

**RESOLUTION NO. 249**

**A RESOLUTION OF THE FRESNO LOCAL AGENCY FORMATION COMMISSION  
CONSIDERING AN UPDATE OF THE POLICY MANUAL.**

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**WHEREAS**, pursuant to Government Code section 56375, this Commission has the authority to adopt its own Policies, Standards, and Procedures; and

**WHEREAS**, on April 3, 1986, this Commission did formally adopt Fresno LAFCo Policies, Standards, and Procedures; and

**WHEREAS**, this Commission periodically reviews and amends its Policy Manual; and

**WHEREAS**, on July 9, 2008, this Commission adopted Policy Section 730 "Destruction of Records" pursuant to Government Code section 56382; and

**WHEREAS**, in 2022, a series of workshops were taken to the Commission for discussion and a sub-committee was formed to amend the Commissions Policies; and

**WHEREAS**, on June 8, 2022, the update to the Commission's Policies was adopted, in which section 730 was removed and was to be referenced in the Financial and Accounting Procedures; and

**WHEREAS**, in June 2023, the Commission approved request from staff to archive and destroy LAFCo records pursuant to Govt. Code Sec 56382; and

**WHEREAS**, staff recommends the Destruction and Retention Policy be added back into the Commission Policies as Section 700; and

**WHEREAS**, the Commission considered all relevant factors and evidence and heard all interested parties wishing to speak on said policy amendments.

**NOW, THEREFORE, BE IT RESOLVED that the Fresno Local Agency Formation Commission does HEREBY DETERMINE AND ORDER as follows:**

This Commission approved the update to its Policy Manual set forth in Attachment "A."

**ADOPTED THIS 10<sup>TH</sup> DAY OF JULY 2024 BY THE FOLLOWING VOTE:**

**AYES: COMMISSIONERS MAGSIG, SANTOYO, YEP, MENDES**

**NOES: NONE**

**ABSENT: COMMISSIONER PARRA**

**ABSTAIN: NONE**

STATE OF CALIFORNIA)  
COUNTY OF FRESNO )

CERTIFICATION

I, Brian Spaunhurst, Executive Officer, Fresno Local Agency Formation Commission, hereby certify that the foregoing resolution was adopted by the Commission on the 10<sup>th</sup> day of July 2024.



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Brian Spaunhurst  
Fresno Local Agency Formation Commission

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**Attachment A**

**FRESNO LOCAL AGENCY FORMATION COMMISSION**

**POLICIES, STANDARDS, AND PROCEDURES MANUAL**

**Adopted April 3, 1986**  
**Last revised July 10, 2024**

**COMMISSIONERS**

Buddy Mendes, Chair, County of Fresno  
Mario Santoyo, Chair Pro Tempore, Public Member  
Nathan Magsig, County of Fresno  
Daniel Parra, City of Fowler  
Gary Yep, City of Kerman

**ALTERNATE COMMISSIONERS**

Vacant, County of Fresno  
Scott Robertson, City of Selma  
Mike Lopez, Public Member

**COMMISSION STAFF**

Brian Spaunhurst, Executive Officer  
Amanda Olivas, Clerk to the Commission  
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## Fresno Local Agency Formation Commission

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July 10, 2024

To interested parties,

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH) establishes a local agency formation commission (LAFCo) in each county to implement procedures for local government changes of organization, including city incorporations, annexations to a city or special district, and city and special district consolidations.

LAFCos have numerous powers under CKH, but those of primary concern are the power to act on local agency boundary changes and to adopt spheres of influence for local agencies.

CKH authorized LAFCo to carry out municipal service reviews and special studies of local agencies (cities and special districts) prior to adopting a sphere of influence for these agencies.

Pursuant to Government Code section 56300(a), on December 19, 2001, the Fresno LAFCo established the written policies and procedures contained in this policy manual to exercise its powers pursuant to CKH in a manner consistent with those policies and procedures and that encourages and provides planned, well-ordered, efficient urban development patterns with appropriate consideration of preserving open-space and agricultural lands within those patterns.

All procedures, regulations, and requirements of the CKH are hereby incorporated by reference into this Manual.

Amendments pursuant to CKH concerning specific sections of this policy manual supersede existing Commission policies, standards, and procedures.

Unless otherwise noted, all statutory references herein are to the California Government Code.

Sincerely,

Buddy Mendes  
Chair

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## **SECTION 000 PURPOSE**

### Discussion

It is the policy of Fresno LAFCo to encourage orderly growth and development of cities and special districts in Fresno County.

The logical formation and determination of city and special district boundaries promotes orderly development and balances that development with sometimes competing state interests of discouraging urban sprawl, preserving open-space and prime agricultural lands, providing housing for persons and families of all incomes, and efficiently extending government services.

Fresno LAFCo policies promote the logical formation and modification of the boundaries of cities and special districts, 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.

In order to carry out its purposes and responsibilities for planning and regulating orderly, logical and efficient growth and development, which includes the coordination of local governmental agencies subject to the jurisdiction of the commission, and advantageously providing for the present and future needs of the county and its communities, the Fresno Lafco has developed and determined the sphere of influence of each city and each special district within the county and enacted policies designed to promote the logical and orderly development of areas within the sphere.

State law provides for the basic purposes of the Commission powers and duties, establishment of policies, procedures, and regulations, in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code sec. 56000 *et seq.*, also “CKH”), as amended. Other sections of the Government Code (hereafter “GC”) also describe the Commission responsibilities. In many cases, the pertinent GC sections are cited in this Manual to explain the authority for a particular policy, standard, and procedure.

Reference: December 19, 2001

## **SECTION 100 COMMISSION POLICIES**

### Discussion

LAFCo’s policies and procedures have been established to permit the Commission to exercise its powers in a manner that encourages orderly, logical, and efficient growth, development, and services.

Reference: February 26, 1992; December 19, 2001

**101 Encourage orderly, logical, and efficient development of local agencies in their sphere of influence.**

1. A sphere of influence is a plan determined by the commission for the probable physical boundaries and service area of a local agency.
2. The Commission will determine the probable physical boundaