of territory has a profound impact on the incorporation proposal and the preparation of the comprehensive fiscal analysis (CFA).

D. Why Incorporate?

Incorporation shifts local government responsibility for an unincorporated area under the jurisdiction of a county board of supervisors to a newly established city council. The reasons for incorporation efforts may vary and can include, but are not limited to, the following:

SERVICES: Incorporations can be proposed to improve local public services. Cities can provide extensive services but are also required to fund their share of the cost to provide countywide services through a process called “revenue neutrality” which is explained in following sections.

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 May Continue to Provide

- Special services (welfare, child protective services, etc.)
- Health services
- Criminal justice (courts, prosecution, jails, probation, etc.)
- Regional parks
- Elections and voters services
- General government (assessor, treasurer, recorder, tax collector, etc.)

REVENUES: Incorporation may be proposed to capture increased revenues to support local services.

LOCAL CONTROL: An incorporation may be proposed to give a community more local control over land use, growth, planning policy and other governmental activities.

REPRESENTATION: Incorporations may also be proposed to create a politically accountable governing body (a city council) in a limited geographic area. Some incorporations are proposed because residents feel that a city council may be more accessible, more visible and responsive to the needs of their particular community.

MUNICIPAL REVENUES

Cities can use a variety of revenue. A good source of information about the types of revenues available to cities is the California State Controller’s Annual Cities report which is available online. Another source is the League of California Cities’ library which contains many city budgets.

E. But Can It Fly? An Initial Feasibility Review

If incorporation seems to be a potentially feasible option, the next step may be to conduct an initial fiscal analysis of the proposed incorporation. Some communities have found that a preliminary assessment of the potential to incorporate a community has been valuable. An

WARNING!

An initial feasibility review is NOT a comprehensive fiscal analysis (CFA). It is only an educational tool. Use of the initial feasibility review as a CFA may result in inadequate financial information, longer processing times and more expense

initial feasibility review is designed to help community groups conduct a quick appraisal of the potential for incorporation. Many incorporation groups focus on the fiscal impacts of incorporation—does the community have the financial resources to support a municipality? However, there are other issues which must also be addressed which would help a community determine if incorporation is right for them.

At a minimum, any community which is considering incorporation should first think about the following questions (taken from Institute of Governmental Affairs booklet “Choices for the Unincorporated Community”):

- What is the problem, if any, driving the desire for change in the existing governmental structure? Can the problem be addressed by other, more efficient 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?
- Who is likely to benefit from a change and who is likely to lose?

Incorporations have to be financially feasible. While this is often seen as the primary test for incorporation, it is only one of many standards of review LAFCO will use.

F. The Comprehensive Fiscal Analysis (CFA)

The primary issue for most incorporations is the fiscal feasibility of the proposed new city and the law requires that a Comprehensive Fiscal Analysis (CFA) be prepared. Determining the fiscal feasibility of an incorporation through preparation of the CFA can be expensive and the cost is usually borne by the incorporation proponents. The OPR Incorporation Guidelines recommend that a CFA be started after an application is submitted to LAFCO to help keep costs at a minimum.

The OPR Incorporation Guidelines contain detailed information on the preparation of a CFA, sources of revenues, examples of financial calculations and a one-year fiscal feasibility spreadsheet to help incorporation proponents.

III. THE MAIN STEPS IN THE INCORPORATION PROCESS

The procedure for the incorporation of an unincorporated community in the State of California may require at least a year of formal review. The purpose of such a process is to ensure that any proposed incorporation is economically feasible, in the best interests of the community and environmentally and logically sound. The procedures for incorporation should be followed carefully to avoid delays and to reduce the risk of potential litigation.

The processing of an incorporation proposal can be divided into several separate stages. These are:

- 1) Initiating the incorporation process;
- 2) Application to LAFCO;
- 3) LAFCO staff review;
- 4) LAFCO Commission hearing;
- 5) Election and the first year;

A. Initiating the Incorporation Process

Incorporation can be initiated in one of three ways--by resolution of a public agency, by petition of registered voters or by petition of landowners. A notice of the proponents' intent to circulate a petition must be filed with LAFCO before starting and there are strict, legal time limits for gathering signatures. Proponents and LAFCO should use the "Notice of Intent" filing as an opportunity to review the petition and schedule to ensure legal conformance.

Once enough signatures are collected, the petitions are submitted to LAFCO and must be verified by the appropriate agency. If there are irregularities with petitions or signatures, some signatures may be disqualified which may mean that additional signatures may need to be obtained.

COLLECT MORE THAN YOU NEED

Incorporation proponents should plan on collecting at least 10% to 15% more signatures than the minimum requirement to compensate for invalid signatures.

B. Application to LAFCO

Once the petitions are verified, proponents must prepare a LAFCO application. The application must include:

- A map and legal description of the boundaries of the proposed incorporation area;
- Justification for the proposal;
- A plan for the transfer/provision of public services; and
- Other information as requested by LAFCO.

FIRST THINGS FIRST!

It is recommended that the incorporation boundaries be developed with LAFCO prior to submitting an application but that the CFA be started after submitting the application to LAFCO.

If the application is deemed complete by LAFCO, the Executive Officer will issue a Certificate of Filing and schedule a public hearing.

C. LAFCO Staff Review

The staff reviews all the application materials submitted, conducts its own analyses, performs the environmental review, determines the property tax transfer and revenue neutrality payments, solicits comments and produces a final report. The comprehensive fiscal analysis (CFA) is also usually prepared at this stage.

The CFA is one of the crucial elements of an incorporation application. It provides the financial information LAFCO needs to ensure that the proposed new city is fiscally stable, self-sufficient and the reallocation of revenues among affected agencies is equitable. The preparation of a CFA is complex, must satisfy legal requirements and should not be started without consulting with LAFCO.

REVENUE NEUTRALITY

The law states that an incorporation should not occur primarily for financial reasons and should result in a substantially equal exchange of both revenue and service responsibility. LAFCO cannot approve an incorporation unless it finds that the revenues currently received by the county are substantially equal to expenditures for services being transferred to the new city. Consult the OPR Incorporation Guidelines for more information on revenue neutrality.

LAFCO's Executive Officer can request the submittal of additional information/studies or make changes in the original proposal. LAFCO's staff review can take as long as twelve (12) months.

Incorporation proponents are required to pay fees and costs for processing of the application and providing any additional information requested by LAFCO.

LAFCO staff works cooperatively with all interested parties to ensure that a thorough, complete and accurate proposal is developed for LAFCO's Commission's consideration. When the proposed incorporation is ready for a public hearing, LAFCO's Executive Officer will schedule the item for a public hearing and prepare a report with a recommendation which will be sent to the proponents, interested parties and LAFCO's Commission prior to the public hearing.

D. LAFCO Commission Hearing

LAFCO's Executive Officer is responsible for preparing a staff report that will be considered at the public hearing. At the public hearing, LAFCO's Commission hears the staff report and testimony of interested parties both supporting and opposing the incorporation. LAFCO's Commission may continue the hearing to a future date or close the public hearing and act on the proposal.

LAFCO's Commission has the authority to approve, deny or conditionally approve the incorporation proposal. If LAFCO's Commission approves the proposed incorporation, it must adopt a written resolution approving the incorporation and it must contain the following information:

- Confirmation that LAFCO has considered all the information and factors that it is legally required to consider,
- Written findings regarding consistency between the incorporation and the intent of the Cortese-Knox-Hertzberg Act,
- Conditions of approval, if any,
- Any other terms and conditions,
- A description of the final boundaries of the incorporating area,
- A temporary name for the new city if none has been assigned, and
- The effective date of the incorporation.

If LAFCO's Commission denies the proposed incorporation, no similar application can be filed for at least one year unless LAFCO's Commission waives that prohibition.

E. Request for Reconsideration

Any person or agency may file a request for reconsideration with LAFCO's Commission within 30 days after the resolution of approval is adopted. LAFCO must not take any further action on the incorporation proposal until a public hearing is held and the Commission acts on the request.

F. Protest Hearing

WHY WASN'T I NOTIFIED?

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.

If the approval of the incorporation still stands after a request for reconsideration, LAFCO's Commission will hold a public hearing to count protests to the incorporation. A protest hearing will be held after being duly noticed. LAFCO does not have the discretion to modify the incorporation proposal. LAFCO must terminate the incorporation proceeding if a majority protest is recorded.

G. Election and First Year

If not terminated by a majority protest, the incorporation will be placed on the ballot of the next general election (unless a special election is requested). LAFCO's Executive Officer must draft an impartial analysis of the incorporation issue for inclusion on the ballot. The Commission may review and approve the impartial analysis. A simple majority vote is required for final approval of the incorporation.

After the incorporation is approved by the voters, LAFCO's work is complete. However, the work of the new city has just begun. It is recommended that all new cities contact the League of California Cities which offers several publications, classes and workshops for new city councils.

AFFORDABLE HOUSING AND THE NEW CITY

State law recognizes the vital role local governments play in the affordability of housing. Every city council in California is required to adopt a comprehensive, long-term housing element in its general plan which provides for, and does not unduly constrain, affordable housing development. Housing element law also requires the Department of Housing and Community Development (HCD) to review local housing elements for compliance with State law.

APPENDIX B

GLOSSARY

Affected agency: An affected agency can be a city, county or special district which contains, or whose sphere of influence contains any territory for which an incorporation is proposed or ordered either singularly or as part of a reorganization.

Auditor's ratio: The Auditor's ratio is the ratio of property taxes allocated to the general fund of the county and each affected agency to all revenues received by the county and affected agencies for general purposes during the prior fiscal year.

Base year costs: Base year costs are the costs that would have been incurred to provide municipal level services if the incorporation area had been a city during the base year.

CEQA: California Environmental Quality Act, the law regulating the environmental review process. Public Resources Code Section 21000 et. seq.

Certificate of Completion: The document prepared by LAFCO's Executive Officer and recorded with the county recorder that confirms the final successful resolution of a change of organization or reorganization.

Certificate of Filing: A certificate issued by a LAFCO Executive Officer when an application is accepted for filing. A certificate of filing shall be in the form prescribed by the Executive Officer and shall specify the date upon which the proposal shall be heard by LAFCO's Commission.

Certificate of Sufficiency: A certificate of sufficiency indicates whether the requisite number of signers signed the petition. If the petition does not contain the requisite number of signatures, a notice or certificate of insufficiency shall be provided by the appropriate reviewing agency.

Change of Organization: A change of organization means any of the following: city incorporation; district formation; annexation to, or detachment from, a city or district; disincorporation of a city; district dissolution; consolidation of cities or special districts; and, merger or establishment of a subsidiary district.

Comprehensive Fiscal Analysis (CFA): An analysis of the projected revenues and expenditures resulting from a proposed incorporation.

Conducting Authority: LAFCO's Commission of the principal county of the entity proposing a change of organization or reorganization, unless another conducting authority is specified by law.

Contract City: A city that provides municipal services through a contract(s) with service providers such as special districts, the county or private companies providing municipal services.

County Auditor-Controller: The Auditor and Controller of most counties typically performs fiscal management and control of County revenues and appropriations, administration of the secured and unsecured real property tax system, payment of all claims, payroll and travel accounting, tabulation of the annual County and special district budget, grants accounting, and other fiscal services. Specific duties may vary by county.

Determination: A decision of LAFCO's Commission contained within LAFCO's resolution of approval as required by Government Code Section 56880.

Direct costs: Direct costs are costs associated directly with providing a service such as salaries, benefits, supplies, maintenance, equipment and professional services costs.

Effective date: The effective date is the date upon which the new city is deemed organized or incorporated.

Feasible: A term defined by law as capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, legal, social, and technological factors.

Findings: Government Code Section 56720 states LAFCO's Commission may not approve or conditionally approve any incorporation, unless the Commission finds, based on the entire record, that the proposed incorporation is consistent with the intent of the law, that the Commission has reviewed the spheres of influence of the affected local agencies and the incorporation is consistent with those spheres of influence, that the Commission has reviewed the comprehensive fiscal analysis, that it has reviewed the executive officer's report and recommendation and that 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. These findings must be made in writing in the Resolution of Approval.

Franchise fees: Franchise fees are fees currently paid to the county by the affected utilities including gas, electric and cable TV providers. Franchise fees may also be received from solid waste disposal/recycling services, if applicable.

Full service city: A city which provides all municipal level services (such as fire, police, garbage collection, water, sewer, etc.) through city employees in departments governed by the city council.

Gann Limit: The Gann limit is a constitutional appropriations limit on governmental agencies. The appropriations limit is the amount of money that a governmental agency can spend in a fiscal year.

General Fund: General funds are unrestricted or discretionary revenues used to fund any municipal service expenditure. Examples of General Fund revenues include, but are not limited to, general property taxes, sales taxes, transient occupancy taxes, franchise fees and property transfer taxes.

Incorporation: The incorporation, formation, creation, and establishment of a city with corporate powers.

Indirect costs: Costs associated with supporting a direct service function that may include, but are not limited to: personnel support; administration and policy, legal, accounting/financial support; general insurance; and facility operation and maintenance.

Initial feasibility review: A preliminary fiscal assessment of a community's potential to incorporate, as described in the OPR Incorporation Guidelines.

Initiation by petition: A method of starting the incorporation process involving a registered voter or landowner petition for incorporation, requiring the signatures of a specific percentage of the total number of registered voters or landowners residing in the area to be incorporated.

Islands: An island is unincorporated territory completely surrounded by a city or by territory of a city on one or more sides and the Pacific Ocean on the remaining sides.

LAFCO: An acronym for the Local Agency Formation Commission.

Metes and bounds legal description: A *metes and bounds* description (metes refers to directions and distances, bounds refers to monuments, both physical and legal), describes the perimeter of a parcel of land. A metes and bounds description is often lengthy, as it may contain bearings and distances for each line, descriptive geometry of each curve, and references to other adjacent or nearby parcels of land.

Mitigation: Mitigation includes: avoiding environmental impacts by not taking a certain action or parts of an action; minimizing impacts by limiting the degree or magnitude of the action and its implementation; rectifying the impact by repairing, rehabilitating, or restoring the impacted environment; reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; and, compensating for the impact by replacing or providing substitute resources or environments.

Motor Vehicle In-Lieu fees: Motor vehicle fees consist of vehicle license, registration, weight, and driver's license fees, and various other charges related to vehicle operation. The vehicle license fee (VLF) is imposed for the privilege of operating a vehicle on the public highways in California. This tax is imposed in lieu of a local personal property tax on automobiles and is administered by the State Department of Motor Vehicles. All of the revenues from this tax, other than administrative costs and fees on trailer coaches and mobile homes, are constitutionally dedicated to local governments.

Municipal level services: Services typically provided by cities such as fire, police, garbage collection, water, sewer, etc.

Municipal Service Review: A review of the municipal services provided in the county or other appropriate area such as a proposed incorporation area designated by LAFCO's Commission.

Notice of Intent: (to Circulate a Petition) A notice filed by incorporation proponents with LAFCO prior to circulating any petition for change of organization.

Ordinance: An ordinance is a law adopted by the state, county, city or other appropriate agency.

Primer: The Primer is a brief overview of the incorporation process that can be used as general information by people unfamiliar with incorporations.

Proponent: A proponent is the person or persons who file a Notice of Intent to circulate a petition.

Reorganization: A reorganization is two or more changes of organization initiated in a single proposal.

Resolution: A document prepared by LAFCO's Commission indicating approval of a proposed incorporation and initiating confirmation by the voters.

Revenue Neutrality: The intent of the California Legislature (Government Code Section 56815) that any incorporation should result in a similar exchange of both revenue and responsibility for service delivery among the county, the proposed city, and other affected agencies and that an incorporation should not occur primarily for financial reasons.

Sales Tax: Sales taxes are taxes charged on qualifying retail sales by businesses within the proposed incorporation area.

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 and by other agencies.

SOI: A Sphere of Influence (SOI) means a plan for the probable physical boundaries and service area of a local agency, as determined by LAFCO.

Special district: An agency of the state, formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries.

State Controller: The State Controller is the state's chief financial officer and is elected by a vote of the people every four years. Duties of the State Controller are prescribed by the Constitution with additional powers or functions set by statute.

TOT: Transient Occupancy Taxes (TOT) are taxes collected on hotels and motels.

Transition period: The period of time between the successful election for an incorporation and the date upon which the new city is deemed organized or incorporated.

Unincorporated communities: Territory not within the boundaries of an incorporated city.

DRAFT

APPENDIX C

INITIAL FISCAL FEASIBILITY SPREADSHEET

INITIAL FISCAL FEASIBILITY ANALYSIS*

GENERAL FUND	
General Fund Revenues	
Property Tax	0
Property Transfer Tax	0
Sales and Use Tax	0
Transient Occupancy Tax	0
Motor Vehicle In-Lieu	0
Franchise Fees	0
Fines & Forfeitures	0
Total Revenues	0
General Fund Expenditures	
City Council	0
City Manager	0
City Clerk	0
City Attorney	0
Finance	0
Community Development	0
Law Enforcement	0
Fire Protection	0
Animal Control (Net Cost)	0
Parks and Recreation	0
Non-Departmental	0
Subtotal	0
<u>Contingency (@ 5%)</u>	0
Total Expenditures	0
General Fund Operating Surplus (Deficit)	0

ROAD FUND	
Road Fund Revenues	
Gas Taxes	0
Transportation Related Sales Tax	0
Total Revenues	0
General Fund Expenditures	
Street Maintenance	0
<u>Contingency (@ 5%)</u>	0
Total Expenditures	0
General Fund Operating Surplus (Deficit)	0

***WARNING: The initial fiscal feasibility spreadsheet is only to be used for educational purposes. It should not be used as the basis or as a substitute for a CFA.**

Appendix D

Civil Rights and Environmental Justice Issues

This appendix includes background on the civil rights and environmental justice responsibilities of LAFCO.

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, land ownership, 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)

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 and should therefore, when available, be used in reviewing incorporation proposals. LAFCO may need to adjust boundaries to ensure that geographic inequities are not exacerbated by the establishment of a new city. 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 incorporation proposal requires good information. A clear identification of the lands, population and facilities (existing and proposed) is essential in analyzing the information in the application. 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 incorporation 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.

APPENDIX E

SAMPLE FORMS

PETITION FOR PROCEEDINGS PURSUANT TO THE CORTESE-KNOX-HERTZBERG LOCAL GOVERNMENT REORGANIZATION ACT OF 2000

Part I: NOTICE OF INTENT TO CIRCULATE PETITION

Proponents are required to file a NOTICE OF INTENT TO CIRCULATE PETITION with the Executive Officer of the Local Agency Formation Commission before a petition to initiate a change of organization or reorganization can be circulated (Govt. Code § 56700.4).

1. Notice is hereby given to circulate a petition proposing to _____

2. The reason(s) for the proposal are: _____

Proponent's Name (print)

Signature of proponent or representative

Proponent's Address

City, State, Zip

Pursuant to Section 56700.4 of the California Government Code, this NOTICE OF INTENT TO CIRCULATE PETITION was filed with me on _____

Date

_____, Executive Officer

PART II: DISCLOSURE REQUIREMENTS

The Political Reform Act prohibits a person appointed to the Local Agency Formation Commission from soliciting or accepting campaign contributions or more than \$250 within the preceding 12 months from parties, participants, or their agents while a proceeding is pending before LAFCO and for three months following the decision. LAFCO commissioners who receive such contributions are required to disqualify themselves from participating in the proceedings. Both commissioners and contributors who are parties to the proceeding are required to disclose the contributions received or made. Names of current LAFCO commissioners and LAFCO disclosure forms are available at _____ or by calling _____.

Expenditures for political purposes related to a change of organization or reorganization proposal which has been submitted to a commission, and contributions in support of, or in opposition to such measures, shall be disclosed and reported to the same extent and subject to the same requirements as provided for local initiative measures to be presented to the electorate [Govt. Code § 56700.4(a)].

**PETITION FOR THE INCORPORATION
OF THE CITY OF-----, CALIFORNIA**

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 commencing Section 56000 of the California Government Code, for the Incorporation of the City of -----, California within the boundaries of the community of -----, more particularly described on the Legal Description and Map attached hereto as Exhibit "A".

The reasons for the proposed incorporation are: 1) -----; 2) -----; and 3) to -----.

The Chief Petitioners for this proposal are: (name), ---(address)-----, (name), ---(address)-----, and (name), ---(address)-----.

We hereby request that the -----County Local Agency Formation Commission conduct these proceedings for the Incorporation of the City of ----- pursuant to Govt. Code Section 56000 et. seq. and in those proceedings provide for the City Council appointment of a City Manager, City Clerk, and City Treasurer.

The voter must sign his name, residence, and date of signing in his 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.

1. Sign Name Print Name	Residence Address	Date	Precinct
2. Sign Name Print Name	Residence Address	Date	Precinct
3. Sign Name Print Name	Residence Address	Date	Precinct
4. Sign Name Print Name	Residence Address	Date	Precinct
5. Sign Name Print Name	Residence Address	Date	Precinct
6. Sign Name Print Name	Residence Address	Date	Precinct
7. Sign Name Print Name	Residence Address	Date	Precinct

AFFIDAVIT OF CIRCULATOR

I, _____ residing at _____

Precinct Number _____
under penalty of perjury, state that between the dates of _____
and _____ I circulated the attached or foregoing petition
subsequent to such circulation; and that no pages have been added thereto.

I circulated the petition and saw all signatures appended thereto, and that to the best of my knowledge and belief, they are the signatures of persons whose names they purport to be.

DATED: _____ SIGNATURE OF CIRCULATOR _____

LOCAL AGENCY FORMATION COMMISSION

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 _____ 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.

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 _____ _____ _____

Form courtesy of San Bernardino County LAFCO

APPENDIX F

SAMPLE CITY COUNCIL MEETING AGENDA

GOLETA CITY COUNCIL

Special Meeting - Friday, February 1, 2002 - 5:30 PM

Goleta Community Center

AGENDA

- Agendas are posted on the City's internet web site: www.GoletaCity.com
- A complete packet of information containing staff reports and exhibits relating to each item on the agenda is available for public review prior to each City Council meeting at the City Hall (Address)
- Agendas may be picked up at the City Hall located at (address) for no charge or to request information regarding being placed on the annual subscription list please contact the City Clerk.

A. SWEARING IN CEREMONY FOR CITY COUNCIL MEMBERS - COUNTY CLERK

B. OPENING MATTERS

1. Call to Order
2. Pledge of Allegiance to the flag
3. Roll Call
4. Individual Council Member Comments

C. PUBLIC COMMENTS

At this time the public is permitted to address the City Council on non-agendized items only. COMMENTS SHOULD NOT EXCEED THREE (3) MINUTES.

In accordance with State Law no City Council action or discussion may take place on any item not appearing on the posted agenda. The Council may respond to statements made or questions asked, and may direct staff to report back at a future meeting regarding the matter.

Members of the public may contact the City Clerk's Office related to the proper procedure to place an item on a future City Council agenda.

The exceptions under which the City Council MAY discuss and/or take action on items not appearing on the posted agenda are contained in Government Code Section 54954.2 (b) (1) (2) (3).

D. DISCUSSION/ACTION ITEMS

1. Waive the reading and adopt urgency ordinance providing for all County ordinances to remain in effect for 120 days.

Note: This ordinance adopts the Santa Barbara County Code as the ordinances within the City for 120 days. Adoption is required by Government Code §56376.

2. Adopt resolution designating (name) as the Mayor and (name) as the Mayor Pro Tem effective immediately, and (name) as Mayor beginning on January 1, 2003.

Note: The Council will: (a) adopt resolution establishing the procedure for selecting the mayor and mayor pro tempore and their responsibilities and (b) by motion select the Mayor and Mayor Pro Tempore for the initial city council.

3. Adopt resolution designating the place and time for regular City Council meetings.

Note: This resolution will designate the place and time of regular Council meetings as required by Government Code 54954(a). The regular meetings will be held on the (week, day of week) of each month at (time and place of meeting).

4. Adopt resolution establishing procedures for conduct of Council meetings.

Note: This resolution establishes procedures for the conduct of Council meetings.

5. Waive the reading and adopt urgency ordinance creating and establishing a City Manager form of government and the position of City Manager, to be effective immediately.

Note: This ordinance establishes a City Manager form of government for the City. It is effective immediately and requires a 4/5th vote

6. Adopt resolution appointing (name) as City Manager and approving agreement for interim City Manager services

Note: This resolution appoints (name) as the Interim City Manager and includes terms of appointment including compensation.

7. Adopt resolution appointing (name) as City Attorney and approving an agreement for legal services with (name of firm).

Note: This resolution appoints (name) as the City Attorney and approves an agreement for legal services including compensation.

8. Waive reading and introduce ordinance imposing a Sales and Use Tax to be administered by the State Board of Equalization and providing penalties for violations; adopt resolution approving agreement for State administration of local Sales and Use Taxes and adopt a resolution authorizing and examination of Sales and Use Tax records.

Note: The Council will take three actions that establish but do not increase sales and use tax rates within the City.

First, waive the reading and introduce ordinance to adopt a sales and use tax within the City consistent with the Bradley-Burns Act. The ordinance will be continued to the (date) Council meeting for second reading and adoption.

Second, approve an agreement with the State Board of Equalization for collection of the tax.

Third, adopt a resolution authorizing the State Board of Equalization to examine records.

9. Waive reading and adopt an urgency ordinance to continue the existing Transit Occupancy Tax.

Note: The ordinance continues the County's transient occupancy tax (hotel tax) in effect at the current County rate. The ordinance will become effective immediately and requires a 4/5th vote.

10. Waive reading and adopt urgency ordinance to continue the existing business license tax.

Note: The ordinance continues the County's business license tax in effect at the current County rate. The ordinance will become effective immediately and requires a 4/5th vote.

11. Waive reading and adopt urgency ordinance to continue the existing documentary transfer tax.

Note: The ordinance continues the County's documentary (real property) transfer tax in effect at the current County rate. The ordinance will become effective immediately and requires a 4/5th vote.

12. Adopt resolution setting the Provisional Appropriations Limit for Fiscal Year 2001-02.

Note: The California Constitution Article XIII B and Government Code §7900 et seq. require the City to adopt an "appropriations limit." LAFCO Resolution 99-20 establishes an provisional appropriations limit pursuant to Government Code §56842.6 as \$24,100,000. This resolution will formally adopt that amount as the City's appropriations limit until subsequent voter approval.

13. Adopt resolution selecting (name of bank) as the City's bank and providing for authorized signatures on warrants and checks.

Note: This resolution will designate the (name) Bank, (name) branch as the city's bank. It will also designate the City Manager (and/or Finance Director or City Clerk) and Mayor as the officials authorized to sign warrants and checks over \$2,500, with the City Manager authorized to sign checks for less than \$2,500.

14. Adopt resolution authorizing investment of City monies in the Local Agency Investment Fund.

Note: This resolution authorizes the City to invest monies in the State's Local Agency Investment Fund. The City Manager and the Finance Director are authorized to deposit or withdraw monies.

15. Adopt resolution authorizing a petty cash fund.

Note: This resolution establishes a petty cash fund of \$250 for minor expenses for the daily operations of the City.

16. Adopt resolution approving a budget for fiscal year 2001-02.

Note: This resolution will adopt a budget for the City for Fiscal Year 2001-2002 based on the City Manager's recommendation.

17. Adopt resolution consenting to cancellation of uncollected taxes, penalties and costs based on the consent of the County legal advisor.

Note: This resolution authorizes the City Council to consent to canceling uncollected taxes, penalties and costs on behalf of the City.

18. Waive the reading and adopt urgency ordinance establishing a Special Gas Tax Street Improvement Fund.

Note: This ordinance establishes a special fund into which all gas tax revenues will be deposited. The ordinance will become effective immediately and requires a 4/5th vote.

19. Adopt a resolution adopting the County General Plan on an interim basis as the City's General Plan.

Note: This resolution will adopt the County General Plan and Goleta Valley Community Plan as the general plan for the City, to be effective until the City adopts its own general plan.

20. Adopt resolution adopting County zoning atlas on interim basis.

Note: This resolution will adopt Santa Barbara County's zoning atlas (map) in effect on February 1, 2002 as the zoning map of the City.

21. Adopt resolution authorizing County officials to enforce laws in City during transition year.

Note: The County is required to continue to provide all services in the City that it provided prior to incorporation through June 30, 2002. This resolution will authorize County employees performing services within the City to enforce any laws within the City while the County is providing such services.

22. Adopt resolution requiring bonds for City employees.

Note: This resolution will establish the amount of the official bonds for designated city employees.

23. Waive the reading and adopt urgency ordinance continuing County fees, charges and rates in effect.

Note: This ordinance will continue County fees, charges and rates in effect as the City's fees, charges and rates for programs and services. The ordinance will become effective immediately and requires a 4/5th vote. It does not apply to development impact fees.

24. Adopt resolution establishing cost recovery program for land use applications.

Note: This resolution will require applicants for land use approvals to pay the cost of processing such applications, including all staff time, overhead and the City's actual out-of-pocket costs for legal and other services required to review and process applications.

25. Waive reading and introduce ordinance providing for reimbursement of City Council member expenses.

Note: This ordinance will provide a policy for members of the Council to be reimbursed for actual reasonable and necessary expenses incurred in performing their duties, as authorized by Government Code §36514.5. It will require a second reading and adoption at the February (date) Council meeting.

26. Adopt resolution providing for posting of ordinances.

Note: This resolution will allow the City to provide notice of proposed actions when notice is legally required by posting in three (3) public places.

27. Waive reading and introduce ordinance establishing a local claims procedure and authorizing the City Manager to reject or settle claims.

Note: This ordinance will require that claims be presented to the City before filing a law suit for those types of claims that are exempt from the California Tort Claims Act. The ordinance would also authorize the City Manager to reject or settle claims less than \$2,500, all as authorized by Government Code §935 and 935.4. It will require a second reading and adopt at the February (date) Council meeting.

28. Adopt resolution adopting CEQA guidelines.

Note: This resolution will adopt the State CEQA Guidelines as the City's CEQA Guidelines pending adoption of other local guidelines.

29. Adopt resolution requesting Federal Tax Identification Number and directing filing of information with Secretary of State.

Note: This resolution will authorize the City Manager to (a) file with the California Secretary of State information pursuant to Government Code §53051 and (b) file with the Federal Government to obtain a Federal taxpayer identification number for the City as required.

30. Adopt resolution of intent to adopt Conflict Of Interest Code and invite public comments.

Note: A 60-day public comment period is required prior to adopting a conflict of interest code for the City. This resolution will provide notice of the intent for the County to adopt the conflict of interest code.

31. Adopt resolution consenting to enforcement by County health officer of all health laws within the City.

Note: This resolution will consent to the enforcement by the County Health Officer of all laws related to public health, as authorized by Health & Safety Code §101375.

32. Adopt a resolution regarding insurance.

Note: This resolution will authorize the City Manager to obtain insurance for the City.

33. Waive reading and introduce ordinance declaring the need for a redevelopment agency to function in the community.

Note: This ordinance will declare the need for a redevelopment agency in the City and declare the Council to be the Goleta Redevelopment Agency, consistent with the provisions of LAFCO Resolution 99-20.

34. Consideration of ordinance providing for City Council member salaries

Note: Consideration will be given to adopting an ordinance to would provide salaries for members of the City Council.

E. REPORTS TO COUNCIL

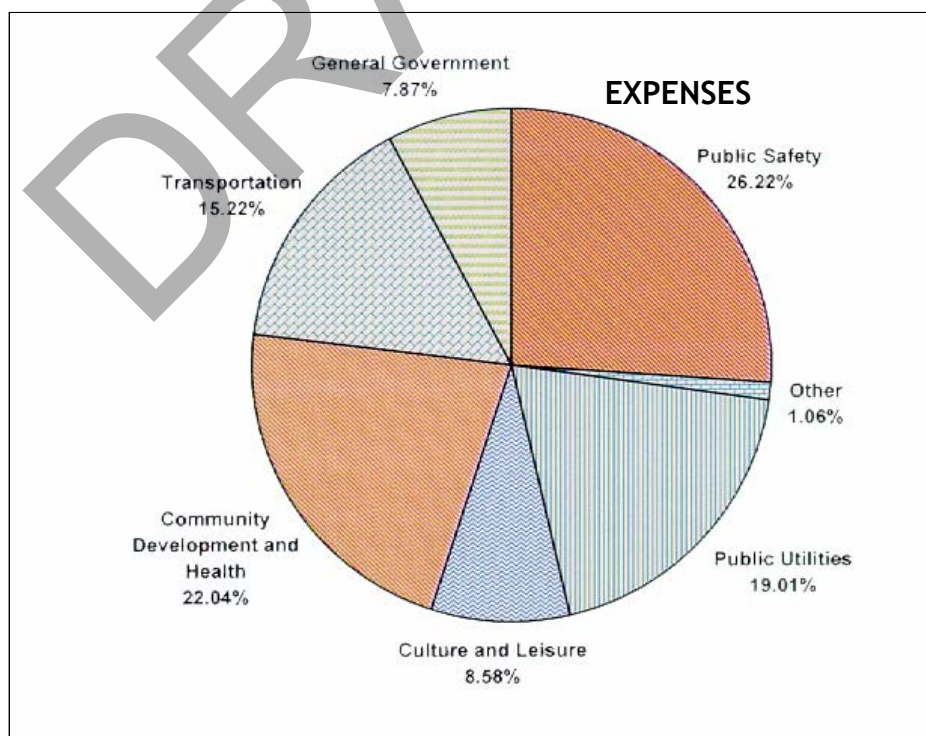
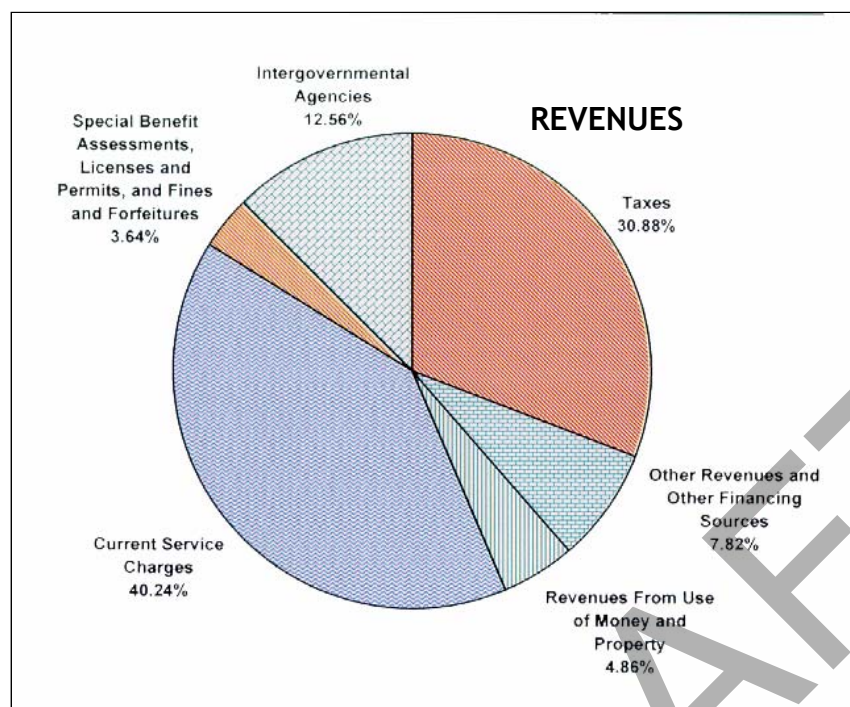
F. CLOSING COMMENTS

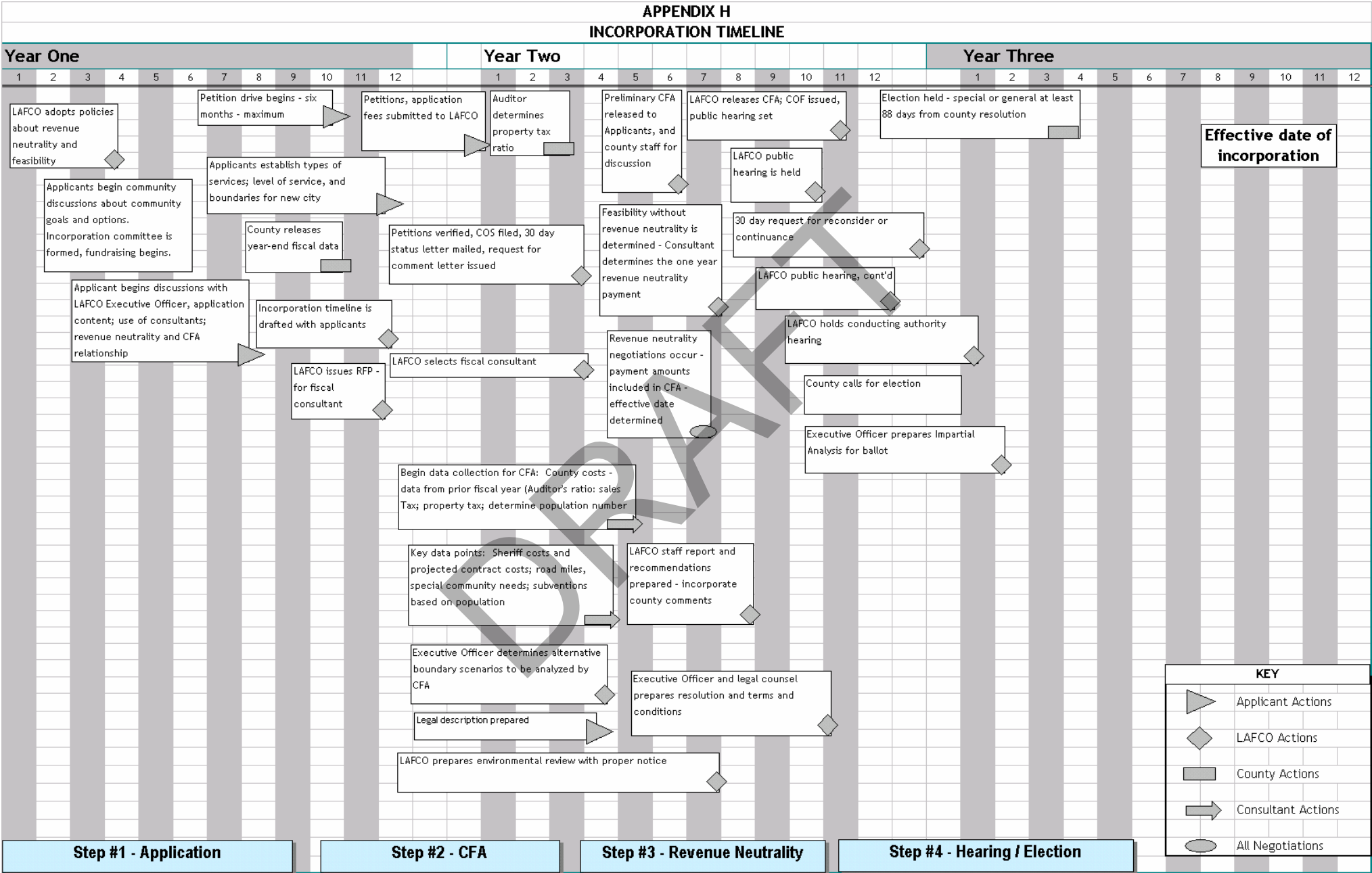
G. ADJOURN

Note: The public is invited to an open house at (location) at 4:30 p.m. to celebrate the successful incorporation of the City of Goleta.

APPENDIX G

TYPICAL SOURCES AND USES OF MUNICIPAL FUNDING







Gray Davis
GOVERNOR

STATE OF CALIFORNIA



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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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:

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.

GUIDELINES v. REGULATIONS

Existing law requires OPR to prepare guidelines, not regulations. This document should therefore be considered advisory and not regulatory.

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 Guidelines¹ was

¹ Prepared under contract with Graichen Consulting

published in May 2001 and subjected to a 21-day public review period. The Preliminary Draft² 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

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.

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.

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

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.

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.

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.

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:

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."

- 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

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.

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.

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.

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

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.

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.)
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.)

**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.

TABLE 1 - SERVICE PROVIDER MATRIX TEMPLATE⁴

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.

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.

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.

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 policies 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](#)).

LAFECO TO LAFECO CONSULTATION

LAFECOs should determine if consultation with other LAFECOs 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.

This Chapter includes guidance on how to determine the study boundary area. Some LAFECOs may choose to identify boundaries as part of developing the schedule of individual municipal service reviews. Other LAFECOs may choose to determine boundaries as each review is undertaken.

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

**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.

be conducted prior to, or concurrent with, those updates. Therefore all municipal service reviews must be completed by January 1, 2006.

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 processes⁵. 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 or 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

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.

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.

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

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.

states may not "deny to any person within [their] jurisdiction the equal protection of the laws" (U.S. Constitution, amend. XIV, §1).

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.

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.

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.

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, cities, 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 policies 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 policies 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 policies 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

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.

agencies, and persons and entities requesting notice, should receive a mailed notice.

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.

DRAFT



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APPENDICES

LOCAL AGENCY FORMATION COMMISSION MUNICIPAL SERVICE REVIEW GUIDELINES

Governor's Office of Planning and Research

AUGUST 2003

FINAL

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APPENDIX A

WHAT IS THE ENVIRONMENTAL GOALS AND POLICY REPORT (EGPR)?

Government Code Sections [65041](#)-[65049](#)

A. THE GOVERNOR'S STATE ENVIRONMENTAL GOALS AND POLICY REPORT IS:

- A long-range (20-30 year) overview of state growth and development.
- A statement of approved state goals and objectives, including those directed to land use, population growth and distribution, development, conservation of natural resources, transportation, and air and water quality.
- A description of new and revised state policies, programs, and other actions of the executive and legislative branches required to implement the approved goals.

B. THE EGPR MUST BE CONSISTENT WITH:

The three state planning priorities established under AB 857 (Wiggins, 2002), which are intended to promote equity, strengthen the economy, protect the environment, and promote public health and safety in the state, including in urban, suburban, and rural communities. These priorities are to:

- Promote infill development and equity by rehabilitating, maintaining, and improving existing infrastructure that supports infill development and reuse of previously developed land.
- Protect environmental and agricultural resources by protecting, preserving, and enhancing the state's most valuable resource lands, such as working landscapes, natural lands, and recreational lands.
- Encourage efficient development patterns by ensuring that any infrastructure associated with development other than infill supports new development that uses land efficiently.

C. THE EGPR WILL DO THE FOLLOWING:

- Address issues related to the environment, the economy, and equity.
- Address the policies, programs, and expenditures of state government only.
- Strive to bring consistency to state policies, programs, and expenditures.

- Serve as a basis for decisions about the design, location, and priority of major public programs, capital projects and other actions, including the allocation of state resources.
- Guide the development of state functional plans.
- Guide the development of the Five-Year Infrastructure Plan prepared by the Department of Finance.
- Be developed through an inclusive and collaborative process, involving a broad range of stakeholders.
- Inform all other levels of government (local, regional and federal) of approved state environmental goals and objectives and the proposed direction of state programs and actions in achieving them.

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APPENDIX B

DEFINITIONS¹

TERM	DEFINITION	SECTION
Affected city	Any city which: (a) contains, or its sphere of influence (SOI) contains, territory for which a change of organization is proposed or ordered either singularly or as part of a reorganization; or (b) would contain the territory described in subdivision (a) as a result of proceedings for a change of organization or reorganization taken pursuant to this division.	§56011
Affected county	Each county which contains, or would contain, any territory for which a change of organization or reorganization is proposed or ordered or which contains all or any part of a district for which a change of organization or reorganization is proposed or ordered with respect to territory outside that county.	§56012
Affected district	A special district, as defined by §56036 , which contains, or whose SOI contains, any territory for which a reorganization or a change of organization is proposed or ordered.	§56013
Affected LAFCO	When more than one county is affected by, or participating in a municipal service review, the LAFCO for a county other than the principal county, in which a municipal service review is conducted.	
Affected local agency	Any agency which contains, or would contain, or whose SOI contains, any territory within any proposal or study to be reviewed by the Commission.	§56014
Affected territory	Any territory for which a change of organization or reorganization is proposed or ordered.	§56015
Annexation	The annexation, inclusion, attachment, or addition of territory to a city or district.	§56017
Board of Directors	The legislative body or governing board of a district.	§56019
Board of Supervisors	The elected board of supervisors of a county.	§56020

¹ Citations refer to sections of the Government Code. Some definitions are taken from other sources or have been developed for the Guidelines so they do not have specific Code references.

TERM	DEFINITION	SECTION
Change of organization	A city incorporation, district formation, annexation to, or detachment from, a city or district, disincorporation of a city, district dissolution, consolidation of cities or special districts, or merger or establishment of a subsidiary district.	§56021
City	Any charter or general law city, including any city the name of which includes the word "town."	§56023
City Council	The elected legislative body of a city.	§56024
Consolidation	The uniting or joining of two or more cities located in the same county into a single new successor city or two or more districts into a single new successor district. In the case of consolidation of special districts, all of those districts shall have been formed pursuant to the same principal act.	§56030
Cost avoidance	Actions to eliminate unnecessary costs derived from, but not limited to, duplication of service efforts, higher than necessary administration/operation cost ratios, use of outdated or deteriorating infrastructure and equipment, underutilized equipment or buildings or facilities, overlapping/inefficient service boundaries, inefficient purchasing or budgeting practices, and lack of economies of scale.	
County Service Area (CSA)	A dependent agency governed by the Board of Supervisors of a County pursuant to §25210.1 - §25211.33 of the Government Code. A CSA may perform most services, which the county is authorized to perform by law, but is limited by the county's ability to show that the proposed level of extended service is not otherwise provided on a county-wide basis.	
Detachment	The detachment, deannexation, exclusion, deletion, or removal from a city or district of any portion of the territory of that city or district.	§56033
Disincorporation	The disincorporation, dissolution, extinguishment, and termination of the existence of a city and the cessation of its corporate powers, except for the purpose of winding up the affairs of the city.	§56034
Dissolution	The dissolution, disincorporation, extinguishment, and termination of the existence of a district and the cessation of all its corporate powers, except for the purpose of winding up the affairs of the district.	§56035

TERM	DEFINITION	SECTION
District or special district	An agency of the state, formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries. "District" or "special district" includes a county service area.	§56036
District of limited powers	An airport district, community services district, municipal utility district, public utilities district, fire protection district, harbor district, port district, recreational harbor district, small craft harbor district, resort improvement district, library district, local hospital district, local health district, municipal improvement district formed pursuant to any special act, municipal water district, police protection district, recreation and park district, garbage disposal district, garbage and refuse disposal district, sanitary district, county sanitation district, or public cemetery district.	§56037
Education Revenue Augmentation Fund	The state mechanism for shifting property tax revenues from local governments to schools.	
Enterprise activities	Activities accounted for in a manner similar to a private business such as a water utility. The acquisition, operation, and maintenance of governmental facilities and services are entirely or predominantly self-supporting through user charges or fees. The State Controller separates enterprise activities into seven categories: airports, electric, harbor and port, transit, waste disposal, utility, and hospital.	
Feasible	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
Formation	The formation, incorporation, organization, or creation of a district.	§56039
Function	Any power granted by law to a local agency or a county to provide designated governmental or proprietary services or facilities for the use, benefit, or protection of all persons or property.	§56040
Functional revenues	Revenues generated from direct services or associated with specific services, such as a grant or statute, and expenditures.	
General revenues	Revenues not associated with specific services or retained in an enterprise fund.	

TERM	DEFINITION	SECTION
Incorporation	The incorporation, formation, creation, and establishment of a city with corporate powers. Any area proposed for incorporation as a new city must have at least 500 registered voters residing within the affected area at the time commission proceedings are initiated.	§56043
Independent special district	Any special district having a legislative body all of whose members are elected by registered voters or landowners within the district, or whose members are appointed to fixed terms, and excludes any special district having a legislative body consisting, in whole or in part, of ex officio members who are officers of a county or another local agency or who are appointees of those officers other than those who are appointed to fixed terms. "Independent special district" does not include any district excluded from the definition of district contained in §56036 .	§56044
Independent SD officer	The presiding officer or a member of the legislative body of an independent special district.	§56045
Infrastructure needs and deficiencies	The term, "infrastructure" is defined as public services and facilities, such as sewage-disposal systems, water-supply systems, other utility systems, and roads (General Plan Guidelines). Any area needing or planned for service must have the infrastructure necessary to support the provision of those services. The term, "infrastructure needs and deficiencies," refer to the status of existing and planned infrastructure and its relationship to the quality and levels of service that can or need to be provided.	
Interested agency	Each local agency, which provides facilities or services in the affected territory that a subject agency would provide.	§56047.5
Joint Commission	A single Commission formed to preside over the functions of a multi-LAFCO Joint Powers Agreement. The Commission may be comprised of all or a portion of the Commissioners of the individual Commissions that are participating in the Joint Powers Agreement. A Joint Commission, as herein defined, does not constitute an individual agency. It is intended to jointly exercise existing powers common to each agency.	
Lead LAFCO	The LAFCO with primary responsibility for conducting a municipal service review affecting more than one county.	
Loaded Cost	A cost that has overhead and/or other fees or charges added to the actual and direct service or item cost.	

TERM	DEFINITION	SECTION
Local accountability and governance	The term, "local accountability and governance," refers to public agency decision making, operational and management styles that include an accessible staff, elected or appointed decision-making body and decision making process, advertisement of, and public participation in, elections, publicly disclosed budgets, programs, and plans, solicited public participation in the consideration of work and infrastructure plans; and regularly evaluated or measured outcomes of plans, programs or operations and disclosure of results to the public.	
Local agency	A city, county, or special district or other public entity, which provides public services.	§56053
Management efficiency	The term, "management efficiency," refers to the organized provision of the highest quality public services with the lowest necessary expenditure of public funds. An efficiently managed entity (1) promotes and demonstrates implementation of continuous improvement plans and strategies for budgeting, managing costs, training and utilizing personnel, and customer service and involvement, (2) has the ability to provide service over the short and long term, (3) has the resources (fiscal, manpower, equipment, adopted service or work plans) to provide adequate service, (4) meets or exceeds environmental and industry service standards, as feasible considering local conditions or circumstances, (5) and maintains adequate contingency reserves. According to CLG staff, "Management Efficiencies" was not about union issues or collective bargaining, but was generally seen as organizational efficiencies including the potential for consolidations."	
Mentor LAFCO	A LAFCO with the experience and resources necessary to advise, or contract with, other LAFCOs for the implementation of municipal service reviews.	
Merger	The extinguishment, termination, and cessation of the existence of a district of limited powers by the merger of that district with a city as a result of proceedings taken pursuant to this division.	§56056

TERM	DEFINITION	SECTION
Municipal services	The full range of services that a public agency provides, or is authorized to provide, except general county government functions such as courts, special services and tax collection. Municipal service reviews are triggered by requirements to create or update SOIs for public agencies. Therefore, a LAFCO will review services that are provided by public agencies that have, or are required to have, SOIs with review and consideration of the operations of other providers that service the same region.	
Non-enterprise activity	A non-enterprise activity, such as fire protection, is an activity that has an accounting system organized on a governmental fund basis.	
Open space	Any parcel or area of land or water, which is substantially unimproved and devoted to an open-space use.	§56059 §65560
Overlapping territory	Territory which is included within the boundaries of two or more districts or within one or more districts and a city or cities.	§56061
Out of Agency Contract	A contract to provide services outside of an agency's boundaries.	
Parent district	Any district, a metropolitan water district, or any of the entities enumerated in subdivision (c) of §56036 , which includes all or any part of another district, the first-mentioned district or entity being obligated, under the provisions of the principal act of the first-mentioned district entity, to provide and furnish any governmental or proprietary service or commodity to the second-mentioned district.	§56062
Planning area	The area directly addressed by the general plan. A city's planning area typically encompasses the city limits and potentially annexable land within its SOI (General Plan Guidelines (GPG) page 230).	
Plan of reorganization	A plan or program for effecting a reorganization and which contains a description of all changes of organization included in the reorganization and setting forth all terms, conditions, and matters necessary or incidental to the effectuation of that reorganization.	§56063

TERM	DEFINITION	SECTION
Prime agricultural land	An area of land, whether a single parcel or contiguous parcels, that has not been developed for a use other than an agricultural use and that meets any of the following qualifications: (a) Land that, if irrigated, qualifies for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not the land is actually irrigated, provided that irrigation is feasible; (b) Land that qualifies for rating 80 through 100 Storie Index Rating; (c) Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Handbook on Range and Related Grazing Lands, July, 1967, developed pursuant to Public Law 46, December 1935; (d) Land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre; (e) Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four hundred dollars (\$400) per acre for three of the previous five calendar years.	§56064
Principal act	In the case of a district, the law under which the district was formed and, in the case of a city, the general laws or a charter, as the case may be.	§56065
Principal county	The county having all or the greater portion of the entire assessed value, as shown on the last equalized assessment roll of the county or counties, of all taxable property within a district or districts for which a change of organization or reorganization is proposed.	§56066
Principal LAFCO for municipal service review	The LAFCO with the lead responsibility for a municipal service review. Lead responsibility can be determined pursuant to the CKH Act definition of a Principal LAFCO as it applies to government organization or reorganization actions, by negotiation, or by agreement among two or more LAFCOs.	
Proceeding	Proceedings taken by the commission for a proposed change of organization or reorganization pursuant to Part 4 (commencing with §57000).	§56067

TERM	DEFINITION	SECTION
Proposal	A request or statement of intention made by petition or by resolution of application of a legislative body or of a school district proposing proceedings for the change of organization or reorganization described in the request or statement of intention.	§56069
Public agency	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.	§56070
Rate restructuring	Rate restructuring does not refer to the setting or development of specific rates or rate structures. During a municipal service review, LAFCO may compile and review certain rate related data, and other information that may affect rates, as that data applies to the intent of the CKH Act (§56000 , §56001 , §56301), factors to be considered (§56668), SOI determinations (§56425) and all required municipal service review determinations (§56430). The objective is to identify opportunities to positively impact rates without adversely affecting service quality or other factors to be considered.	
Regional	Pertaining to activities or economies at a scale greater than that of a single jurisdiction, and affecting a broad geographic area (GPG page 231)	
Reorganization	Two or more changes of organization initiated in a single proposal.	§56073
Responsible LAFCO	The LAFCO of a county other than the Principal County that may be impacted by recommendations, determinations or subsequent proposals elicited during a municipal service review being initiated or considered by the Lead LAFCO.	
Retained Earnings	The accumulated earnings of an enterprise or intragovernmental service fund which have been retained in the fund and are not reserved for any specific purpose (debts, planned improvements, contingency/emergency).	

TERM	DEFINITION	SECTION
Reserve	(1) For governmental type funds, an account used to earmark a portion of fund balance, which is legally or contractually restricted for a specific use or not appropriable for expenditure. (2) For proprietary type/enterprise funds, the portion of retained earnings set aside for specific purposes. Unnecessary reserves are those set aside for purposes that are not well defined or adopted or retained earnings that are not reasonably proportional to annual gross revenues.	
Service	A class established within, and as a part of, a single function, as provided by regulations adopted by the commission pursuant to Chapter 5 (commencing with §56820) of Part 3.	§56074
Service review	A study and evaluation of municipal service(s) by specific area, sub-region or region culminating in written determinations regarding nine specific evaluation categories.	
Special reorganization	A reorganization that includes the detachment of territory from a city or city and county and the incorporation of that entire detached territory as a city.	§56075.5
Sphere of influence (SOI)	A plan for the probable physical boundaries and service area of a local agency, as determined by the commission.	§56076
Staged municipal service review	A municipal service review method structured to consider unique conditions, circumstances and characteristics and limit the depth of review and evaluation to that necessary to render substantiated written determinations. In this approach, Stage 1 is a general, less complicated level of review. LAFCOs proceed with a more complicated focused Stage 2 review only if the Stage 1 review did not produce the information needed to substantiate required determinations. Stage 3 focuses on those items needing extensive review.	
Stakeholder	Refers to LAFCOs, members of the public, affected and interested agencies, and other entities interested in, and affected by, service(s) being reviewed.	
Subject agency	Each district or city for which a change of organization is proposed or provided in a reorganization or plan of reorganization.	§56077

TERM	DEFINITION	SECTION
Sub-region	The study area for a municipal service review chosen because of characteristics, such as geography, government structure, or development characteristics, which produces meaningful comparisons and evaluations of government structure options.	
Subsidiary district	A district of limited powers in which a city council is designated as, and empowered to act as, the ex officio board of directors of the district.	§56078
Substantial SOI amendment	An amendment to an SOI which causes the SOI to be internally inconsistent, is inconsistent with provisions of the CKH Act, has the potential to cause significant adverse social, economic, environmental or other consequences, or has substantial adverse regional planning implications. A substantial amendment to an SOI prior to a municipal service review is inconsistent with §56430 .	
Urban service area	Developed, undeveloped, or agricultural land, either incorporated or unincorporated, within the SOI of a city, which is served by urban facilities, utilities, and services or which are proposed to be served by urban facilities, utilities, and services during the first five years of an adopted capital improvement program of the city if the city adopts that type of program for those facilities, utilities, and services. The boundary around an urban area shall be called the "urban service area boundary" and shall be developed in cooperation with a city and adopted by a commission pursuant to policies adopted by the commission in accordance with §56300 , §56301 , and §56425 .	§56080

APPENDIX C

ACRONYMS

CAFR	- Comprehensive Annual Financial Reports
CEQA	- California Environmental Quality Act
CKA	- Cortese-Knox Local Government Reorganization Act of 1985 as amended
CKH	- Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000
CLG	- Commission on Local Governance for the 21st century
COG	- Council of Governments
CSD	- Community Services District
DOF	- State Department of Finance
ERAF	- Education Revenue Augmentation Fund
GWB	- <u>Growth Within Bounds</u>
GPG	- <u>General Plan Guidelines</u>
JPA	- Joint Powers Agreement
LAFCO	- Local Agency Formation Commission
LHC	- Little Hoover Commission
MSRG	- <u>Municipal Service Review Guidelines</u>
PUC	- Public Utilities Commission
SD	- <u>Special Districts: Relics of the Past or Resources of the Future</u>
SOI	- Sphere of Influence
TOC	- Table of Contents

APPENDIX D

BACKGROUND ON MUNICIPAL SERVICE REVIEWS

The following is a discussion of the purpose and intent of the new municipal service review requirements and a description of the statutory requirements.

A. BACKGROUND AND LEGISLATIVE INTENT

In 1997, the State Legislature approved, and the Governor signed, AB 1484 (Hertzberg), establishing the Commission on Local Governance for the 21st Century (Commission). The members of the Commission included a broad spectrum of constituent groups and perspectives including counties, cities, special districts, educators, industry, and elected officials.

The Commission was charged with evaluating local governance issues and make appropriate recommendations. They were directed to focus special attention to the Cortese-Knox Local Government Reorganization Act of 1985, the 57 Local Agency Formation Commissions (LAFCOs) governed by the Act, and citizen participation in local government.

The results of those efforts were published in Growth Within Bounds (GWB) in January 2000. In GWB, the Commission stated that the role and responsibility of LAFCO is to have a:

"Comprehensive knowledge of the services available within its county, the current efficiency of providing service within various areas of the county, future needs for each service, and expansion capacity of each service provider.

Although some LAFCOs may have access to such essentials, many do not, and the Cortese-Knox Act offers no mechanism for assisting and encouraging them to gather the basic necessary information. The Commission believes that such provision should be added to the statute.

Information on public service capacity could be gathered as part of the implementation of a new requirement for periodic municipal service reviews. LAFCOs could conduct such reviews prior to or in conjunction with amendments to spheres of influence. A municipal service review would encompass a comprehensive study of each identifiable public service provided by counties, special districts, and the cities in the region.

The review would not focus exclusively on an individual jurisdiction to determine its future boundary or service areas. Rather, it would require LAFCO to look broadly at all agencies within a geographic region that

provide a service. The review would also include a component that examines the benefits or disadvantages of consolidation or reorganization of service providers.

LAFCOs should be provided flexibility in designating the geographic area to be analyzed, the timing of conducting particular reviews, and the scope of the reviews.” (GWB, pages 98-99)

The GWB further states:

“The focus of the public policy debate should be on the adequacy of provision of services to citizens, not on the number of districts. The commissioners believe that there clearly needs to be an ongoing examination of the efficiency of governmental services, and that LAFCO is the appropriate agency to oversee this review. Where district consolidations or absorption of district functions into general purpose local governments will improve efficiency or transparency of service delivery, they should be aggressively pursued. Consolidating districts solely for the sake of reducing their numbers, however, is a disservice to the citizens who desire the services provided .” (GWB, pages 71-72)

B. STATUTORY MUNICIPAL SERVICE REVIEW REQUIREMENTS

The State Legislature and the Governor codified much of the Commission’s findings and created a formal process that could be used to collect information and evaluate service provision from a broader perspective (Government Code [§56430](#)).

Government Code [§56430](#) requires that a review of municipal services be conducted as part of its preparing and updating a sphere of influence (SOI).

“In order to prepare and to update SOIs in accordance with [§56425](#), LAFCOs are required to conduct a municipal service review of the municipal services provided in the county or other appropriate designated area. LAFCOs must include in the area designated for municipal service review the county, the region, the sub-region, or other geographic area as is appropriate for an analysis of the service or services to be reviewed and, as noted previously, must 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.

"In conducting a municipal service review, LAFCOs must comprehensively review all of the agencies that provide the identified service or services within the designated geographic area." (Government Code [§56430](#))

In addition, municipal service reviews are to be conducted before, or in conjunction with, but no later than the time it is considering an action to establish ([§56430](#)) or update an SOI ([§56425](#) or [§56426.5](#)). The Commission also recommended that a municipal service review not replace designations or updates of spheres of influence, but should be conducted in the establishment or amendment of any spheres (GWB, page 99).

C. MUNICIPAL SERVICE REVIEW GOALS AND OBJECTIVES

LAFCOs are required to conduct comprehensive reviews of all municipal services provided by agencies with existing or needed SOIs. These reviews become information tools that can be used by LAFCO, the public or local, regional and state agencies based on their area of need, expertise, or statutory responsibility. Municipal service reviews can be used to:

- Promote orderly growth and development in appropriate areas with consideration of service feasibility, service costs that affect housing affordability, and preservation of open space, important agricultural land and finite natural resources; and
- Encourage infill development and direct growth to areas planned for growth in General Plans;
- Learn about service issues and needs;
- Plan for provision of high quality infrastructure needed to support healthy growth;
- Provide tools to support regional perspectives or planning that address regional, cross county or statewide issues and processes;
- Develop a structure for dialogue among agencies that provide services;
- Develop a support network for smaller or ill funded districts that provide valuable services;
- Provide backbone information for service provider directories or inventory reference documents for counties that do not have them;

- Develop strategies to avoid unnecessary costs, eliminate waste, and improve public service provision;
- Provide ideas about opportunities to streamline service provision through use of shared facilities, approval of different or modified government structures, joint service agreements, or integrated land use planning and service delivery programs; and
- Promote shared resource acquisition, insurance policies, joint funding requests or strategies.

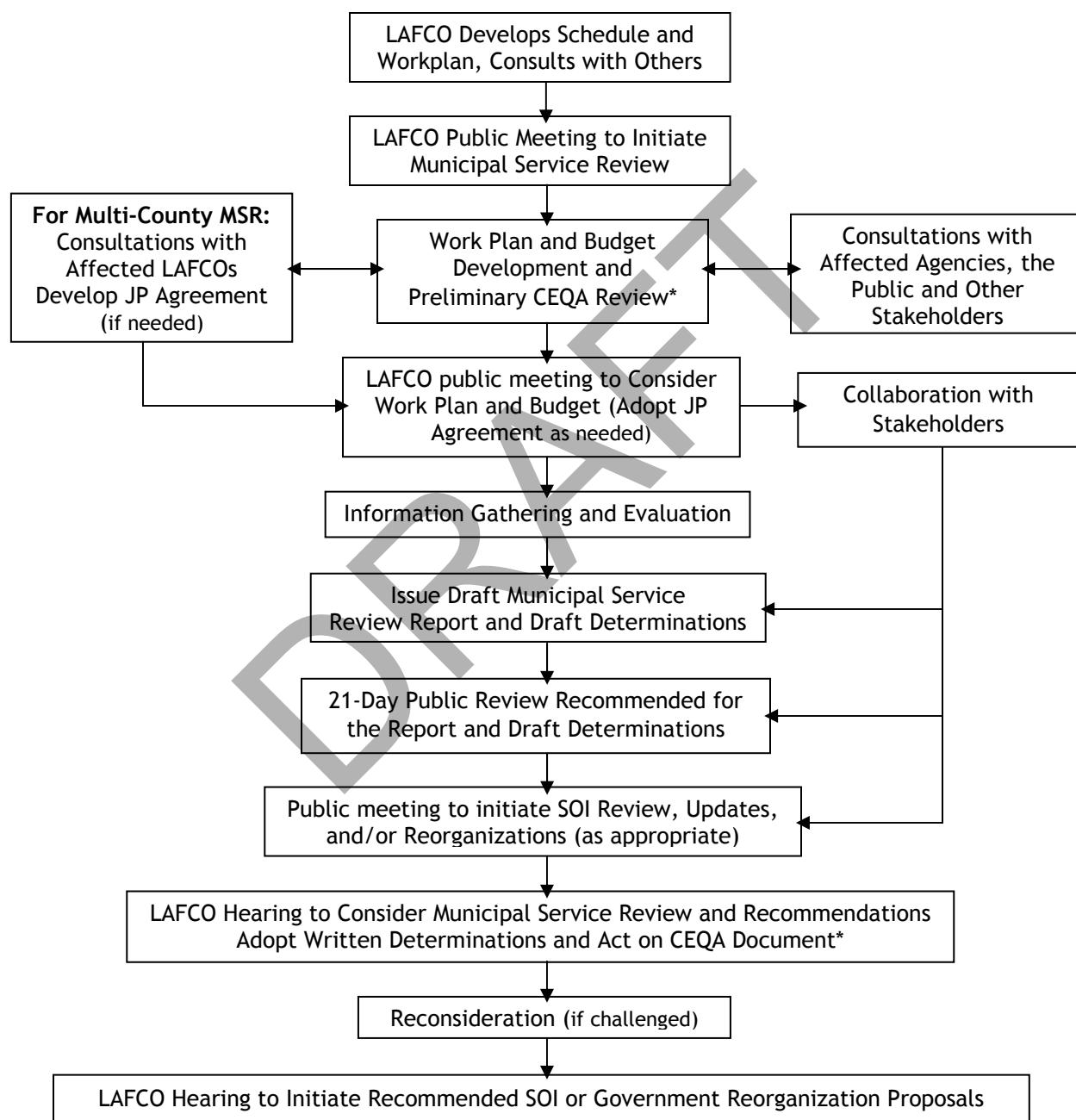
D. IMPLEMENTATION

Effective January 1, 2000, the CKH Act requires that all SOIs be reviewed and updated as necessary but not less than every five years. Therefore, all SOIs, at a minimum, need to be reviewed by January 1, 2006.

Municipal service reviews are required to be completed prior to, or in conjunction with the update or creation of SOIs. This means that all municipal service reviews also need to be completed by January 1, 2006.

APPENDIX E

EXAMPLE OF OPR RECOMMENDED MUNICIPAL SERVICE REVIEW PROCESS



**References to CEQA are placeholders. Refer to the CEQA Guidelines and LAFCOs' adopted Procedures for specific steps.*

APPENDIX F

DATA COLLECTION

The municipal service review is an evaluation of how a service is being delivered in a specified area of a county by the LAFCO. The municipal service review is not an end in its self, but will form the basis of future LAFCO decisions.

Taking a comprehensive look at the services being provider within an area requires effective data collection and maintenance. Even if a LAFCO has not historically kept extensive records, good information management going forward will save time and effort the next time the service is reviewed.

OPR recommends that LAFCO work with service providers in developing the type of information it will use in evaluating the service. Extensive and overly broad information requests will cost money for both the service provider to compile and the LAFCO to review. A solid understanding of the service to be reviewed will allow the information collected to be limited to only what is reasonably necessary to undertake the review.

I. GENERAL INFORMATION COLLECTION STRATEGIES

Some targeted information collection and management options that a LAFCO may wish to consider include:

- Have mentor LAFCOs assist LAFCOs with preparing information collection formats, determining specific needed information, and evaluating compiled information.
- Have mentor districts and cities assist other agencies, especially those that are recently formed or less skilled in data compilation, budgeting, or record keeping, with information compilation.
- Have stakeholders assist with determining information needs, compiling information and initial review, with independent evaluation by LAFCO.
- Use existing information resources as feasible rather than duplicating efforts with LAFCO evaluating information to ensure that it is up-to-date and accurate.
- Augment staff or hire technical consultants to assist with individual reviews.
- Integrate municipal service review information collection with efforts related to land use plan development, urban water management plan development, National Pollution Discharge Elimination programs, State Transportation Implementation Plans, or other capital improvement program development.

- To set the long-term stage for producing municipal service reviews and updating SOIs, LAFCO can become more proactive in exercising its Responsible Agency role in CEQA reviews. This is especially critical for proposals that include amendments to SOIs, or require annexations or district formations as conditions of approval or mitigation measures. LAFCOs can inform planning and/or environmental review departments of municipal service review information and evaluation requirements so that appropriate review is undertaken and efforts are not duplicated.
- Land use agencies can be encouraged to adopt and maintain a General Plan public facilities element. LAFCO would participate to ensure that municipal service review related information is compiled and updated.

II. SPECIFIC INFORMATION SOURCES

A. GOVERNOR'S OFFICE OF PLANNING AND RESEARCH

One important information collection resource is OPR's General Plan Guidelines (GPG). The GPG contains a list of state and federal agencies and their web sites (page 28), a list of local, state and federal governmental agencies and the types of information that they acquire and may provide (pages 25 and 26). The GPG can be viewed on OPR's web site at www.opr.ca.gov/.

B. THE STATE CONTROLLER'S OFFICE

The State Controller's Accounting Standards and Procedures for Counties (ACPC) contains a list of organizations with contact information, and publications pertaining to budgets and financial practices for all types of agencies (ACPC, Appendix E). Other information pertaining to cities and districts is also available. Information can be accessed on the State Controller's website at www.cso.ca.gov/.

Local and regional growth and population data and projections are available from the following sources.

C. THE STATE DEPARTMENT OF FINANCE (DOF)

The following information is taken from the DOF website at www.dof.ca.gov/html/Demograp/druhpar:

Legislation created the Demographic Research Unit within the Department of Finance in 1951 to serve as the single official source of demographic data for State planning and budgeting. Population data are used to establish appropriation limitations; distribute subvention funds, various Federal program funds, wastewater treatment funds, and other State funds; allocate capital outlay funds; and aid in the planning and evaluation of programs. State agencies and departments, local governments, the Federal government, school districts, public utilities, the private sector, and the

public use demographic data. DOF provides demographic research and analysis, produces publications of current population estimates and future projections of population and school enrollment, and disseminates census data. DOF consults with other government agencies and the private sector.

The **State Census Data Center (SCDC)** was established on January 1, 1979 to serve as the central point for dissemination of census data to State and local government agencies and the general public in California. The SCDC program is a national effort by the U.S. Bureau of the Census designed to increase and improve public access to census statistical products. The SCDC provides services to State Agencies in processing machine-readable data, user consultation, and data analysis and provides user-training workshops upon request. The SCDC library houses a broad spectrum of data sources including the 1970, 1980, and 1990 decennial censuses, the Census of Agriculture, the Economic Censuses, and several special and periodic surveys.

Annual population estimates of the State, counties and cities are provided by the Unit. Information on housing units, vacancies, average household size, components of population change, and special populations are also available. The data is used in determining the annual appropriations limit for all California jurisdictions, to distribute State subventions to cities and counties, to comply with various State codes, and for research and planning purposes by Federal, State and local agencies, the academic community and the private sector.

The Unit projects the State and county population by age, race/ethnicity and sex, K-12 enrollment and high school graduates, and post-secondary education enrollment. As direct inputs to the State Budget, the Unit produces short-term annual statewide projections of the population by age and K-12 Average Daily Attendance.

D. THE REGIONAL COUNCILS OF GOVERNMENT (GOG)

The following information was obtained from the California Association of Regional Councils of Government website.

Up-to-date population and census data can often be obtained from regional COGs. COGs are Joint Powers Authorities that analyze relationships between policies in a local area and their impact on regional issues. Two important COG functions are to serve as the regional transportation-planning agency under state law and as the federal metropolitan (transportation) planning organization (MPO). This involves preparation of long-range transportation plans and, in most instances, development and adoption of transportation improvement programs which allocate state and federal funds for highway, transit and other surface transportation projects.

COGs also provide allocations of regional housing needs to all cities and counties within its boundaries. (Where there is no Council of Governments that duty is carried out by the State Department of Housing and Community Development.) Some COGs tie regional housing allocation or other plans to SOI boundaries. Most COGs prepare

growth and population data needed to support short and long term local and regional planning efforts. Contact data for all California COGs, and other information is available on the California Association of Councils of Governments website at www.calcog.org/.

E. THE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

The Policy Unit at HCD is responsible for developing California's five-year Consolidated Plan for receiving certain federal community development funds. As part of the plan, HCD is required to identify impediments to fair housing which includes examining demographics, housing and market conditions and practices, potentially discriminatory practices, infrastructure deficiencies and needs.

For smaller communities HCD prepares the Consolidated plan. Larger communities prepare individual plans which also contain significant information about the current conditions in the areas. HCD's website can be found at www.housing.hcd.ca.gov/.

F. LAFCO INFORMATION RESOURCES

Some LAFCOs maintain data on service providers, and files of previous LAFCO proposals and related research and analysis documents. These may include, but are not limited to, inventories, profiles or directories of local service providers, staff reports, and supporting documents for previous government reorganization actions, such as formations, incorporation, consolidations, and SOI Plans, Amendments, and Updates. Some LAFCO have compiled service provider maps for all or portions of a county.

G. CITY AND COUNTY PLANS, AND REVIEWS

Counties and cities prepare data and plans, which include growth and population projections, and maps that identify areas that are planned to urbanize within 5-20 year periods. Some counties and cities have developed Geographic Information Systems (GIS) Maps. Most cities, counties and special districts can provide copies of short and long-term infrastructure planning documents. Market land absorption studies can often be obtained from real estate associations or private developers.

It is important to discuss plans and other data sources with local planners and service providers before using them to ensure that information is still correct and usable. Plans that may be used to support and simplify the municipal service review process include:

- **General Plans.** - General Plans identify existing capital facilities/infrastructure, and short and long-term deficiencies or needs. Some land use jurisdictions also adopt an optional public facilities element. All land use, open space,

conservation, circulation, noise, and safety elements may be checked for useful information. The California Chapter of the American Planning Association can be contacted for information on cities and counties with public facility elements or General Plan data that have been recognized as exceptional. Their website is located at www.calapa.org/.

- Capital Improvement Plans or Program Reports. All cities, special districts, counties, and school districts are required to submit an annual capital improvement program to the local planning agency. The program must include a list of proposed projects ([§65401](#)). The local planning agency then reviews the capital improvement program for consistency with the pertinent general plan or plans ([§65103 \[c\]](#)). Some cities and counties prepare five to seven year capital improvement programs (CIP) which they update each year and submit to the appropriate planning agency. CIPs generally provide a summary of expenditures budgeted for infrastructure upgrades, acquisitions, rehabilitation, replacement, construction and maintenance.

H. MASTER SERVICES AND RESOURCE ACQUISITION PLANS, CAPITAL IMPROVEMENT PLANS AND SERVICE RELATED MAPS

Cities and special district should be able to provide copies of their adopted plans and other information resources.

I. PUBLIC INFRASTRUCTURE FINANCING PLANS AND MECHANISMS

To qualify or use certain types of financing mechanisms, such as Mello-Roos Assessment Districts, a public agency is required to prepare infrastructure maps and plans as well as growth projections. The agency generally evaluates proposed development plans or projects to determine whether they are consistent with public infrastructure financing plans.

III. PROFESSIONAL ORGANIZATIONS

Professional organizations are excellent resources for information on industry standards and Best Practices. Many produce criteria or maintain information libraries. These organizations can often provide contacts to assist with determining industry standards. The California League of Cities (www.ca.cities.org/), for example, distributes Helen Putnam awards for excellence in financial management and planning, public works and transportation, civic involvement and other categories. The recipients of those awards may be excellent information resources.

A. OTHER STATE OR FEDERAL MANDATED PLANS AND PERMITS

Public agencies are often required to obtain permits to construct or operate certain types of public facilities, such as wastewater treatment plants, and adopt plans to

minimize environmental or other impacts of certain types of development. These plans and permits include data and assessments that may assist with the municipal service review process. LAFCOs may contact other agencies to determine if they have service provider specific information or permit data that can facilitate the information gathering process.

Some agencies that might be contacted are:

- State Water Quality Control Board (www.swrcb.ca.gov) (Permits, evaluation criteria).
- Housing Authority (Demographic data, plans and budgets).
- COG and Congestion Management Agency (Regional Housing Allocation Plan, Regional Transportation Plan, Congestion Management Plan).
- County and City Water Departments (NPDES Permit).
- State Department of Conservation (www.consrv.ca.gov/dlrp/index), County (Land Conservation Contracts, important farmland maps)
- State Integrated Waste Management Board (www.ciwmb.ca.gov/local) (County Integrated Waste Management Plan, Hazardous Waste Management Plan)
- State Mining and Geology Board or State Geologist (www.consrv.ca.gov/smmm/index) (Surface Mining and Reclamation Ordinances, Seismic or geologic hazards' maps and plans).
- State Department of Water Resources (www.dpla.water.gov/cgi-bin/index), State Reclamation Board, county and city water services departments (permits, floodplain maps, flood hazard mitigation plans).
- Coastal Commission (www.ceres.ca.gov/coastalcomm/web) (Local Coastal Element or program).
- Federal Aviation Administration (www.faa.gov), Airport Land Use Commission (Permits, Airport Land Use Plan).
- State Air Resources Board (www.arb.ca.gov), local air pollution control district (State Implementation Plan).
- U.S. Army Corps of Engineers (www.usace.army.mil/whatwedo/statelocal), State Department of Fish and Game (www.dfg.ca.gov/), local planning or public works agency (CEQA mitigation monitoring programs, and Section 404 of the Clean Water Act permits).
- State Controller's Office (www.sco.ca.gov) (annual budgets, audits, definitions and templates for accounting and budgeting practices).

B. OBTAINING COMPARABLE INFORMATION

One obstacle to service focused data compilation and review is data format. Different agencies compile and use information in different ways and for different purposes. This is especially true of budget, service level, and other fiscal information. It is recommended that LAFCOs collaborate with CALAFCO, the CSDA, CSAC and League of Cities on the development of standard budget information formats. While this may not assist with early municipal service reviews, it should improve the process over the long term.

The State Controller divides enterprise districts into seven activities: airport, electric, harbor and port, transit, waste disposal, water utility, and hospital activities. The introduction to each year's Special District Annual Report provides summary budgets for those seven types of districts. Non-enterprise districts are also summarized.

State budget categories can be used to produce budget templates. **Exhibit 10** is a sample budget information format that can be tailored to fit specific municipal service review needs. Alternatively, it may be appropriate to ask enterprise districts to compile budget information using the state's format with additional detail for certain costs and revenue categories. It may be useful to compare data contained in State summaries with that received from enterprise special districts. Information on state formats and documents regarding cities, counties and special districts can be obtained from the State Controller's website at www.sco.ca.gov.

IV. SUMMARY

It is recommended that LAFCOs meet with agencies before information compilation begins to discuss submittal formats or opportunities to obtain descriptive information that makes budget data easier to evaluate and compare. A follow-up meeting after budget data is received is generally helpful. Where possible, stakeholders can be asked to review data, and collaborate on reasonable or appropriate comparison methods.

APPENDIX G

USE OF CONSULTANTS

At times, LAFCO may wish to secure the services of consultants or mentor LAFCOs to assist with municipal service review processing. Consultants can be useful when working under clear direction from LAFCO. Sometimes, the use of consultants is warranted because a LAFCOs' workload may not permit additional time expenditures for municipal service reviews or LAFCO may desire specialized services, which cannot be provided economically in-house. In some cases, a municipal service review may be too complex for LAFCO to independently review all of the needed data or so controversial that a third party may be needed to provide a review that is perceived as more impartial.

Page 20 of the State General Plan Guidelines provides the following guidance on using a consultant:

The first step in selecting a consultant should be to send to prospective candidate firms a request for qualifications (RFQ) and a description of the consultants' expected role. The RFQ will help narrow the search for qualified consultants. After evaluating the responses, the agency should send a request for proposal (RFP) to the three to five firms, which seem to be the Best Match. Responding to an RFP is costly for consultants, so the RFP should only be sent to those firms, which the agency would consider hiring. The firms with the top responses to the RFP can be interviewed to select the firm best suited to agency's needs, work program, and budget.

LAFCO may wish to advertise the RFP on its own or CALAFCO's website or in the appropriate trade publication. Executive Officers may also communicate with other LAFCOs through CALAFCO's website (<http://www.calafco.org/>) in order to secure model RFQs, RFPs, contracts or scopes of work that have been used by other LAFCOs. LAFCOs can use pertinent SRG outline sections as a template for developing scopes of work.

APPENDIX H

FUNDING OPTIONS

Prior to January 2001, county governments funded LAFCOs. The CKH Act now provides representation to all cities and counties on LAFCO and all share in the funding of LAFCO. If special districts choose to be represented on LAFCOs then they also share in providing funds for LAFCO operations. Although this change increases LAFCO's potential funding resources, it does not set limits for funding or require that special districts participate on LAFCOs. As a result, LAFCOs will need to develop funding strategies and budget the funds necessary to implement municipal service review requirements. It is recommended that LAFCOs develop appropriate funding policies and procedures and include them in their written procedures to ensure consistency and fairness.

There are several municipal service review funding approaches that LAFCOs could consider: They include:

- **Incentives for special district representation on LAFCOs.** LAFCOs could adopt policies requiring LAFCOs to assume responsibility for funding all municipal service reviews only if special districts participate on LAFCOs and a negotiated funding plan is developed. In this approach, LAFCOs would not require the agencies with SOLs to separately fund the municipal service reviews that are a necessary component of SOL actions. Instead, LAFCOs would work with cities and special districts to develop a funding strategy, which could include (1) joint grant or funding applications, (2) reduced rates for fee-based services requested by represented agencies, (3) negotiations among private project proponents and citizens groups for shared funding, or (4) a combination of the other approaches listed in this section. The objectives would be to enhance special districts' LAFCO involvement, and make the municipal service review process as affordable to all agencies as possible including those with very limited funding resources.
- **Integration with General Plan Budgets and Processes.** If a General Plan is in process, LAFCOs would work with planning staff to scope and design the General Plan update process in a manner that facilitates some municipal service reviews. General Plan public facilities' discussions would be designed to include information required for municipal service reviews in a format useful to the development of written municipal service review determinations. To ensure objectivity, LAFCO would reserve the right to independently verify or confirm General Plan information. The advantage of this approach is that it eliminates duplication of effort and makes General Plan technical experts available to LAFCO.
- **Distribute costs among reviewed agencies.** Municipal service review costs would be shared by all agencies (1) with SOLs and (2) included in the municipal

service review studies. Costs could be allocated based on size of districts, size of budgets, sources of revenue or other options with consideration of ability to pay and as negotiated by LAFCO. Agencies could lobby agencies included in the review but exempted from CKH Act SOI requirements, such as Joint Powers Authorities or metropolitan water districts, to contribute a fair share because their service users ultimately benefit from the reviews.

- **Augment LAFCO's budget to include funding for all municipal service reviews.** LAFCOs would assume responsibility for 100% of municipal service review costs. Costs would be spread among all special districts, cities and the county based on the negotiated LAFCO funding mechanism.
- **Negotiate on a case-by-case basis.** LAFCO would develop a cost estimate, review specific circumstances and negotiate a plan to share funding costs. The negotiated plan could include strategies for agencies under review to loan technical staff, compile information, donate the use of office space and conference rooms, or provide other resources which may reduce LAFCO's costs. LAFCOs could consider crediting donations of staff time as in lieu processing fees.
- **Develop different funding strategies for staged reviews.** Various review stages could be funded differently. A Stage 1 review could be funded by the LAFCO. Service providers could fund Stage 2 and 3 reviews especially if it appeared that alternative government structure options were under consideration. Another option would apply to reviews that are not staged.
- **Incentives for self-initiation.** LAFCO would develop incentives for entities to share municipal service review costs. For example, any agency requesting a review and agreeing to assist in the funding could be entitled to priority processing and funding of pending proposals or needed SOI amendments or updates. Service providers that have initiated service studies, SOI updates, or consolidations and are cooperatively compiling information could receive a credit. Alternatively, service providers could scope the project, develop a timeline, and provide preliminary information and a funding match. The product could be submitted to LAFCO for costing and for public and other agency review. In case LAFCO or other service providers disagree with the approach and/or cost, they could reserve the right to withdraw the proposed study.
- **Project proponents pay.** Public and private proponents of pending proposals that cannot be processed without the municipal service review bear reasonable processing costs.

APPENDIX I

EXAMPLE - COMMUNITY SERVICES DISTRICT PROFILE

District: El Dorado Hills Community Services District			
Address 1021 Harvard Way, El Dorado Hills, CA 95762			
Meeting Schedule Monthly - Second Thursday, 7:30 p.m.			
CONTACT	Wayne A. Lowery	TITLE	General Manager
PHONE	916 / 933-6624	FAX	916 / 933-6359
ALT PHONE		E-MAIL	edhcsd@eldoradohillscsd.org
BOARD OF DIRECTORS		TITLE	TERM OF OFFICE
Ann M. Murray		President	12/96 - 12/2000
Brett McFadden		Vice President	12/98 - 12/2002
Constance Hasting		Director	12/98 - 12/2002
F. J. Leslie		Director	12/96 - 12/200-
Tony DiGaetano		Director	12/98 - 12/2002
DISTRICT STAFF		FORMATION INFORMATION	
NAME	TITLE	LAFCO	SOI
Wayne A. Lowery	General Manager	Resolution #: Boundary Commission Report	Resolution #: 83-04
		Date Adopted: 2/5/62	Date: 4/7/83
		CONDUCTING AUTHORITY	MAPPING
		Resolution #: 98-62	GIS Date: 5/28/98
		Date Adopted: 5/21/62	Other:
		EFFECTIVE FORMATION DATE: Unknown	
Robert Thurbon	Legal Counsel	Recorded:	
Major Facilities / Stations			
Yes			
Purpose		Area Served	
1. Enabling Legislation: Gov. Code §61000 - \$61936		1. Area Size: 22.5 +/- square miles	
2. Empowered Services: Water, Fire, Parks, Recreation, Sewer, Garbage, Lighting, Landscaping, Mosquito Abatement, Police, Library, Roads and Bridges, Cable Television, Electricity, CC&R Enforcement.		2. Supervisorial District	
3. Provided Services: Parks and recreation, CC&R enforcement, street lighting and landscape, solid waste management, cable television services		3. Registered Voters: 10,592	
		4. Estimated Population: 17,200	
		5. Location Description: Located west of Cameron Park to the Sacramento County line in the El Dorado Hills Area	
Financial Information		Administrative Policies	
Assessments/Fees:	Per Parcel: \$10 (CC&R Enforcement)	Master Plan: Yes	
Other Fee Schedules:	Light/Landscaping - Call District for Assessments	Policies & Procedures Adopted: Yes	
1998-99 Budget:	\$1,120,861	By-laws Adopted: No	
Appropriation (GANN) Limit:	\$1,980,759	Encroachment Permit Process: N/A	
NOTES: Supervisorial Districts I and IV		ISO Rating (for Fire Providers)	

APPENDIX J

EXAMPLE - CITY PROFILE

CONTACT PERSON: David Mora, City Manager

ADDRESS: 200 Lincoln Avenue Phone: 831 / 758-7201
Salinas, CA 93901 FAX: 831 / 758-7368

DATE OF AGENCY FORMATION: March 4, 1874

ENABLING LEGISLATION: City Charter; Government Code [§34450](#)

GOVERNING BODY: Seven (7) member Council elected at large; four (4) year terms;
Mayor two (2) year terms

MEMBERSHIP: Anna Caballero, Mayor **TERM EXPIRES:** November, 2002
Ernesto Gonzales November, 2004
Roberto Ocampo November, 2002
Janet Barnes November, 2002
Jyl Lutes November, 2002
Jan Collins November, 2002
Gloria de la Rosa November, 2004

COMPENSATION: Mayor - \$800/month; Council Members - \$600/month

PUBLIC MEETINGS: Generally meets 1st, 2nd and 3rd Tuesdays at 4:00 p.m. and 7:30 p.m. in City Council Chambers Rotunda

SERVICES PROVIDED: Non-contractual: police, fire, library, recreation and parks, community center, public works including street maintenance and sweeping, building inspection, sewage collection, library service, comprehensive planning and land use control.
Contractual: First aid and ambulance service, solid waste disposal, and rural fire service

AREA SERVED/ 18.5 square miles
POPULATION: 151,060

STAFFING: 595 employees

	Actual 1997-98	Actual 1998-99	Actual 1999-00	Budget 2000-01	Budget 2001-02
EXPENDITURES	45,543,578	49,283,477	49,148,889	53,906,300	61,412,700
CAPITAL/FIXED ASSETS:	398,952	652,598	474,848	307,600	531,300
PROPERTY TAX:	6,886,697	7,334,259	7,827,998	7,721,000	8,291,000
USER FEES:					

APPENDIX K

EXAMPLE - SPECIAL DISTRICT POWERS COMPARISON CHART PUBLIC UTILITY DISTRICTS

Principal Act: Public Utilities Code, [§15501-18055](#)

POWERS/FUNCTIONS/SERVICES	Donner Summit PUD	Truckee Donner PUD
Acquire, construct, own, operate, control, or use works for supplying district inhabitants with:		
1. Light		
2. Power		✓
3. Heat		
4. Water	✓	✓
5. Transportation		
6. Telephone service		
7. Other means of communication		
8. Means for disposition of garbage or refuse matter		
9. Means for disposition of sewage	✓	
Acquire, construct, own, complete, use, and operate:		
10. Fire department: [†]		
10.1 Fire protection	✓	
10.2 Rescue	✓	
10.3 Emergency medical services	✓	
10.4 Hazardous material emergency response	✓*	
10.5 Ambulance services	✓	
11. Street lighting system		
12. Public parks & playgrounds, golf courses, public swimming pools, public recreation buildings		
13. Buildings to be used for public purposes		
14. Works to provide for drainage of roads, streets and public places (e.g., curbs, gutters, and sidewalks)		
15. Pavement of streets		

[†] [§16463.5](#) (a) of the Public Utilities Code provides: "A district may exercise any of the powers, functions, and duties which are vested in, or imposed upon, a fire protection district pursuant to the Fire Protection District Law of 1987, Part 3 (commencing with Section 13800) of Division 12 of the Health & Safety Code."

- * Hazardous Materials First Response—Operational Level (Defensive Mode), required of all fire protection districts.

Active powers for each district are indicated by check marks. Exercise of any other power requires prior approval by LAFCo.

Courtesy of Nevada LAFCO

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APPENDIX L

EXAMPLE - SOI STATUS LOG

District	Ref. No.	Type or Action	Acreage	Date	Type of Service and Miscellaneous Information
Alpine Fire Protection District	S183-9	Larger than	Dist. = 19 sq. miles Add'l - unknown	4-4-83	Fire Protection. Adopted in conjunction with East County Fire Protection Agencies Spheres of Influence Study and "Formation of the Rural FPD" (DF82-2). Additional territory located north, east, and south of District boundary.
		Add to sphere	2± sq. miles	11-5-84	Resolution of McCain/Viewside Special Study Area: Some territory also added to spheres for Lakeside FPD and Crest FPD (now part of East County FPD).
Alpine Sanitation District	SI83-24	Larger than	Dist = 616 acres Add'l = unknown	11-7-83	Sewer Service. Four additional areas are included in the sphere: three are residential communities, located along the District's southern boundary at the western corner, center and eastern corner that are served by private septic systems; the fourth is adjacent to the District's non-contiguous territory located north and west of the main portion of the District, and designated for commercial and industrial development. All sphere territory is contained within the Country Town boundary.
	SA86-2 (see DA85-1)	Add to Dist. & sphere	238.32 acres	2-3-86	"Lively Annexation" (DA85-1): TM to develop 333-unit mobile home park.
Bonita-Sunnyside Fire Protection District	SI84-7	Larger than	Dist. = 7.5± sq. miles Add'l = 7.5± sq. miles	7-1-85	Fire Protection: Sphere essentially coterminous on west; additional territory is primarily located east of current District boundary.

APPENDIX M

MULTI-COUNTY LAFCO REVIEW

LAFCO should consult with other affected LAFCOs when developing a schedule and work plan for proposed municipal service reviews. An affected LAFCO is a LAFCO for a county other than the principal county that is conducting the municipal service review. This is especially important for municipal service reviews which may lead to the consideration of proposals that have the potential to cause significant environmental, fiscal or economic impacts on the other county.

A. DEVELOPMENT OF MUNICIPAL SERVICE REVIEW BOUNDARIES CAN TRIGGER MULTI-LAFCO REVIEWS

- Municipal service reviews may involve more than one LAFCO because the CKH Act states, "the commission shall include in the area designated for municipal service review the county, the region, the sub-region or other geographic area as is appropriate for an analysis of the service or services to be reviewed..." To comply with this directive, LAFCO may need to develop service study area boundaries which cross county lines. Some examples of cases where LAFCOs may encounter cross-jurisdictional issues include:
 - When service or study areas are located in more than one county;
 - When multi-county special districts or multi-county joint powers authorities are involved in providing the service under review; and
 - When expected recommendations or determinations may lead to actions that significantly impact more than one county.

B. COORDINATION OF MULTIPLE-LAFCO REVIEWS

OPR recommends that LAFCOs work together to develop a schedule and plan for managing cross-county municipal service reviews. The following are examples of reviews that may be facilitated through joint agency agreements.

Example 1: LAFCO A is developing a municipal service review study of reclamation districts, levee maintenance and other districts that provide flood control planning and implementation services and for which it approved SOIs in 1986. During a stakeholder meeting, LAFCO A learns that two of the affected reclamation districts belong to a JPA. The JPA is assessing the districts' residents for projects to strengthen the levees owned and maintained by the districts, and is constructing them. The JPA serves two counties, and residents from both of those counties pay the assessments. LAFCO A needs to contact LAFCO B and involve that LAFCO in the municipal service review process.

Example 2: LAFCO A is developing a municipal service review study of fire and emergency service districts on the western edge of County A. While conducting initial research, LAFCO A learns that Fire District A has a contract to serve a 1,000-acre development on the eastern edge of County B. District A is providing first response to several thousand additional acres in County B with approximately 11,000 dwelling units. None of the fire service providers in County B intend to serve those residences, and County B's General Plan states that it will contract with District A for additional services needed in the eastern county. District A is funded solely through property taxes, and permit fees. Residents in County B are paying for Fire District B's services. LAFCO A needs to contact LAFCO B and involve that LAFCO in the municipal service review process.

BENEFITS OF AGREEMENTS

Joint power agreements may provide the following benefits:

- Cooperation and shared decision making efforts may reduce municipal service review processing time and costs, and enhance information gathering and municipal service review funding plans;
- Offers opportunities to identify broader range of strategies to avoid adverse environmental, economic and social impacts;
- Avoids duplication of efforts and maximizes efficient use of government resources;
- Streamlines the public review and public hearing processes;
- Provides unique funding opportunities for regional collaborations. (\$56378 specifically permits a Commission to request or accept financial or other assistance from another agency when conducting studies.)

Example 3: LAFCO A is developing a municipal service review study of water supply services. The study boundary has been drawn to include all districts receiving surface water supplies from Reservoir A. Some districts share distribution facilities; some do not. Study boundaries include two districts in County B, and one cross-county district that serve Counties B and C. LAFCO A needs to contact LAFCOs B and C and involve those LAFCOs in the municipal service review process.

C. JOINT POWERS AGREEMENTS

One approach for efficiently coordinating multi-county municipal service reviews is to enter into a joint powers agreement that could be applied to the subject review as well as any other cross-county reviews that are identified.

LAFCOs do not need to create a separate agency to implement a Joint Powers Agreement. The agreement only has to provide for joint exercise of certain powers common to each LAFCO. LAFCOs can set specific timeframes for the duration of the agreement or define methods for termination by either party.

A sample LAFCO Joint Powers Agreement to conduct cross-county municipal service reviews is in the attached Exhibit.

After evaluating Nevada/Placer and Alameda/Contra Costa LAFCOs' Joint Powers Agreement processes for reorganization proposals that cross-county boundaries, the

Commission on Local Governance commended the joint agreement approach with the following statement:

These agreements allow an expedited determination of which LAFCO will assume jurisdiction over a proposal and may thereby avert unnecessary hearings or delays. Perhaps as important, they facilitate dialogue among adjoining LAFCOs, thereby providing more comprehensive guidance to applicants, ensuring consistency in the decision-making process of participating LAFCOs, and developing a regional perspective on issues (Growth Within Bounds, page 79).

Once LAFCO decides a cross-county municipal service review may be appropriate, OPR recommends early consultations begin with all relevant LAFCOs. Even if it is decided later not to undertake a joint review, at a minimum, LAFCO can share information and technical expertise gained in the municipal service review process.

D. DETERMINING THE LEAD LAFCO

If LAFCOs decide to proceed with a joint review, or agreement to conduct a joint review, they will need to determine which LAFCO should lead the municipal service review. The CKH Act ([§56066](#) and [§56388](#)) currently contains guidance for determining which LAFCO should assume the principal role for an organization or reorganization. While this section does not specifically apply to municipal service reviews, it does include guidance for determining which LAFCO could serve as the Lead LAFCO for a municipal service review.

Government Code [§56066](#) defines the term, "Principal County," as "the county having all or the greatest portion of the entire assessed value, as shown on the latest equalized assessment roll of the county or counties, of all taxable property within a district or districts for which a change of organization or reorganization is proposed."

The CKH Act also provides a means for delegating the lead role when a change of organization or reorganization is proposed. Section [§56388](#) provides that the commission of the principal county can vest jurisdiction in another LAFCO subject to the agreement of the LAFCO assuming jurisdiction. For municipal service reviews, LAFCOs may choose their own options based on experience, desire to lead or other factors. Options for determining roles should be included in the joint powers agreement where applicable.

E. STEPS FOR CONDUCTING A JOINT REVIEW

The following steps may be used as a model for conducting a joint LAFCO review.

Step 1. When a municipal service review is undertaken which involves (1) a service area that is located in, or affects, more than one county, and/or (2) involves multi-

county special districts or joint powers authorities, the Lead LAFCO should initiate municipal service review design processes for the review.

Step 2. The Lead LAFCO notifies, and consults with, any affected or potentially Responsible LAFCOs. The intent is to determine whether a joint review is needed, and if so, identify a strategy for conducting it.

Step 3. Once it is determined that a joint municipal service review should be conducted, the Lead and Responsible LAFCOs should negotiate a funding plan which (1) provides for funding by a single or combination of service providers, private entities, state, federal or local funding resources, (2) assigns each LAFCO responsibility for funding in proportion to the percentage of the service area included in the municipal service review, (3) splits equally the cost of operation of the Joint Commission and any fees received to reimburse those costs; (3) requires funding by the LAFCO, city, county, special district or private entity that desires to conduct the review; or a combination of funding strategies consistent with applicable Government Codes².

Step 4. The Lead LAFCO should be assigned to serve as municipal service review manager and be responsible for administrative and technical support for the project, subject to the funding plan developed in Step 3. A Responsible LAFCO may assume the Lead LAFCO role subject to the agreement of the Executive Officers, the individual Commissions, or a Joint Commission if one is formed (see attached exhibit). The latter arrangement may be preferable if the Responsible LAFCO is more experienced than the Lead LAFCO, or is already conducting a similar review in another part of its county.

Step 5. The Lead LAFCO will work with the Responsible LAFCO to determine and define the technical support to be provided by the Responsible LAFCO, and any contractor assistance, if applicable.

Step 6. The municipal service review management, staff support and funding plans should be reviewed, modified and approved by each Commission before the municipal service review is initiated.

Step 7. All phases of the joint review should be conducted.

Step 8. Municipal service reviews should be considered and written determinations rendered by the Joint Powers Authority.

² Subsection 9 includes some possible funding options..

F. EXHIBIT: JOINT POWERS AGREEMENT FOR THE CONDUCT OF MUNICIPAL SERVICE REVIEWS TEMPLATE

Resolution No: _____

JOINT POWERS AGREEMENT

For the Conduct of Municipal service reviews

Between _____ and _____.

WHEREAS, the _____ Local Agency Formation Commission ("_____ LAFCO") and the _____ Local Agency Formation Commission ("_____ LAFCO"), hereafter referred to as the "Commissions", are public agencies of the State of California, and are authorized, pursuant to Cortese-Knox Hertzberg Local Government Reorganization Act of 2000 (Government Code [§65000](#) et sequitur), to enter into joint powers agreements to exercise powers common to said agencies; and

WHEREAS, [§56375](#) (q) specifically permits LAFCOs of adjoining counties to enter into joint arrangements for the purpose of determining procedures for the considerations of municipal service reviews that may affect the adjoining county or where the jurisdiction of an affected agency crosses the boundary of the adjoining county; and

WHEREAS, [§56430](#) requires that LAFCOs conduct municipal service reviews prior to, or in conjunction with, consideration of actions to establish a Sphere of Influence (SOI) as defined in [§56076](#), and in accordance with [§56425](#) or [§56426.5](#), or update an SOI pursuant to [§56425](#); and

WHEREAS, as part of such reviews, LAFCOs must make written determinations regarding government structure options, including the advantages and disadvantages of consolidation or reorganization of service providers; and

WHEREAS, some required municipal service reviews may include service areas that cross county boundaries, or services provided by agencies that cross county boundaries or multiple service providers located in different counties; and

WHEREAS, the Commissions recognize that decisions based on municipal service reviews and made by each affected LAFCO may have the potential to cause significant environmental, economic or fiscal impact on the other's county; and

WHEREAS, cooperation and shared decision making efforts may serve to lessen or avoid such impacts; and

WHEREAS, the subject counties possess multi-county special districts and that jurisdiction over change of organization proposals for such districts, as defined in [§56069](#), normally resides in the "principal county" of such district, even where the change occurs wholly in the other county; and

WHEREAS, municipal service reviews are not considered proposals, pursuant to [§56069](#), but include recommendations or determinations that may encourage proposals, or are precursors to actions that are considered proposals; and

WHEREAS, [§56378](#) specifically permits a Commission to request or accept financial or other assistance from another agency when conducting studies; and

WHEREAS, the two Commissions desire to jointly design, conduct and consider municipal service reviews to ensure effective evaluation of issues affecting all counties and all service providers; and

WHEREAS, the two Commissions desire to conduct reviews that avoid duplication of efforts and maximize efficient use of government resources;

WHEREAS, the two Commissions desire to ensure greater cooperation among the Commissions and affected service providers in actions that have effects in both counties;

NOW, THEREFORE, be it resolved that _____ LAFCO and _____ LAFCO, in consideration of the mutual promises, covenants and conditions contained herein, agree as follows:

1. Definitions.

Certain terms used in this agreement shall have the meanings as provided in this section. All other terms shall have the meaning as provided in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 ([§56000](#) et seq. of the Government Code), if applicable:

(a) "Affected County" - The county in which the service providers or territory evaluated in the municipal service review is located.

(b) "Lead LAFCO" - The LAFCO with primary responsibility for conducting a municipal service review affecting more than one county.

(c) "Principal LAFCO for Municipal Service Reviews" - The LAFCO with the lead responsibility for a municipal service review. Lead responsibility can be determined pursuant to the CKH definition of a Principal LAFCO as it applies to government organization or reorganization actions, by negotiation, or by agreement among two or more LAFCOs.

(d) "Responsible LAFCO" - The LAFCO other than the Lead LAFCO that may be impacted by recommendations, determinations or subsequent proposals elicited during a municipal service review being initiated or considered by the Lead LAFCO.

2. Agreed Notice and Consultation on All Municipal Service Reviews That Involve or May Impact More than One County.

(a) The Lead LAFCO shall notify the Responsible LAFCO of any municipal service review being considered by the Lead LAFCO which includes: (1) a service area that includes a Responsible LAFCO's county; (2) involves multi-county special districts or joint powers authorities; or (3) has the potential to significantly impact the county of the Responsible LAFCO. This notice requirement applies to all municipal service reviews that affect more than one county, not just those involving multi-county districts.

(b) A Responsible LAFCO will inform a Lead LAFCO of any circumstances which elicit a priority status for municipal service reviews that it believes should be initiated by that LAFCO. The Commissions will provide a reasonable opportunity for the other LAFCOs to respond to such notice.

(c) All LAFCOs will consult with affected LAFCOs when scoping a proposed municipal service review.

(d) Municipal service reviews, with the potential for significant impact on another county, are reviews that may lead to the consideration of proposals that have the potential to generate significant environmental, fiscal or economic impacts on the other county.

3. Treatment of Municipal Service Reviews.

(a) Where a municipal service review is proposed which involves (1) a service area that is located in more than one county, (2) involves multi-county special districts or joint powers authorities, or (3) has the potential to significantly impact more than one county, the project shall be initiated by the Lead LAFCO.

(b) The Lead and Responsible LAFCOs shall negotiate a funding plan which (1) provides for funding by a single or combination of service providers, private entities, state, federal or local funding resources, (2) assigns each LAFCO responsibility for funding in proportion to the percentage of the service area included in the municipal service review, (3) splits equally the cost of operation of the Joint Commission and any fees received to reimburse for those costs; (3) requires funding by the LAFCO that desires to conduct the review; or (4) a combination of funding strategies consistent with local Ordinances and applicable Government Codes.

(c) The Lead LAFCO shall serve as project manager and be responsible for administrative, technical and clerical support for the project, subject to the funding plan developed in (b) above.

(d) The Lead LAFCO will work with the Responsible LAFCO to determine and define the technical support to be provided by the Responsible LAFCO, and any contractor assistance if applicable.

(e) A Responsible LAFCO may assume the Lead LAFCO role subject to the agreement of the Executive Officers, or if specifically designated Lead Agency by the Joint Commission.

(f) The project management, staff support and funding plans shall be reviewed, modified and approved by each Commission before the municipal service review is initiated.

(g) Municipal service reviews shall be considered and written determinations rendered by the Joint Commission.

4. Operation of the Joint Commission.

(a) The Joint Commission shall be composed of the Commissioners of the LAFCOs subject to this Agreement. Alternates may substitute for their Commissioners on the Joint Commission in the same manner as for regular commission meetings.

(b) Four commissioners from each county must be present to form a quorum, and action of the Joint Commission shall be by majority vote of those present, regardless of county of origin. A tie vote shall be a negative vote on the action. A tie vote may be broken by a second vote.

(c) The Chairman of the Lead LAFCO shall serve as the Chairman of the Joint Commission, and the Joint Commission shall normally meet at the time, date and place specified for regular meetings by the Lead LAFCO, unless otherwise determined.

(d) The Executive Officers shall jointly develop staff reports and provide support functions for the Joint Commission pursuant to 3(e). Legal Counsel for the Commissions shall jointly provide legal advice, unless the Joint Commission agrees to use only one of the Counsels.

(e) Except as specifically provided herein, or required by its joint character, the Joint Commission shall operate in the same manner as a regular LAFCO, and have all of the powers that either LAFCO could exercise individually.

5. No Separate Agency Created.

The parties do not intend to create a separate agency by this Joint Powers Agreement, but to merely provide for joint exercise of certain powers common to each LAFCO.

6. Accounting for Funds; Property.

No separate accounts or property are contemplated as part of this JPA. Each Commission shall be provided with monthly statements of any costs to be shared for their review and approval.

7. Term.

(a) This JPA shall remain in force and effect until terminated by either party by resolution, upon six months prior written notice.

(b) Any municipal service reviews in process at time of termination shall continue to be subject to the terms of this JPA until LAFCO action is completed, but this JPA shall have no effect on municipal service reviews initiated after the date of termination.

8. Amendment.

This agreement may be amended by subsequent agreement of the parties.

This agreement is executed by the undersigned officers pursuant to authority granted by resolution of their respective Commissions:

Local Agency Formation
Commission

Dated: _____, 200_

_____, Chair

Local Agency Formation
Commission

Dated: _____, 200_

_____, Chair

APPROVED AS TO FORM:

_____, Counsel
LAFCO

_____, Counsel
LAFCO

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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(909) 388-0480 • Fax (909) 388-0481
lafco@lafco.sbcounty.gov
www.sbclafco.org

DATE: APRIL 12, 2023 
FROM: SAMUEL MARTINEZ, Executive Officer
TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: Agenda Item #12a – Proposed Schedule of Fees, Deposits, and Charges for FY 2023/24

RECOMMENDATION:

Staff recommends that the Commission take the following actions related to the Proposed Schedule of Fees, Deposits and Charges for Fiscal Year 2023/24:

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 2023/24 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 17, 2023 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.

The Proposed Schedule has fees for Jurisdictional Changes (page 2 of the attachment) and Service Contracts (page 6) increasing by 5.0%. For 2022, the CPI for the Riverside-San Bernardino-Ontario area was 7.3%. However, the Commission's historical practice is to

increase Fees with the annual CPI not to exceed 5.0%. Therefore, this proposed Schedule recommends an increase to Fees of 5.0%.

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 2023/24 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 17 when the adoption of the Schedule will be considered.

SM/MT

Attachment:

[Draft Schedule of Fees, Deposits, and Charges for FY 2023/24 \(track change format\)](#)

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

SCHEDULE OF FEES, DEPOSITS, AND CHARGES EFFECTIVE JULY 1, ~~2022~~ 2023

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.

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<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

Valley and Mountain Region				
	Under 20 acres	20 – 150 acres	151 – 300 acres	Over 300 acres
City	\$ 6,674 \$7,008	\$ 8,899 \$9,344	\$ 11,124 \$11,680	\$ 11,124 plus \$11,680 \$1 per acre over 300 acres
District	\$ 5,562 \$5,840	\$ 7,231 \$7,593	\$ 8,899 \$9,344	\$ 8,899 plus \$9,344 \$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	\$ 6,674 \$7008	\$ 8,899 \$9,344	\$ 11,124 \$11,680	\$ 11,124 plus \$11,680 \$1 per acre over 1,920 acres
District	\$ 5,562 \$5,840	\$ 7,231 \$7,593	\$ 8,899 \$9,344	\$ 8,899 plus \$9,344 \$1 per acre over 1,920 acres

Sphere of Influence Amendment	\$5,840 \$ 5,562	\$4,000	\$ 9,562	\$9,840
District: Dissolution, Merger, or Establishment of Subsidiary District(s)	\$5,840 \$ 5,562	\$4,000	\$ 9,562	\$9,840
District: Formation or Consolidation	\$17,520 \$ 16,686	\$4,000	\$ 20,686	\$21,520
District: Activation/Divestiture of Functions and/or Services	\$8,760 \$ 8,343 each function/service	\$4,000	\$ 12,343	\$12,760
City: Consolidation	\$23,360 \$ 22,248	\$4,000	\$ 26,248	\$27,360
City: Incorporation or Disincorporation	\$23,360 \$ 22,248	\$54,000	\$ 76,248	\$77,360
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		

San Bernardino LAFCO
Schedule of Fees, Deposits, and
Charges July 1, 2022 ~~2023~~

***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
(1) Individual Mailed Notice or (2) Publication of Display Ad in lieu of Individual Notice	
<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>	
<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>	
Proposals Extending an Existing Special Tax	Actual Cost
<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>	
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
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.	

San Bernardino LAFCO
Schedule of Fess, Deposits, and Charges
July 1, 2022 2023

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>
0.00 to 100 acres	\$400	\$ 85
101.00 to 640.99 acres	\$550	\$110
641.00 to 2,560.99 acres	\$825	\$150
over 2,560.00 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
1.00 – 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

(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	\$ 5,562 \$5,840	\$2,400	\$ 7,962 \$8,240
Contracts involving the development of units requiring only a parcel map as defined by the Subdivision Map Act (up to four units)	\$ 1,112 \$1,168 per connection	\$2,400	\$ 3,512 to \$6,848
Any contract for fire protection services outside a public agency's jurisdictional boundaries pursuant to Govt. Code Section 56134	\$ 5,562 \$5,840	\$2,400	\$ 7,962 \$8,240
Contracts to provide services outside a sphere of influence pursuant to Govt. Code Section 56133.5	\$ 1,112 \$1,168	\$2,400	\$ 3,512 \$3,568
Contract Requiring Approval pursuant to Govt. Code Section 56133 (c)	\$ 1,112 \$1,168	\$2,400	\$ 3,512 \$3,568
Development-Related Request for Exemption from Govt. Code Section 56133, requires noticed Commission hearing	\$ 2,502 \$2,627	\$0	\$ 2,502 \$2,627
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	\$ 577 \$606	\$0	\$ 577 \$606

\$3,568
\$7,072

*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
(1) Individual Mailed Notice or (2) Publication of Display Ad in lieu of Individual Notice <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>	
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

- | | | |
|----|--|--------------|
| 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

CHAPTER 2: FINANCIAL POLICIES FOR 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 - provided the reorganization/sphere proposal does not exceed 100 acres. 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 Department Review Committee 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 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.
- 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.

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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DATE: APRIL 12, 2023 
FROM: SAMUEL MARTINEZ, Executive Officer
MICHAEL TUERPE, Senior Analyst
TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: Agenda Item #12b: Proposed Budget and Work Plan for FY 2023/24

RECOMMENDATION:

Staff recommends that the Commission take the following actions:

1. Adopt the Proposed Budget and Work Plan for FY 2023/24 as presented by staff.
2. Direct staff to forward the adopted Proposed Budget, as may be modified at this hearing, to all the independent special districts, cities/towns, and the County for their comment pursuant to Government Code Section 56381.
3. Schedule a public hearing for May 17, 2023 for formal:
 - a. Approval of the amendments to the Policy and Procedure Manual for Salaries and Benefits;
 - b. Approval of reclassification of Michael Tuerpe from Senior Analyst (Grade 67) to Assistant Executive Officer (Grade 72) with entrance at Step 10 pursuant to Policy and Procedure Manual Section III – Human Resources, Chapter 2 – Employment, Policy 4E – Promotions, effective July 1, 2023;
 - c. Authorization for the Executive Officer to sign a contract with Rebecca Lowery for staff support; and
 - d. Adoption of the Final Budget for FY 2023/24.

SUMMARY:

Staff's goals for this budget are to: (1) fund statutory regulations, (2) maintain Commission operations, and (3) achieve substantial progress on the Commission's goals from its Strategic Plan. As with prior years, the Executive Officer and the Administrative Committee

discussed the budget process, staff's goals and position, and the Committee's goals and position. The Proposed Budget includes a COLA to Salaries and Benefits, reclassification of Michael Tuerpe from Senior Analyst to Assistant Executive Officer, Angie Schell postponing her retirement and continuing employment for the fiscal year, scheduling of nine meetings, and increasing the apportionment by 7.5% after years of little to no increase.

The past three years have been challenging for agencies, recovery is strong in some sectors, solid in others, and fair in the rest - albeit with inflation. Nonetheless, the statutory mandates for service delivery continued.

There are two circumstances continuing for the coming year.

- First, the housing crises remains which most likely will result in annexations to cities as well as out-of-agency service contracts.
- Second, SBCERA experienced strong returns in 2020/21 which resulted in a significant decrease to LAFCO's unfunded liability.
- LAFCO has a role to play in these scenarios. All the while, we need to remain cognizant of the local agencies that contribute to LAFCO's net operating costs—specifically the smaller agencies.

Report Organization

Narratives (staff recommendations, discussions)	
Work Plan	Page 3
Salaries and Benefits	Page 4
Services and Supplies	Page 6
Trust Transfers	Page 10
Reserves	Page 12
Revenues	Page 13
Account Details (detail of each account to include: account description, charge measurement, identification of increase or decrease, and detail cost)	
General Ledger with Prior Year Actuals	Attachment #1
Salaries and Benefits	Attachment #2
Services and Supplies	Attachment #3
Revenues	Attachment #4
Apportionment Schedule	Attachment #5

WORK PLAN

This is the third year where the budget includes a proposed work plan, which would prioritize the work of the Commission and staff and guide the budget. The work plan is shown on the next page. The priorities are categorized as Continual, High, Medium, and Low. Each function is categorized as Statutory, Budgetary, or Administrative. The two columns on the right are the summary and details of each program or project.

	Priority	Function	Program/Project	Description and Key Issues
1	LAFCO Mission	Statutory	Proposals	LAFCO's core function is to process changes of organization & sphere amendments
2		Statutory	Out-of-Agency Service Contracts	LAFCO's other function is authorizing the provision of services outside an agency
3	High	Statutory & Strategic Plan	Service Review: Healthcare Districts	Review of all healthcare districts
4		Statutory & Strategic Plan	Special Study: Big River CSD	Special study of one district
5		Statutory	Annual Audit	Coordinate independent auditor's review of financial statements
6		Strategic Plan	Policies for Open Space and Agricultural Lands	Consider policies related to open space and agricultural lands
7		Strategic Plan	SALC Grant: Map Prime Ag Lands & Formulate Policies	The Department of Conservation awarded the Sustainable Agricultural Lands Conservation (SALC) grant to LAFCO. Tasks include mapping, stakeholder meetings, policy writing, and grant administration
8		Strategic Plan	Conclude Litigation	Successfully conclude litigation and properly assess litigation costs
9	Medium	Strategic Plan	Apportionment	Restructure LAFCO special districts apportionment. Target FY 24/25 for implementation
10		Strategic Plan	Unfunded Pension Liability	Fund per Commission direction
11		Strategic Plan	Education and Outreach	LAFCO further its outreach and messaging to the public and other agencies
12		Statutory	Archive Closed Files	Gov Code 56382 mandates LAFCO to maintain its records in perpetuity
13		Liability	Compensated Absences	Fully fund per Commission policy
14		Liability	Salary Reserve	Fund one-tenth of a pay period per Commission policy
15		Budgetary	General Reserve	Increase General Reserves by \$25,000 to \$225,000
16		Administrative	Review and Comment on Agency Plans	Review and comment on draft changes/updates to city and county general plans
17		Administrative	Review and Comment on Environ. Documents	Review and comment on draft environmental documents prepared pursuant to CEQA
18		Administrative	Governance Training Program	Two sessions are scheduled for FY 23/24
19		Administrative	CALAFCO	Participate in CALAFCO through Board, Leg Committee, and Annual Workshop & Conference
20		Administrative	Association of So Cal LAFCOs	Participate in Southern Region CALAFCO Group through Board and staff committees & positions
21	Low	Administrative	Policy Manual Update	Periodic review and update of the Policy and Procedure Manual
22		Budgetary	Contingency Reserve	Contribute an additional \$5,000 for a balance of \$35,000
23		Administrative	Internal Databases	Revise two databases: mailing list and proposal log
24		Administrative	Fiscal Indicators Program	The program was on hold due to incompatibility with the previous website. A new application is necessary. In addition to a current and viable application, improvements would include new design, better mobile accessibility, and replacement of certain indicators with more representative indicators.
25		Budgetary	Provide a COLA to Salaries	Propose COLA of 5.0% for FY 23/24. Although inflation is greater than 5.0%, this is the ceiling per the Commission.

SALARIES AND BENEFITS

This budget includes amending the current staffing model, with supplemental staffing used for the service reviews and clerical support when needed. The current fiscal year includes the following staffing structure: Executive Officer, reclassification of Michael Tuerpe from Senior Analyst to Assistant Executive Officer, GIS Analyst, and Clerk to the Commission/Office Manager. The current Clerk, Angie Schell, is postponing her retirement and will remain with LAFCO for the fiscal year.

Additionally, the Commission contracts with Robert Aldrich for supplemental staffing services. This budget also includes a recommendation to contract with Rebecca Lowery, former San Bernardino LAFCO Clerk, for supplemental staffing as well.

Compensation and Benefit Changes

LAFCO generally mirrors the salary schedule and benefits provided in the County's Exempt Compensation Plan as identified in the LAFCO Policy and Procedure Manual and contracts with the County to administer the benefits for its employees, with exceptions as identified in the Policy and Procedure Manual.

This budget proposes the following policy amendments:

1. Provide a 5.0% COLA for all employees. Inflation for Calendar Year 2022 was 7.3% for our region.¹ The Commission's practice is for COLA not to exceed 5.0%.
2. When the Executive Officer position was filled from within in 2018, the Executive Officer chose not to fill the Assistant Executive Officer position. With one less full-time person in the office, the Senior Analyst has assumed additional responsibilities over time. In reviewing the job descriptions available, the duties currently performed are in line with the Assistant Executive Officer position. Therefore, this budget recommends that Michael Tuerpe's position of Senior Analyst (Grade 67) reclassify to Assistant Executive Officer (Grade 72) for compensation to be commensurate with duties performed. This reclassification also creates a clear organizational structure for staff that allows the Assistant Executive Officer to make decisions on behalf of the Executive Officer. Mr. Tuerpe would receive a two-step increase (pursuant to policy), enter at Step 10, and be eligible for an annual step increase until he reaches the top of the salary range.

Should the Commission support these two proposed changes, then staff would present the related amendments to the Policy and Procedure Manual to the Commission at the May 17 hearing, when it reviews and adopts the final budget.

At this time the County has not yet provided any proposed changes to its Exempt Compensation Plan to LAFCO. Staff will review such changes when presented and

¹ The CPI-U advanced 7.3% from January 2022 to January 2023.

discuss them with the Administrative Committee if warranted prior to Commission consideration.

FY 2023/24 Highlights

Attachment #2 to this report includes a detail of each account to include: account description, charge measurement, identification of increase or decrease, and total cost. The content below contains highlights for FY 2023/24 and forecasts for two years.

Earnable Compensation (Account 1010) totals \$480,931 and includes:

- 5.0% COLA for all employees;
- One-step increase for three eligible employees;
- 2.0% longevity pay for those employees with 15 years of service - three employees;
- Leave cashouts as permitted by policy (Note: leave cashouts reduce the compensated absences liability);

The retirement rates approved by the retirement board for FY 23/24 are:

- Tier 1. Decreases 14.48% from 35.30% to 30.19%
- Tier 2. Decreases 16.44% from 30.30% to 25.32%.

The rates from the past five years and upcoming year are shown below.

Tier 1	2019	2020	2021	2022	2023	2024
Employer Rate	37.03	38.02	35.76	39.92	35.30	30.19
Change over prior year (% points)	2.50	0.99	-2.26	4.16	-4.62	-5.11
Change over prior year (%)	7.24%	2.67%	-5.94%	11.63%	-11.57%	-14.48%
Tier 2	2019	2020	2021	2022	2023	2024
Employer Rate	34.30	35.61	33.24	34.99	30.30	25.32
Change over prior year (% points)	4.21	1.31	-2.37	1.75	-4.69	-4.98
Change over prior year (%)	13.99%	3.82%	-6.66%	5.26%	-13.40%	-16.44%

FY 2024/25 and 2025/26 Forecasts

The forecast for FY 2024/25 (Year 2 of this budget) includes hiring of the new Clerk with an overlap for training, with a COLA to salaries.

The forecast for FY 2025/26 (Year 3) calculates a COLA for salaries for four employees.

SERVICES AND SUPPLIES

Generally, services and supplies include payments for: proposal processing, Commission-approved programs and projects, and costs associated with running a government agency. Attachment #3 to this report includes a detail of each account to include: account description, charge measurement, identification of increase or decrease, and total cost. The remainder of this section contains highlights for FY 2023/24.

Proposal Processing

The past two years have seen a return in application submissions. Further, staff has been coordinating with agencies regarding many likely and potential applications for the next fiscal year. The Commission continues to outsource its environmental processing through its contract with Tom Dodson and Associates.

Programs and Projects

Service Reviews

LAFCOs are required by Govt. Code 56430 to conduct reviews of municipal services. This LAFCO chose to conduct its first round by community and its second round by service, countywide, except where a community review or special study is warranted. The second round service reviews have been:

COMPLETED		
Valley Region (5 districts)	Water Conservation Districts & Municipal Water Districts	2015
Special Study	Daggett, Newberry, and Yermo CSDs	2016
Special Study	Morongo Valley CSD	2016
Countywide	Water (53 systems)	2017
Countywide	Wastewater (44 systems)	2018
One Agency	Wrightwood CSD: One year following formation	2019
Countywide	Fire/Emergency Medical Services/Dispatch (25 agencies)	2020
Countywide	Public Cemetery Districts (4 districts)	2020
Special Study	Morongo Valley CSD	2022
Community	Twentynine Palms (3 agencies)	2022

For the coming year, staff anticipates presenting two services reviews to the Commission. First, staff has apprised the Commission of the challenges at Big River Community Services District. This past year staff has coordinated with the Third Supervisorial District regarding said district. A service review is currently underway.

Second, for healthcare districts, the Little Hoover Commission identified systemic concerns regarding healthcare districts, but the Commission delayed this service review due to the pandemic because health agencies were facing extra ordinary burdens. This service review is ready to commence.

CURRENT AND SCHEDULED		
Special Study	Big River CSD	2023
Countywide	Healthcare Districts	2024

Fiscal Indicators

In 2014 LAFCO advanced the use of audits and implemented an online Financial Indicators program. The purpose of the program is to provide more robust information on the financial condition of local agencies within San Bernardino County which will allows for better understanding of where an agency has been. Additionally, LAFCO uses the information in conducting state-mandated service reviews to make the required determination of the financial ability of an agency to provide services.

The program was on hold due to incompatibility with the former website. A new application is necessary. Staff is working with the Admin Committee to revamp the program. In addition to a current and viable platform, improvements would include a new design, allow for better mobile accessibility, and replacement of certain indicators with more relevant indicators. Although there are nominal costs related to services and supplies, costs for this program mainly relate to LAFCO staff time.

Sustainable Agricultural Lands Conservation (SALC) Program and Grant

In May 2021 the CA Department of Conservation (DOC) awarded LAFCO the SALC Program Planning Grant. LAFCO's partner in the grant is the Inland Empire Resource Conservation District (via a cooperative agreement setting terms for roles and reimbursement). The program funds strategies related to establishing and implementing goals, policies, and objectives to support the economic viability of the local agricultural sector. It also supports planning processes to identify and designate priority lands for conservation and development. Tasks include mapping, stakeholder meetings, policy writing, and grant administration.

LAFCO and IERCD staffs are currently formulating policies for Commission review after the new year.

The Proposed Budget does not include expenditures or revenues associated with this project or the grant. Item 7 (Third Quarter Review for 2022/23) for this month's Commission meeting includes consideration of said budget adjustments.

Governance Training

Governance Training Program returned from hiatus this past fiscal year. Below are the past year's and coming year's schedules. The total cost for the budget is \$5,000.

- | | |
|-----------------|---|
| • August 2022 | Board Member Best Practice 101 |
| • November 2022 | Board Member Best Practices 201:
Brown Act and Public Records Act |
| • Fall 2023 | Intro to Special District Finances for Board Members |
| • Winter 2023 | To be determined: Ethics AB1234 Compliance or
Meeting Management Through Parliamentary Procedure |

Agency Costs

In addition to processing proposals and conducting programs and projects, there are costs associated with running a government agency. The Commission continues to outsource its conduct of the annual audit with an independent auditor, Davis Farr LLP, processing of its accounting operations through the County Auditor's office, and the maintenance of computer systems through the County's IT.

Highlights for the year include:

- Account 2125 Inventoriable Equipment. No inventoriable equipment is budgeted for purchase this or next fiscal year.
- Account 2245 Other Insurance. Liability insurance and Workers' Comp coverage are purchased through the Special District Risk Management Authority (SDRMA). The quotes for the year are \$14,340 and \$5,550, respectively.
- Account 2335 Temporary Services. This budget includes a recommendation to contract with Rebecca Lowery, former San Bernardino LAFCO Clerk, for supplemental staffing. The budget marks 864 hours (18 hours/week for 48 weeks) totaling \$21,600 for her services. Such services include:
 - Tasks supporting the Clerk.
 - Scanning closed files and input into the digital archive. Gov Code 56382 mandates LAFCO to maintain its records in perpetuity. (Medium priority of Work Plan, Item 12)
 - Reformatting two internal databases (Low priority of Work Plan, Item 23)
- Account 2405 Auditing. A joint RFP was issued in 2020 with the other Southern California LAFCOs, and Davis Farr LLP was chosen. The contract cost for the 2022-23 audit is \$8,872.
- Account 2445 Other Professional Services. In this account is an allocation of \$45,000 for Robert Aldrich's supplemental staffing for the service reviews.

- Ongoing costs associated with being at the Train Depot are as follows:

<u>Account 2905 Rent.</u> Office Lease and HVAC	\$ 60,272
<u>Account 2090 Building Expense.</u> Janitorial	\$ 7,056
<u>Account 2180 Electricity.</u>	\$ 7,800
Total	\$ 75,128

TRUST TRANSFERS

The Process

This category of accounts isolates the additional payments made to SBCERA, the retirement association. The reason for the payment processing under Trust Transfer is that LAFCO and SCBERA both are trust agencies of the County Treasury.

Review of Unfunded Pension Liability

The Commission has been making additional contributions to SBCERA as a credit towards LAFCO's pension liability and credit with earnings based on the Plan's market value investment return every year. Previously the Commission used amortization as its additional payment method. At its February 2022 meeting, the Commission revised its additional payment method to be:

Budget for additional contributions to SBCERA in order to pay down the Commission's share of the pension plan's net pension liability by a static amount of \$50,000 beginning with the FY 2022-23 budget with annual increases tied to the CPI for the Riverside-San Bernardino-Ontario Region, not to exceed 5%.

The figure below shows the annual activity since the Governmental Accounting Standards Board pronounced GASB 68, effective FY 2012/13. You will notice that the NPL decreased from \$1,204,840 to \$117,019. This significantly lower figure is tied to a June 20, 2021 measurement date. According to SBCERA's Actuarial Valuation, the plan's overall NPL decreased from \$4.01 billion as of June 30, 2020 to \$1.32 billion as of June 30, 2021 primarily due to the 32.61% return on the market value of assets during 2020-2021 (that was higher than the assumed return of 7.25%).

Since that measurement date, the Commission contributed an additional amount of \$50,163 and is scheduled to contribute an additional \$50,000 this May. Pursuant to Commission direction, the coming year's additional contribution will be 5% greater, or \$52,500.

<i>Pay Here Reflect NPL Here</i>		Net Pension Liability			
Measurement (Budget) Year	Audit Year	Actuary Increase (Decrease)		LAFCO Additional Contribution	End NPL
		Begin NPL			
2012/13	2013/14				581,103
2013/14	2014/15	581,103	3,628		584,731
2014/15	2015/16	584,731	96,716		681,447
2015/16	2016/17	681,447	87,726		769,173
2016/17	2017/18	769,173	95,787		864,960
2017/18	2018/19	864,960	20,287		885,247
2018/19	2019/20	885,247	273,317	(184,963)	973,601
2019/20	2020/21	973,601	273,739	(42,500)	1,204,840
2020/21	2021/22	1,204,840	(1,043,969)	(43,852)	117,019
2021/22	2022/23	117,019	TBD	(50,163)	TBD
2022/23	2023/24		TBD	(50,000)	TBD
2023/24				(52,500)	

The Rates

Previous additional payments resulted in LAFCO's contribution rate decreasing for the past two years. This budget year the rates decreased 15% on average and are the lowest in six years.

RESERVES

At this time, the Commission has two Committed Reserves and two Assigned Reserves.

Committed Reserves (constrained to specific purposes)

Compensated Absences – The budget adds an additional \$10,000 to this account to fund the increase in compensated absences. The increase is due to natural increases.

Salaries for Extra Pay Period - Since the County pay schedule is every two weeks, rather than twice a month, the result is an additional pay period every ten years. This reserve funds the next occurrence, which would take place in 2031/32. The annual budget includes a 1/10th contribution (\$3,000).

Assigned Reserves (intended for specific purposes or general use)

Contingency – The Contingency Reserve is not defined in the Policy and Procedure Manual. Instead, it has been the Commission's practice to fund a Contingency Reserve for unanticipated expenses. The budget includes an additional \$5,000.

General – The General Reserve is for any purpose, but is generally the reserve for special legal matters or special needs. The budget includes an additional \$25,000 towards this reserve.

Summary

Below are the estimated balances on June 30, 2023 and funding summary of the reserve accounts.

Reserve Account	June 30, 2023 (est.)	FY 2023-24	
		Increase	Ending
Compensated Absences	157,095	10,000	167,095
Salary for Extra Pay Period	6,000	3,000	9,000
Contingency	30,000	5,000	35,000
General	200,000	25,000	225,000

REVENUES

Attachment #4 to this report includes a detail of each account to include: account description, charge measurement, identification of increase or decrease, and total cost. The remainder of this section contains highlights for FY 2023/24.

Proposal Activity (Accounts 8545-9800)

Fees, charges, and deposits ordinarily involve the appropriate LAFCO filing fee and deposits for the recovery of the outside costs, for such items as LAFCO Legal Counsel, environmental review, Registrar of Voters, individual notification, etc.

The past two years have seen a return in application submissions. Further, staff has been coordinating with agencies regarding many likely and potential applications for the next fiscal year.

Apportionment (Account 8842)

Government Code Section 56381 requires that the net costs for LAFCO be apportioned equally to those seated on the Commission: the County, the 24 Cities, and the 51 Independent Special Districts within the county. The previous years' apportionment to each group has been:

2018/19	\$368,499
2019/20	\$363,499
2020/21	\$373,499
2021/22	\$363,399
2022/23	\$363,499

After many years of little to no change in apportionment, the proposed apportionment to each group is \$390,761 – a 7.5% increase. The County Auditor will be required to apportion this amount on July 1, 2023 pursuant to the requirements of law and Commission policies. Staff will circulate the apportionment schedule to the agencies when received by the County Auditor.

Interest and Other Revenues

LAFCO participates in the County's interest pool and is apportioned interest receipts quarterly. Cost recovery for proposals and service contracts is not addressed in the budget due to its speculative nature.

Attachments:

1. [General Ledger](#)
2. [Salaries and Benefits Detail](#)
3. [Services and Supplies Detail](#)
4. [Revenues Detail](#)
5. [Apportionment](#)

Attachment #1

Budget Spreadsheets

ACCT.	ACCOUNT NAME	ACTUAL YEAR-END FY 19-20	ACTUAL YEAR-END FY 20-21	ACTUAL YEAR-END FY 21-22	PROJECTED YEAR-END FY 22-23	PROPOSED FY 23-24 Year 1	FORECAST FY 24-25 Year 2	FORECAST FY 25-26 Year 3
#								
	SALARIES AND BENEFITS							
1010	Earnable Compensation	481,359	437,456	426,130	440,775	480,931	545,078	522,572
1030	Auto and Cell Phone Allowances	9,735	9,450	9,100	8,969	9,275	9,275	9,275
1045	Termination Payment		1,839		-		3,000	
1110	General Member Retirement	184,013	155,303	170,502	153,748	144,590	162,085	152,917
1130	Survivors Benefits	176	140	95	92	87	98	98
1200	Medical Premium Subsidy	56,704	44,613	43,461	47,786	48,287	51,908	51,667
1205	Long-Term Disability	1,110	945	980	989	1,085	1,233	1,192
1207	Vision Care Insurance	779	603	621	606	568	640	635
1215	Dental Insurance Subsidy	1,240	891	738	934	897	1,010	1,003
1222	Short-Term Disability	5,642	4,743	4,906	4,927	5,322	6,046	5,854
1225	Medicare	5,805	5,127	5,152	5,257	5,568	6,383	7,264
1240	Life Insurance & Medical Trust Fund	9,714	9,238	12,969	13,529	15,527	16,469	14,004
1305	Medical Reimbursement Plan	3,900	2,859	2,474	3,305	4,767	5,390	5,212
1314	457/401a Contribution	2,850	2,849	2,935	2,958	3,290	3,653	3,599
1315	401k Contribution	37,060	30,506	27,835	31,331	34,183	37,681	34,372
	TOTAL SALARIES & BENEFITS	\$ 800,085	\$ 706,562	\$ 707,898	\$ 715,205	\$ 754,378	\$ 849,950	\$ 809,663
	Staffing (Full time equivalent units)	5.0	4.5	4.0	4.0	4.0	4.5	4.0
	SERVICES AND SUPPLIES							
2031	Payroll System Services (County IT)	794	694	707	669	676	690	703
2032	Virtual Private Network (County IT)		350	158	142	213	217	221
2033	Network Labor Services (County IT)		1,006	-	-	-	-	-
2037	Dial Tone (County IT)	3,434	3,061	2,975	2,579	2,721	2,775	2,831
2041	Data Line	7,592	8,552	8,226	8,885	8,400	8,568	8,739
2043	Electronic Equipment Maintenance (County IT)	-	-	-	-	-	-	-
2075	Membership Dues	11,822	12,144	12,316	16,113	12,769	13,024	13,285
2076	Tuition Reimbursement	999	999	999	500	2,000	2,040	2,081
2080	Publications	2,758	3,483	2,942	3,714	3,587	3,659	3,732
2085	Legal Notices	12,361	18,240	6,018	10,097	23,500	23,970	24,449
2090	Building Expense	7,672	7,260	7,362	9,134	7,056	7,197	7,341
2115	Software	-	4,933	1,948	3,283	1,904	1,942	1,981
2135	Utilities	2,557	-	-	-	-	-	-

Attachment #1

Budget Spreadsheets

ACCT.	ACCOUNT NAME	ACTUAL YEAR-END FY 19-20	ACTUAL YEAR-END FY 20-21	ACTUAL YEAR-END FY 21-22	PROJECTED YEAR-END FY 22-23		PROPOSED FY 23-24 Year 1	FORECAST FY 24-25 Year 2	FORECAST FY 25-26 Year 3
#									
2180	Electricity	5,206	4,335	4,878	6,110		7,800	7,956	8,115
2245	Other Insurance	12,683	14,561	12,637	17,342		19,840	20,237	20,642
2305	General Office Expense	3,117	9,359	1,787	2,880		4,198	4,282	4,368
2308	Credit Card Clearing Account	677	79	(323)	(1,058)		-	-	-
2310	Postage - Direct Charge	11,150	5,792	6,166	4,927		5,916	6,034	6,155
2315	Records Storage	1,134	837	772	883		914	932	951
2322	Enterprise Printing (County IT)		90	95	87		86	87	89
2323	Reproduction Services	1,074	560	174	408		500	510	520
2335	Temporary Services	-	2,487	240	964		21,600	22,032	22,473
2400	Legal Counsel	39,798	34,148	137,746	67,455		59,000	30,720	31,590
2405	Auditing	21,365	8,445	10,620	11,429		12,073	12,314	12,560
2410	IT Infrastructure (County IT)	11,252	9,673	6,671	5,277		6,840	6,977	7,116
2414	Application Dev. & Maint. (County IT)				6,057		8,076	8,238	8,402
2415	Countywide Cost Allocation Program (COWCAP)	13,328	4,581	3,454	-		-	-	-
2416	Enterprise Printing (County IT)	31	-	3	-		-	-	-
2417	Inactive Account (County IT)		1,886	1,844	462		-	-	-
2418	Data Storage Services (County IT)	8,457	4,842	4,117	1,029		-	-	-
2420	Enterprise Content Management (County IT)	286	211	211	3,265		4,724	4,819	4,915
2421	Desktop Support Services (County IT)	15,171	11,994	12,830	9,631		9,636	9,828	10,025
2424	Environmental Consultant	20,796	15,474	15,906	10,488		8,230	8,395	8,562
2444	Security Services	691	642	492	692		492	502	512
2445	Other Professional Services	63,255	39,509	45,253	125,278		97,269	90,803	126,464
2449	Outside Legal (Litigation & Special Counsel)	7,453	275	35	1,991		-	-	-
2450	Systems Development Charges (County IT)			5,823	1,941		2,588	2,640	2,693
2460	Aerial Imagery (County IT)	3,000	3,000	3,000	3,750		3,000	3,060	3,121
2895	Rent/Lease Equipment (copier)	5,776	1,786	5,257	4,707		5,400	5,508	5,618
2905	Office/Hearing Chamber Rental	97,951	93,535	101,369	60,564		63,917	65,835	67,151
2940	Private Mileage	3,427	-	953	4,814		7,311	7,457	7,606
2941	Conference/Training	5,305	375	-	9,062		6,780	6,916	7,054
2942	Hotel	5,926	-	-	8,669		12,050	12,291	12,537
2943	Meals	744	-	-	515		1,050	1,071	1,092
2945	Air Travel	1,592	-	-	795		800	816	832
2946	Other Travel	773	-	-	210		300	306	312

Attachment #1

Budget Spreadsheets

ACCT.	ACCOUNT NAME	ACTUAL YEAR-END FY 19-20	ACTUAL YEAR-END FY 20-21	ACTUAL YEAR-END FY 21-22	PROJECTED YEAR-END FY 22-23		PROPOSED FY 23-24 Year 1	FORECAST FY 24-25 Year 2	FORECAST FY 25-26 Year 3
#									
5012	Transfer to County (Staples & Microsoft)	2,732	1,227	3,671	2,512		6,690	6,824	6,960
	TOTAL SERVICES & SUPPLIES	\$ 414,139	\$ 330,425	\$ 429,335	\$ 428,250		\$ 439,905	\$ 411,471	\$ 453,800
	TOTAL EXPENDITURES	\$ 1,214,223	\$ 1,036,987	\$ 1,137,233	\$ 1,143,455		\$ 1,194,283	\$ 1,261,421	\$ 1,263,463
	TRUST TRANSFERS								
9990	SBCERA Additional Payment	42,500	43,852	-	100,163		52,500	55,125	57,881
	TOTAL TRUST TRANSFERS	\$ 42,500	\$ 43,852	\$ -	\$ 100,163		\$ 52,500	\$ 55,125	\$ 57,881
	TOTAL APPROPRIATION	\$ 1,256,723	\$ 1,080,839	\$ 1,137,233	\$ 1,243,618		\$ 1,246,783	\$ 1,316,546	\$ 1,321,344

Attachment #1

Budget Spreadsheets

ACCT.	ACCOUNT NAME	YEAR-END NET GAIN				PROPOSED INCREASES		
#		FY 19-20	FY 20-21	FY 21-22	FY 22-23	FY 23-24 Year 1	FY 24-25 Year 2	FY 25-26 Year 3
	RESERVES (Increases)							
6000	Contingency (Assigned)			6,400	5,000	5,000	5,000	5,000
6025	General (Assigned)			25,000	25,000	25,000	25,000	25,000
6030	Compensated Absences (Committed)	12,769	32,477	9,452	5,000	10,000	5,000	5,000
6035	Salary for Extra Pay Period (Committed)			3,000	3,000	3,000	3,000	3,000
TOTAL RESERVES (Increases)		\$ 12,769	\$ 32,477	\$ 43,852	\$ 38,000	\$ 43,000	\$ 38,000	\$ 38,000

Attachment #1

Budget Spreadsheets

ACCT #	ACCOUNT NAME	ACTUAL YEAR-END FY 19-20	ACTUAL YEAR-END FY 20-21	ACTUAL YEAR-END FY 21-22	PROJECTED YEAR-END FY 22-23	PROPOSED FY 23-24 Year 1	FORECAST FY 24-25 Year 2	FORECAST FY 25-26 Year 3
8500	Interest	16,325	7,512	6,288	6,458	10,000	12,500	15,000
9984	Interest Adjustent				16,582			
8842	Apportionment	1,090,497	1,120,497	1,090,497	1,090,497	1,172,284	1,230,898	1,230,898
		0.0%	2.8%	-2.7%	0.0%	7.5%	5.0%	0.0%
	Fees and Deposits (Current Services):							
9545	Individual Notice Deposit	7,429	6,032	12,060	11,000	9,000	9,000	9,000
9555	Legal Services Deposit	18,404	15,650	14,300	12,013	12,000	12,000	12,000
9595	Protest Hearing Deposit	-	10,595	1,500	-	3,000	3,000	3,000
9655	Digital Mapping Fee	1,605	4,760	740	-	2,735	2,735	2,735
9660	Environmental Deposits	10,245	11,328	4,282	8,600	7,800	7,800	7,800
9800	LAFCO Fee	93,422	48,278	75,459	34,100	72,964	76,612	78,910
	Total Fees and Deposits	131,105	96,643	108,341	65,713	107,499	111,147	113,445
	OTHER REVENUES							
9560	Indemnification Recovery							
9910	Prior Year Activity (refunds, collections)			(15,421)	-			
9930	Miscellaneous	580	158	33,968	(9,299)			
9970	Carryover of Fund Balance		1,123	96,575	42,030			
9973	Stale-dated Checks	38	60		43,469			
	TOTAL OTHER REVENUES	618	1,341	115,122	76,200	-	-	-
	TOTAL REVENUES	\$ 1,238,544	\$ 1,225,993	\$ 1,320,247	\$ 1,255,449	\$ 1,289,783	\$ 1,354,545	\$ 1,359,344

Attachment #2

Salaries and Benefits Detail

Account		Charge Measurement	Rate Inc/Dec	Total
1010	Earnable Compensation	Per Salary Schedule	Increasing 9.7%	\$ 480,931
	<i>Includes step increases (3 employees), 2% longevity pay for those with 15 yrs (3 employees), leave cashouts, 5% COLA (all).</i>			
1030	Auto & Phone Allowances	Auto Allowance (\$300 per pay period)	--	\$ 9,275
		Mobile Phone Allowance (\$50 per pay period)	--	
	<i>Executive Officer auto and phone allowances, per Benefit Plan.</i>			
1110	General Member Retirement	Tier 1: Decrease from 35.30% to 30.19%	Decreasing 14.5%	\$ 144,590
		Tier 2: Decrease from 30.30% to 25.32%	Decreasing 16.4%	
	<i>Contributions to retirement plan. Per SBCERA and Retirement Board adopted rates.</i>			
1130	Survivors Benefits	\$0.92 per pay period per employee	Increasing 1.1%	\$ 87
	<i>The survivor benefit is provided by SBCERA in lieu of Social Security's death benefits since members do not participate in Social Security. General members pay a contribution each pay period to fund this benefit.</i>			
1200	Medical Premium Subsidy	\$671.18 per period (employee +2): 2 employees	Increasing 6.1%	\$ 48,287
		\$478.31 per period (employee +1): 0 employees	Increasing 6.1%	
		\$303.66 per period (employee +0): 2 employees	Increasing 6.1%	
	<i>A subsidy is provided to offset employee medical premiums.</i>			
1205	Long-Term Disability	0.24% of Base Pay	--	\$ 1,085
	<i>Long-term disability insurance.</i>			
1207	Vision Insurance	\$5.99 per employee per period	--	\$ 568
	<i>Vision insurance.</i>			
1215	Dental Insurance Subsidy	\$9.46 per employee per period	--	\$ 897
	<i>A subsidy is provided to offset employee dental premiums.</i>			
1222	Short-Term Disability	Short-term disability insurance (1.12% of Base Pay)	--	\$ 5,322
		FMLA program charge (\$1.57 per employee per period)	--	
	<i>Short-term disability insurance & admin cost for family medical leave.</i>			
1225	Medicare	1.412% of Earnable Compensation	--	\$ 5,568
	<i>Contribution to Social Security Medicare for those entering after 1985 (4 employees).</i>			
1240	Life Insurance & Med Trust Fund	Life Insurance (\$1.69 per employee per period)	--	\$ 15,527
		Variable Life Insurance (\$623 for 2 employees)	--	
		Retirement Medical Trust Fund (\$14,738 for 3 employees)	--	
	(1) Life Insurance is a benefit for all employees.			
	(2) Employees may purchase Variable Life Insurance, which has an employer contribution (2 employees).			
	(3) LAFCO contributes to a Retirement Medical Trust Fund for employees with over 5 years of service (3 employees).			
1305	Medical Reimbursement Plan	Medical Reimbursement (up to \$40 per employee/period)	--	\$ 4,767
		Healthy Lifestyles (gym, \$324 per employee - 3)	--	
1314	457/401a Contribution	1% match for Executive Officer, 0.5% for all others	--	\$ 3,290

Attachment #2

Salaries and Benefits Detail

Account		Charge Measurement	Rate Inc/Dec	Total
	<i>LAFCO matches employee contributions to the 457 savings plan of the County up to 0.5% for Groups B and C, and 1% for Group A (Executive Officer).</i>			
1315	401k Contribution	8% match for Group A & B, 6% match for Group C	--	\$ 34,183
	<i>LAFCO matches employee contributions to the 401(k) savings plan of the County up to 8% for Groups A and B, and up to 4% for Group C (new hires except for EO).</i>			
TOTAL SALARIES AND BENEFITS				\$ 754,378

Attachment #3

Services and Supplies Detail

Account		Charge Measurement	Increase/Decrease	Total
2031	Payroll System Services (County IT)	Average of \$26 per pay period (26)	Decrease of 9.6%	\$ 676.00
	<i>Maintenance, support, and enhancements for County's payroll system and infrastructure.</i>			
2032	Virtual Private Network (County IT)	\$4.43 per month per user (4 users)	Decrease of 5.1%	\$ 212.64
	<i>Use of the County's VPN for remote data access.</i>			
2033	Network Labor Services (County IT)	No activity	--	\$ -
	<i>County IT labor for the network.</i>			
2037	Dial Tone (County IT)	\$28.34 per line (8) per month	--	\$ 2,720.64
	<i>Phone line. Includes support services.</i>			
2041	Data Line	\$700 per month	--	\$ 8,400.00
	<i>Fiber optic data line from Verizon.</i>			
2043	Electronic Equipment Maintenance (County IT)	No activity		\$ -
	<i>County ISD services for data line installation.</i>			
2075	Membership Dues	CSDA: \$1,634	--	\$ 12,769.00
		CALAFCO: \$12,221	Increasing 8.3%	
	<i>Membership in Professional Associations.</i>			
2076	Tuition Reimbursement	Two employees at max reimbursement	No change	\$ 2,000.00
	<i>Pursuant to the LAFCO Benefits Plan, employees can be reimbursed for up to \$1,000 for approved tuition, course/seminar or degree related expenses, and membership dues in professional organizations.</i>			
2080	Publications	CA Land Use & Planning Law: \$101.00	--	\$ 3,587.48
		CA Annotated Code Books: \$269/month	Increasing 8.0%	
	<i>Purchase or subscription to professional publications related to LAFCO study areas.</i>			
2085	Legal Notices	General paper: \$1,000 per hearing (9 meetings)	--	\$ 23,500.00
		Local Paper: \$1,000 per hearing (9 meetings)	--	
		Vacancy notices: \$1,500 each (3 notice)	--	
		Protest hearing: \$1,000 per hearing (1 hearings)	--	
	<i>Legal and policy requirement for notices: hearing, protest hearing, public member vacancy, etc... An eighth-page display ad in general newspapers is required for the countywide service reviews and when advertisement is authorized in-lieu of individual landowner and/or registered voter notice.</i>			
2090	Building Expense	Janitorial: \$588 per month	--	\$ 7,056.00
	<i>Ongoing maintenance of the staff office.</i>			
2115	Software	Laserfische archiving: \$1,313.00 annual	--	\$ 1,904.00
		Adobe license for office, annual, (\$351)	--	
		Vimeo subscription for digital archive of meetings (\$240/yr)		
	<i>Purchases, subscriptions, and updates of software and online programs, to include digital archiving software for LAFCO to maintain its records in perpetuity per Government Code Section 56382.</i>			
2135	Utilities	No activity		\$ -
	<i>For miscellaneous utility charges</i>			
2180	Electricity	\$650 per month	Increasing 8.3%	\$ 7,800.00
	<i>LAFCO is responsible for electricity payments while located at the train depot.</i>			
2245	Other Insurance	Annual Insurance (\$14,340)	Increasing 5%	\$ 19,840.00
		Workers' Compensation (\$5,500)	Increasing 5%	
	<i>Liability insurance (property, general, personal, employment, benefits, auto) errors and omissions, and employee dishonesty coverage, as well as Workers' Comp. Purchased through the Special District Risk Management Authority (SDRMA).</i>			
2305	General Office Expense	Petty Cash Reimbursement: \$250 per quarter (\$1,000)	--	\$ 4,198.00
		Paper shredding: \$120	Decreasing 3%	

Attachment #3

Services and Supplies Detail

Account		Charge Measurement	Increase/Decrease	Total
		Zoom subscription for meetings (\$20 per month)	--	
		New computer	--	
		Printer cartridges:\$400	--	
	<i>Niche and random items for the office. See Account 5012 for Office Supplies per contract pricing.</i>			
2308	Credit Card Clearing Account			\$ -
	<i>Clearing account for credit card issued to the Executive Officer. All charges post to this account temporarily with charges then transferred to the appropriate accounts.</i>			
2310	Postage - Direct Charge	Months with meetings (9): \$400 per month	--	\$ 5,916.00
		Months with no meetings (4): \$200 per month	--	
		Mail delivery: \$6.50 per stop (22 per month)	--	
	<i>On avg. USPS rates increasing 10%. Each year, staff utilizes more digital delivery over paper mail, which generally offsets rate increases.</i>			
2315	Records Storage	\$76.14 per month	Increasing 1.5%	\$ 913.68
	<i>Off-site retention of records. Gov Code 56382 mandates LAFCO to maintain its records in perpetuity.</i>			
2322	Enterprise Printing (County IT)	\$7.14 per month	Decreasing 44%	\$ 85.68
	<i>County printing of payroll documents.</i>			
2323	Reproduction Services	\$500 estimate based on prior year		\$ 500.00
	<i>Printing activity outside of the LAFCO office (County Printing Services, Kinkos, etc.).</i>			
2335	Temporary Services	\$25 per hour, per contract rate	--	\$ 21,600.00
	<i>Use of temporary services for clerical support.</i>			
2400	Legal Counsel			\$ 59,000.00
		Months with meetings (9): \$4,000 per month	Increasing 3.0%	
		Months with no meetings (3): \$1,500 per month	Increasing 3.0%	
		Continuing legal matter	Increasing 3.0%	
	<i>Contract with Best, Best, and Krieger for general and special counsel. Costs related to a proposal are recoverable pursuant to Commission policy. Payments received for cost recovery are deposited into Revenue Account 9555.</i>			
2405	Auditing	SBCERA costs for GASB 67 & 68: \$3,018	--	\$ 12,072.50
		Independent auditor: \$8,872	Increasing 5%	
	<i>Contract with Davis Farr LLP for independent auditing services. SBCERA is required to determine the unfunded liability for its participants and by legislative action can charge for that requirement.</i>			
2410	IT Infrastructure (County IT)	\$570 per month for network access	--	\$ 6,840.00
	<i>Support of computer/server systems, email, wide area network, internet access, IT security, virus protection, help desk, and data center.</i>			
2414	Application Dev. & Maint. (County IT)	\$673 per month		\$ 8,076.00
	<i>Maintenance and support of LAFCO and County applications and software</i>			
2415	Countywide Cost Allocation Program (COWCAP)	Per the County COWCAP publication	--	\$ -
	<i>The County Auditor charges for county-related costs incurred in the prior year.</i>			
2416	Enterprise Printing (County IT)	Per print impression, annual estimate	--	\$ -
	<i>Printing from County's enterprise server related to payroll.</i>			
2417	Inactive Account (County IT)	Activity transferring to Account 2420		\$ -
2418	Data Storage Services (County IT)	Activity transferring to Account 2420		\$ -
2420	Enterprise Content Management (County IT)	\$393.70 per month, based on storage allocation	--	\$ 4,724.40
	<i>High-speed enterprise data storage services, including data backup and recovery. Now includes activity from Accounts 2417 & 2418</i>			

Attachment #3

Services and Supplies Detail

Account		Charge Measurement	Increase/Decrease	Total
2421	Desktop Support Services (County IT)	\$100.37 per month, per computer (8 computers)	Decreasing 33.1%	\$ 9,635.52
	<i>County tech support & monitoring for computers and applications.</i>			
2424	Environmental Consultant	Consultant work, per contracted rate, 11 reviews	--	\$ 8,230.00
		File with County Clerk, 15 actions, \$50 each	--	
	<i>The Commission contracts with an independent consultant, Tom Dodson and Associates, for the environmental assessment associated with its proposals. Most environmental consultant costs are billable under the Commission's existing fee schedule. Payments received for cost recovery are deposited into Revenue Account 9660.</i>			
2444	Security Services	\$123 per quarter	--	\$ 492.00
	<i>Maintain and monitor the security system.</i>			
2445	Other Professional Services	Surveyor proposal review: \$450 each proposal (7)	--	\$ 97,269.10
		Commissioner stipend: \$200 per meeting (9)	--	
		Commissioner stipend: \$200 per committee mtg (4)		
		ROV: \$100.60 per hour (11)	--	
		Bob Aldrich for staffing: \$75/hr	--	
		County processing of quarterly taxes: \$1,000/quarter	--	
		County work on apportionment: \$8,960	Increasing 5%	
		Video recording of meetings: \$750 per meeting (9)	--	
		Commissioner stipend for SoCal LAFCO: \$200 per mtg. (4)	--	
		Governance Training Program for Local Agencies	--	
	<i>This account is for outside services to assist in processing applications and service reviews as well as conducting Commission hearings. Staffing support from Bob Aldrich will correspond with proposal activity levels. Governance training will include two courses.</i>			
2449	Outside Legal (Litigation & Special Counsel)	Per special counsel rate		\$ -
	<i>Legal services conducted through special contract for either litigation or when a conflict of interest waiver is not granted. For proposals not initiated by the Commission, the applicant agrees to indemnify the Commission against legal costs. Payments received for cost recovery are deposited into Revenue Account 9660.</i>			
2450	Systems Development Charges (County IT)	Estimate of 20 hours at \$129.40/hr		\$ 2,588.00
	<i>Maintenance and Support of LAFCO website.</i>			
2460	Aerial Imagery (County IT)	Aerial Imagery \$1,000 per user (3)	--	\$ 3,000.00
	<i>Generation & maintenance of digitized maps & aerial images, access to County's parcel & street layers.</i>			
2895	Rent/Lease Equipment (copier)	\$450 per month	--	\$ 5,400.00
	<i>LAFCO implementing more digital circulation as cost savings.</i>			
2905	Office/Hearing Chamber Rental	Meeting Facility: \$405 per meeting (9)	--	\$ 63,917.16
		HVAC maintenance	Increasing 5.6%	
		Office Lease: \$4,899 monthly	Increasing 3.0%	
	<i>Use of Norton Conference Center for meetings and office lease.</i>			
2940	Private Mileage	ESRI Conference San Diego	--	\$ 7,311.00
		Employee travel, misc.: \$55	--	
		CALAFCO Conf. (Monterey)	--	
		CALAFCO Staff Workshop (unknown location)	--	
		Commissioner So Cal participation, 4 trips: \$220	--	
		Commissioner Meetings (9)	--	
	<i>Commissioners and staff private auto mileage at the IRS rate, excluding the Executive Officer.</i>			
2941	Conference/Training	CALAFCO Staff Workshop (unknown) 3 staff	--	\$ 6,780.00

Attachment #3

Services and Supplies Detail

Account		Charge Measurement	Increase/Decrease	Total
		CALAFCO Conference (Monterey) \$570 each (10)	--	
	<i>The CALAFCO Staff Workshop location is unknown. 3 staff attending</i>			
	<i>The CALAFCO Conference will be held in Monterey, with 7 Commissioners and 3 staff budgeted.</i>			
2942	Hotel	CALAFCO/So Cal participation: \$200 per night (4)	--	\$ 12,050.00
		ESRI Conference San Diego: (1 staff)	--	
		CALAFCO Conf. (Monterey), \$300/night, 10 people, 3 nights	--	
		CALAFCO Staff Workshop (unknown), 3 staff	--	
	<i>Hotel charges for Commissioners and staff on LAFCO business.</i>			
2943	Meals	Staff travel: \$50	--	\$ 1,050.00
		ESRI Conference San Diego (1 staff)	--	
		CALAFCO Conference (Monterey) \$50 each for 10 people	--	
		CALAFCO Staff Workshop (unknown), 3 staff	--	
		So Cal participation - Staff: \$50/trip (2)	--	
		So Cal participation - Commissioner: \$50/trip (2)	--	
	<i>Meal charges for Commissioners and staff on LAFCO business. Per diem max \$50/day.</i>			
2945	Air Travel	CALAFCO participation: \$200/trip (4)		\$ 800.00
	<i>Airfare on Southwest Airlines for approved travel.</i>			
2946	Other Travel	CALAFCO participation: \$75/trip (4)		\$ 300.00
	<i>Miscellaneous travel charges such as parking and taxi charges.</i>			
5012	Transfer to County (Staples & Microsoft)	Staples supplies: \$300 per month	--	\$ 6,690.00
		Microsoft Licenses		
TOTAL SERVICES AND SUPPLIES				\$ 439,904.80

Attachment #4

Revenues Detail

Account		Charge Measurement	Rate Inc/Dec	Total
8500	Interest	County Interest Pool returns	Variable	\$ 10,000
	<i>LAFCO participates in the County's interest pool and is apportioned interest receipts quarterly.</i>			
8842	Apportionment		--	\$ 1,172,284
	<i>Govt Code §56381 requires that the net costs for LAFCO be apportioned equally to those seated on the Commission: the County, the 24 Cities, and the 51 Independent Special Districts within the County of San Bernardino. The County Auditor will be required to apportion this amount on July 1, 2023 pursuant to the requirements of law and Commission policies.</i>			
8545	Individual Notice Deposit	\$1,000 deposit	--	\$ 9,000
	<i>This account is for landowner and registered voter notification requirements. This \$1,000 deposit is applied to proposals and development-related service contract less refunds. Should a proposal 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>			
9555	Legal Services Deposit	\$2,000 for proposals; \$700 for applicable service contracts	--	\$ 12,000
	<i>This account is for deposits for legal services which are calculated at \$2,000 for proposals and \$700 for service contracts requiring a hearing.</i>			
9595	Protest Hearing Deposit	\$1,500 each	--	\$ 3,000
	<i>The account is for deposits related to the processing of the protest hearing which are calculated at \$1,500 each. Should a proposal 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>			
9655	Digital Mapping Fee	LAFCO Fee Schedule, based on acreage	--	\$ 2,735
	<i>This account is for receipt of revenue to recover the costs associated with the County's digital maps for sphere or boundary changes, maintenance and updates. The charge is based upon the acreage of each consideration area.</i>			
9660	Environmental Deposit	\$1,000 for proposals; \$750 for applicable service contracts	--	\$ 7,800
	<i>Deposits for environmental review processing are calculated at \$1,000 for proposals and \$750 for service contracts requiring a hearing.</i>			
9800	LAFCO Fee	LAFCO Fee Schedule, based on region and acreage	Increasing 5.0%	\$ 72,964
	<i>Revenues in this account are based on anticipated activity and conservatively calculated at the median annexation filing fee for the activity identified above.</i>			
9560	Indemnification Recovery		--	\$ -
	<i>This accounts segregates legal cost recovery that was previously credited to Account 9555.</i>			
9910	Prior Year Activity		--	\$ -
	<i>This account refunds deposits submitted by applicants less costs incurred for activity which carry over from one year to another.</i>			
9930	Miscellaneous Revenue		--	\$ -
	<i>This account is for revenues received for duplication of CDs, DVDs, paper copies, and other miscellaneous receipts.</i>			
9970	Carryover of Fund Balance		--	\$ -
	<i>Carryover of earned funds and unearned funds (proposals still being processed)</i>			
TOTAL REVENUES				\$ 1,289,783

**LAFCO Cost Allocation
County of San Bernardino Allocation
PY 2022-2023**

	Amount	Percentage of Total Cost
County of San Bernardino		
Total LAFCO Cost	\$ 1,172,283.00	100.00%
County of San Bernardino Allocation (1/3)*	\$ 390,761.00	33.33%
Total San Bernardino County Allocation	\$ 390,761.00	33.33%

Note:

* Per LAFCO Funding Election, County of San Bernardino pays third of total LAFCO cost.

* Total LAFCO Apportionment for FY 2023-24 is \$1,172,283.00 (by letter dated March 7, 2023)

HISTORY

FY 18-19 Allocation	368,499.00
FY 19-20 Allocation	363,499.00
FY 20-21 Allocation	373,499.00
FY 21-22 Allocation	363,499.00
FY 22-23 Allocation	363,499.00
FY 23-24 Allocation	\$ 390,761.00

Attachment #5

LAFCO Cost Allocation
Cities Allocation
PY 2022-2023

City	Total Revenues FY 20-21	LAFCO Allocation	Allocation Percentage
Adelanto	\$ 22,556,106.00	\$ 2,599.65	0.67%
Apple Valley	\$ 93,293,203.00	\$ 10,752.29	2.75%
Barstow	\$ 49,141,479.00 *	\$ 5,663.69	1.45%
Big Bear Lake	\$ 57,881,479.00 *	\$ 6,671.00	1.71%
Chino	\$ 257,706,495.00	\$ 29,701.36	7.60%
Chino Hills	\$ 121,233,330.00	\$ 13,972.47	3.58%
Colton	\$ 152,820,562.00	\$ 17,612.98	4.51%
Fontana	\$ 297,765,274.00 *	\$ 34,318.25	8.78%
Grand Terrace	\$ 8,002,332.00	\$ 922.29	0.24%
Hesperia	\$ 91,867,784.00 *	\$ 10,588.01	2.71%
Highland	\$ 35,523,717.00	\$ 4,094.20	1.05%
Loma Linda	\$ 47,764,629.00	\$ 5,505.00	1.41%
Montclair	\$ 53,467,323.00	\$ 6,162.25	1.58%
Needles	\$ 37,814,431.00	\$ 4,358.21	1.12%
Ontario	\$ 657,131,983.00	\$ 75,736.22	19.38%
Rancho Cucamonga	\$ 227,869,672.00 *	\$ 26,262.59	6.72%
Redlands	\$ 176,874,604.00	\$ 20,385.27	5.22%
Rialto	\$ 200,521,662.00	\$ 23,110.66	5.91%
San Bernardino	\$ 322,248,359.00	\$ 37,139.99	9.50%
Twentynine Palms	\$ 16,017,119.00	\$ 1,846.02	0.47%
Upland	\$ 128,790,393.00	\$ 14,843.44	3.80%
Victorville	\$ 257,201,004.00 *	\$ 29,643.11	7.59%
Yucaipa	\$ 51,741,030.00	\$ 5,963.29	1.53%
Yucca Valley	\$ 25,238,130.00	\$ 2,908.76	0.74%
	\$ 3,390,472,100.00	\$ 390,761.00	100.00%

Allocation is based on Cities revenues extracted from Fiscal Year 2020-21 tables published on the State Controller's website (www.sco.ca.gov). Fiscal Year 2021-22 was not available as of March 8, 2023.

* Cities with subsidiary districts. Subsidiary districts are excluded from the special district distribution and their revenues are included in the cities' revenues. Blended Component Units are below:

- Barstow Fire Protection District (City of Barstow)
- Big Bear Lake Fire Protection District (City of Big Bear Lake)
- Fontana Fire Protection District (City of Fontana)
- Hesperia County Water District (City of Hesperia)
- Hesperia Fire Protection District (City of Hesperia) - inactive as of 11/01/2018
- Rancho Cucamonga Fire Protection District (City of Rancho Cucamonga)
- Victorville Water District (City of Victorville)

Attachment #5

LAFCO Cost Allocation Special Districts Allocation PY 2022-2023


District Name	Total Revenues* FY 20-21	LAFCO Cost Allocation	Allocation Percentage
Apple Valley Fire Protection	\$ 13,722,507.00	\$ 10,000.00	2.56%
Apple Valley Foothill County Water	\$ 304,631.00	\$ 173.05	0.04%
Apple Valley Heights County Water	\$ 419,368.00	\$ 238.23	0.06%
Arrowbear Park County Water	\$ 1,468,877.00	\$ 834.44	0.21%
Baker Community Services	\$ 650,557.00	\$ 369.57	0.09%
Barstow Cemetery	\$ 724,605.00	\$ 411.63	0.11%
Barstow Heights Community Services	\$ 77,655.00	\$ 44.11	0.01%
Bear Valley Community Healthcare	\$ 1,981,411.00	\$ 1,500.00	0.38%
Big Bear Airport	\$ 2,397,534.00	\$ 1,361.99	0.35%
Big Bear City Community Services	\$ 15,231,351.00	\$ 10,000.00	2.56%
Big Bear Municipal Water	\$ 6,017,394.00	\$ 10,000.00	2.56%
Big River Community Services	\$ 82,293.00	\$ 46.75	0.01%
Bighorn-Desert View Water Agency	\$ 2,685,170.00	\$ 1,525.39	0.39%
Chino Basin Water Conservation	\$ 3,548,875.00	\$ 2,016.05	0.52%
Chino Valley Independent Fire	\$ 52,462,002.00	\$ 30,000.00	7.68%
Crestline Lake Arrowhead Water Agency	\$ 8,858,983.00	\$ 10,000.00	2.56%
Crestline Sanitation District	\$ 5,013,915.00	\$ 10,000.00	2.56%
Crestline Village Water	\$ 3,815,706.00	\$ 2,167.63	0.55%
Cucamonga Valley Water District	\$ 107,795,093.00	\$ 30,000.00	7.68%
Daggett Community Services	\$ 282,636.00	\$ 160.56	0.04%
East Valley Water	\$ 42,454,655.00	\$ 20,000.00	5.12%
Helendale Community Services District	\$ 6,604,040.00	\$ 10,000.00	2.56%
Hesperia Recreation and Park	\$ 9,401,446.00	\$ 10,000.00	2.56%
Hi-Desert Memorial Healthcare District	\$ 13,835,473.00	\$ 1,500.00	0.38%
Hi-Desert Water District	\$ 19,883,091.00	\$ 10,000.00	2.56%
Inland Empire Resource Conservation	\$ 2,483,979.00	\$ 1,411.10	0.36%
Inland Empire Utilities Agency	\$ 231,474,151.00	\$ 30,000.00	7.68%
Joshua Basin Water	\$ 8,815,620.00	\$ 10,000.00	2.56%
Juniper-Riviera County Water	\$ 312,296.00	\$ 177.41	0.05%
Lake Arrowhead Community Services	\$ 20,206,065.00	\$ 20,000.00	5.12%
Mariana Ranchos County Water	\$ 661,049.00	\$ 375.53	0.10%
Mojave Desert Resource Conservation	\$ 149,674.00	\$ 85.03	0.02%
Mojave Water Agency	\$ 50,245,273.00	\$ 30,000.00	7.68%
Monte Vista Water	\$ 35,043,163.00	\$ 20,000.00	5.12%
Morongo Valley Community Services	\$ 1,210,041.00	\$ 687.40	0.18%
Newberry Community Services	\$ 472,272.00	\$ 268.29	0.07%
Phelan Pinon Hills Community Services District	\$ 10,825,073.00	\$ 10,000.00	2.56%
Rim of the World Recreation and Park	\$ 1,005,670.00	\$ 571.30	0.15%
Running Springs Water	\$ 8,627,824.00	\$ 10,000.00	2.56%
San Bernardino Mountains Community Hospital	\$ (818,760.00)	\$ -	0.00%
San Bernardino Valley Municipal Water	\$ 135,605,633.00	\$ 30,000.00	7.68%
San Bernardino Valley Water Conservation	\$ 3,605,221.00	\$ 2,048.06	0.52%
Thunderbird County Water	\$ 272,101.00	\$ 154.58	0.04%
Twentynine Palms Cemetery	\$ 272,244.00	\$ 154.66	0.04%
Twentynine Palms Water District	\$ 6,649,740.00	\$ 10,000.00	2.56%
West Valley Mosquito and Vector Control	\$ 3,620,879.00	\$ 2,056.95	0.53%
West Valley Water District	\$ 34,782,954.00	\$ 20,000.00	5.12%
Wrightwood Community Services District	\$ 486,849.00	\$ 276.57	0.07%
Yermo Community Services	\$ 193,098.00	\$ 109.70	0.03%
Yucaipa Valley Water	\$ 31,294,241.00	\$ 20,000.00	5.12%
Yucca Valley Airport	\$ 61,643.00	\$ 35.02	0.01%
Totals	\$ 907,277,261.00	\$ 390,761.00	100.00%

All data in this worksheet are extracted from Fiscal Year 2020-21 Special Districts revenues published on the State Controller's website. Fiscal Year 2021-22 was not available as of March 8, 2023.

Exception: Data used for Bear Valley Community Healthcare and San Bernardino Mountains Community Hospital is 'Net from Operations' from FY 2019-20, published by the Office of Statewide Health Planning and Development

LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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www.sbclafco.org

DATE: APRIL 12, 2023
FROM: SAMUEL MARTINEZ, Executive Officer 
TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: AGENDA ITEM #13 – LEGISLATIVE UPDATE REPORT

RECOMMENDATION:

Staff recommends that the Commission:

1. Note receipt of the report and file;
2. Indicate its support for AB 1753 (Assembly Local Government Committee) related to the annual CALAFCO sponsored Omnibus bill; and,
3. Authorize the Chair to sign the support letter for AB 1753 and direct staff to forward to the Assembly Local Government Committee and CALAFCO.

BACKGROUND:

The scheduling of hearings on bills has begun, and the rounds of amendments are in full swing. The Legislature will have until April 28 (for fiscal bills) and May 5 (for non-fiscal bills) to be heard in policy committees. Until then, the Legislature will be busy conducting hearings for bills introduced this year.

CALAFCO Omnibus Bill:

AB 1753 (Assembly Local Government Committee) - Local Government: reorganization.

Each legislative cycle, CALAFCO undertakes an Omnibus Bill with the Assembly Local Government Committee (ALGC) to address non-substantive, technical changes/corrections to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH). The ALGC introduced the bill in March and the following proposed changes made it to the bill:

- Item 1. Delivery of Resolutions Making Determinations

The first proposal clarifies the way a “resolution making determinations” is delivered by changing the word “mail” to “transmit”. Government Code Section 56882 outlines how LAFCOs should distribute resolutions making determinations. The change would allow for distribution of said resolution either by direct mail or email (or any electronic means). If said resolution is transmitted using email or other electronic means, the new provision also requires confirmation of receipt by the intended recipient either “through electronic read receipt or other means.”

- Item 2. Clarify Certificate of Filing Requirement

Government Code Section 56658 outlines when LAFCOs can issue a Certificate of Filing, which deems an application complete and ready for Commission consideration. The proposed change would add language that specifies the requirement of the property tax exchange agreement(s) prior to issuing a certificate of filing, which is clearly outlined in Revenue and Taxation Code Section 99(b)(6), but is not explicitly identified in CKH.

This bill has been referred to the Local Government Committee. Staff is not aware of any changes or amendments being proposed for this bill.

Recommendation: Staff recommends that the Commission take a support position for AB 1753 and direct staff to forward a letter outlining this position to Assemblywoman Aguiar-Curry (Chair of the Committee) and the rest of the Committee members and CALAFCO.

A copy of the draft letter of support is included as Attachment #1 and a copy of the bill is included as Attachment #2.

Brown Act Bills:

At the last Commission meeting, it was requested that an update on the Brown Act related bills be provided to the Commission for review. Currently, there are five bills that are Brown Act related.

- ***AB 557 (Hart) – Open meetings: local agencies: teleconferences.***

Assemblymember Hart introduced AB 557, which is sponsored by CSDA. This bill is a follow-on legislation to AB 361 (2022) and seeks to return some of the pandemic-era teleconferencing provisions to the Brown Act. The COVID-19 state of emergency ended in February and local agencies are no longer able to use the AB 361 provisions for COVID-19 related reasons. Moving forward, local agencies can only rely on the AB 361 provisions for other emergencies (i.e. flooding, wildfires, earthquakes) so long as that emergency is accompanied by a formal state of emergency declaration. However, this will also cease at the end of 2023.

AB 557 would preserve the modified remote meeting procedures beyond 2023. AB 557 also changes the timeline for legislative bodies to reaffirm an emergency from the current 30 days to 45 days, providing an additional two weeks to accommodate agencies that meet monthly where sometimes their monthly meeting date fall beyond the 30-day window. This bill has been referred to the Local Government Committee.

- **AB 817 (Pacheco)** – *Open meetings: teleconferencing: subsidiary body.*

The bill was originally a spot holder bill but was amended on March 16, 2023, to speak specifically to teleconferenced meetings of subsidiary bodies, defined as a body that serves exclusively in an advisory capacity--not authorized to take final action on things like regulations, contracts, etc. or any other entitlements (non-decision-making bodies). This bill would allow the subsidiary body to use alternative teleconferencing provisions indefinitely with no state of emergency needed. This bill has been re-referred to the Local Government Committee.

- **AB 1379 (Papan)** – *Open meetings: local agencies: teleconferences.*

This was also a spot holder bill, which was gutted and amended on March 23, 2023, that now seeks to amend some of the Brown Act teleconferencing provisions. If successful, the bill relaxes requirements to post agendas for teleconferenced meetings at all locations to a newly defined “singular designated physical meeting location”, which is required to have either two-way audiovisual capabilities or two-way telephone service for the public to remotely hear and address the body. The bill also relaxes certain quorum requirements, it removes the existing January 1, 2026 sunset date, and it removes restrictions that prohibit members from participating remotely for more than two meetings a year. Additionally, the legislative body would have to hold at least two in-person meetings each year. This bill has also been re-referred to the Local Government Committee.

- **SB 411 (Portantino)** – *Open meetings: teleconferences: bodies with appointed memberships.*

This bill would permanently add back provisions of the Brown Act that had been temporarily enacted during the pandemic. The amendment would allow a legislative body to use teleconferencing provisions indefinitely regardless of the presence of an emergency. The author’s main intent was for this bill to apply to neighborhood councils. This bill has been referred to the Senate Governance and Finance Committee (as well as the Judiciary Committee) that is scheduled to meet on April 19. As an urgency bill, this bill requires a 2/3 vote.

- **SB 537 (Becker)** – *Open meetings: local agencies: teleconferences.*

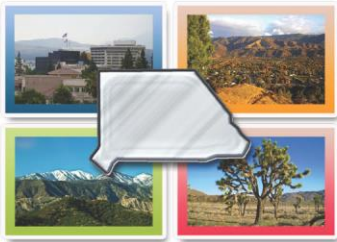
This also started as a spot holder bill that simply stated an intent to expand local government’s access to hold meetings through teleconferencing and remote access.

On March 22, 2023, the bill was amended to add teleconferencing provisions to allow legislative bodies of multijurisdictional agencies to meet remotely. Multijurisdictional agencies are defined as boards, commissions, or advisory bodies of a multijurisdictional, cross country agency, which is composed of appointed representatives from more than one county, city, city and county, special district, or a joint powers entity. The bill also adds to the list of circumstances where a member is permitted to participate remotely. This bill has been referred to the Senate Governance and Finance Committee (and Judiciary Committee) that is scheduled to meet on April 19. This is also an urgency bill that requires a 2/3 vote.

CALAFCO has taken a WATCH position on all five bills. Staff will be happy to answer any questions prior to or at the hearing.

Attachments:

1. [Draft Support Letter for AB 1753](#)
2. [AB 1753 \(Assembly Local Government Committee\)](#)



LAFCO

**Local Agency
Formation Commission**
for San Bernardino County

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COMMISSIONERS

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City Member

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RICK DENISON
City Member

JIM HARVEY
Public Member

KEVIN KENLEY
Special District

DAWN ROWE
Board of Supervisors

EXECUTIVE OFFICER

SAMUEL MARTINEZ

LEGAL COUNSEL

PAULA DE SOUSA

April 19, 2023

Honorable Cecilia Aguiar-Curry, Chair
Assembly Local Government Committee
California State Assembly
1021 O Street, Room Suite 6350
Sacramento, CA 95814

RE: Support of AB 1753: Local Government Committee Omnibus Bill

Dear Chair Aguiar-Curry:

The Local Agency Formation Commission for San Bernardino County (LAFCO) is pleased to support the Assembly Local Government Committee Bill AB 1753, sponsored by the California Association of Local Agency Formation Commissions (CALAFCO), which makes technical, non-substantive changes to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (the Act).

This annual bill includes technical changes to the Act which governs the work of LAFCOs. These changes are necessary as Commissions implement the Act and small inconsistencies are found or clarifications are needed to make the law as unambiguous as possible. AB 1753 currently makes minor technical corrections to language used in the Act. The San Bernardino LAFCO is grateful to your Committee members and staff, and CALAFCO, all of whom worked diligently on this language to ensure there are no substantive changes while creating a significant increase in the clarity of the Act for all stakeholders.

This legislation helps insure the Cortese-Knox-Hertzberg Act remains a vital and practical law that is consistently applied around the state. We appreciate your Committee's authorship and support of this bill, and your support of the mission of LAFCOs.

Yours sincerely,

JIM BAGLEY
Chair

cc: Members, Assembly Local Government Committee (ALGC)
Jimmy MacDonald, Consultant, ALGC
William Weber, Consultant, Assembly Republican Caucus
René LaRoche, Executive Director, CALAFCO

ASSEMBLY BILL

No. 1753

Introduced by Committee on Local Government

March 2, 2023

An act to amend Sections 56658 and 56882 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 1753, as introduced, Committee on Local Government. Local government: reorganization.

Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, provides the sole and exclusive authority and procedure for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts. The act requires a petitioner or legislative body desiring to initiate proceedings for a change of organization or reorganization to submit an application to the executive officer of the principal county. The act specifies when an application is complete and acceptable for filing, and requires the executive officer to immediately issue a certificate of filing when an application is accepted for filing, as specified.

Upon the filing of an application or a resolution pursuant to the act, but prior to the issuance of a certificate of filing, existing law requires the executive officer to give notice of the filing to the assessor and auditor of each county within which the territory subject to the jurisdiction change is located, as specified. Existing law prohibits the executive officer from issuing a certificate pursuant to the provisions described above until resolutions are adopted by specified counties and cities in which they agree to accept the exchange of property tax revenues. Existing law authorizes a county and any local agency within

the county to develop and adopt a master property tax transfer agreement, as specified.

This bill would, if applicable, prohibit the executive officer from accepting for filing an application for change or organization or reorganization and issuing a certificate of filing pursuant to the provisions described above, and would provide that an application is not deemed accepted for filing pursuant to the provisions described above, if an agreement for the exchange of property tax revenues has not been adopted pursuant to the provisions described above.

The act requires a local agency formation commission, after a hearing on a proposed change of organization, to, within 35 days of the hearing, adopt a resolution making determinations approving or disapproving the proposal, with or without conditions, as specified. The act requires the executive officer to mail a copy of the resolution to specified persons or entities.

This bill would recast that provision to require the executive officer to transmit a copy of the resolution to specified persons or entities, and would require the executive officer to confirm receipt by the intended recipient through electronic read receipt or other means if the executive officer transmits a copy of the resolution using email or electronic means.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 56658 of the Government Code is
2 amended to read:
3 56658. (a) Any petitioner or legislative body desiring to initiate
4 proceedings shall submit an application to the executive officer of
5 the principal county.
6 (b) (1) Immediately after receiving an application and before
7 issuing a certificate of filing, the executive officer shall give mailed
8 notice that the application has been received to each affected local
9 agency, the county committee on school district organization, and
10 each school superintendent whose school district overlies the
11 affected territory. The notice shall generally describe the
12 application and the affected territory. The executive officer shall
13 not be required to give notice pursuant to this subdivision if a local

1 agency has already given notice pursuant to subdivision (c) of
2 Section 56654.

3 (2) It is the intent of the Legislature that an application for
4 incorporation or disincorporation shall be processed in a timely
5 manner. With regard to an application that includes an
6 incorporation or disincorporation, the executive officer shall
7 immediately notify all affected local agencies and any applicable
8 state agencies by mail and request the affected agencies to submit
9 the required data to the commission within a reasonable timeframe
10 established by the executive officer. Each affected agency shall
11 respond to the executive officer within 15 days acknowledging
12 receipt of the request. Each affected local agency and the officers
13 and departments thereof shall submit the required data to the
14 executive officer within the timelines established by the executive
15 officer. Each affected state agency and the officers and departments
16 thereof shall submit the required data to the executive officer within
17 the timelines agreed upon by the executive officer and the affected
18 state departments.

19 (3) If a special district is, or as a result of a proposal will be,
20 located in more than one county, the executive officer of the
21 principal county shall immediately give the executive officer of
22 each other affected county mailed notice that the application has
23 been received. The notice shall generally describe the proposal
24 and the affected territory.

25 (c) Except when a commission is the lead agency pursuant to
26 Section 21067 of the Public Resources Code, the executive officer
27 shall determine within 30 days of receiving an application whether
28 the application is complete and acceptable for filing or whether
29 the application is incomplete.

30 (d) *(1) If applicable, the executive officer shall not accept for*
31 *filing an application for a change of organization or reorganization*
32 *and issue a certificate of filing pursuant to subdivision (f) and an*
33 *application shall not be deemed accepted for filing pursuant to*
34 *subdivision (e) if an agreement for the exchange of property tax*
35 *revenues has not been adopted pursuant to paragraph (6) of*
36 *subdivision (b) or subdivision (d) of Section 99 of the Revenue and*
37 *Taxation Code.*

38 (2) The executive officer shall not accept an application for
39 filing and issue a certificate of filing for at least 20 days after giving
40 the mailed notice required by subdivision (b). The executive officer

1 shall not be required to comply with this subdivision in the case
2 of an application which meets the requirements of Section 56662
3 or in the case of an application for which a local agency has already
4 given notice pursuant to subdivision (c) of Section 56654.

5 (e) If the appropriate fees have been paid, an application shall
6 be deemed accepted for filing if no determination has been made
7 by the executive officer within the 30-day period. An executive
8 officer shall accept for filing, and file, any application submitted
9 in the form prescribed by the commission and containing all of
10 the information and data required pursuant to Section 56652.

11 (f) When an application is accepted for filing, the executive
12 officer shall immediately issue a certificate of filing to the
13 applicant. A certificate of filing shall be in the form prescribed by
14 the executive officer and shall specify the date upon which the
15 proposal shall be heard by the commission. From the date of
16 issuance of a certificate of filing, or the date upon which an
17 application is deemed to have been accepted, whichever is earlier,
18 an application shall be deemed filed pursuant to this division.

19 (g) If an application is determined not to be complete, the
20 executive officer shall immediately transmit that determination to
21 the applicant specifying those parts of the application which are
22 incomplete and the manner in which they can be made complete.

23 (h) Following the issuance of the certificate of filing, the
24 executive officer shall proceed to set the proposal for hearing and
25 give published notice thereof as provided in this part. The date of
26 the hearing shall be not more than 90 days after issuance of the
27 certificate of filing or after the application is deemed to have been
28 accepted, whichever is earlier. Notwithstanding Section 56106,
29 the date for conducting the hearing, as determined pursuant to this
30 subdivision, is mandatory.

31 SEC. 2. Section 56882 of the Government Code is amended
32 to read:

33 56882. (a) The executive officer shall ~~mail~~ *transmit* a copy of
34 the resolution adopted by the commission making determinations
35 addressed to each of the following persons or entities:

36 ~~(a)~~

37 (1) The proponents, if any, where the proceedings for change
38 of organization were initiated by petition.


39 ~~(b)~~

- 1 (2) Each affected local agency whose boundaries would be
2 changed by the proposal.
3 (b) *If the executive officer transmits a copy of the resolution*
4 *using email or electronic means, the executive officer shall confirm*
5 *receipt by the intended recipient through electronic read receipt*
6 *or other means.*

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LOCAL AGENCY FORMATION COMMISSION FOR SAN BERNARDINO COUNTY

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DATE: APRIL 12, 2023 
FROM: SAMUEL MARTINEZ, Executive Officer
TO: LOCAL AGENCY FORMATION COMMISSION

SUBJECT: AGENDA ITEM #14: EXECUTIVE OFFICER'S REPORT

REMINDER:

The Commission will be meeting next month, May 17, 2023, to formally adopt amendments to its Policy and Procedures Manual, an update to its Fee Schedule, as well as its Adopted Budget for FY 2023/24.

PROPOSAL UPDATES:

LAFCO 3258 (Mountain View Avenue Bridge Reorganization) – As noted at the last EO Report, the Certificate of Completion for LAFCO 3258 will be issued upon completion of the required condition for County Fire to take its action to expand the boundaries of its service zones to include the LAFCO 3258 area (Condition No. 7). County Fire is aware of what it needs to do to accomplish the required condition and has until June 20, 2023 to submit the necessary documents to complete said condition.

SOUTHERN REGION LAFCOs:

The Southern Region LAFCOs quarterly meeting occurred on Tuesday, April 11, 2023. In attendance were Commissioner Warren and staff members Martinez and Tuerpe.

BARSTOW CEMETERY DISTRICT:

At the March meeting during Commissioner Comments, staff was informed that issues were brought up at the Board of Supervisors meeting regarding Barstow Cemetery District. Staff indicated that a service review was conducted in December 2020 with continued monitoring that ceased in early 2022. Staff has contacted the District and will conduct a site visit in the coming weeks and will provide the Commission with a new update soon after.

STAFF PRESENTATIONS AND ATTENDANCE:

- As the Commission may recall, this LAFCO completed a special study of the Morongo Valley CSD in January 2022 and staff presented the service review at a CSD board meeting in February 2022. However, the CSD board and staff leadership has experienced turnover, and the current board requested a follow on presentation from LAFCO. At the CSD's March 15 meeting I provided a presentation on LAFCO (e.g. authority, governance, role).
- On April 5, Mr. Tuerpe and I attended the City of Chino's community meeting regarding a pending application for the East End Annexation to include the Philadelphia Street Industrial Development located at the northwest corner of Philadelphia Street and East End Avenue. The study area is located immediately west of East End Avenue and both north and south of Philadelphia Street.
- The CALAFCO Staff Workshop takes place April 26-28 in Murphys (Calaveras County). Mr. Tuerpe and I will be presenters at the workshop.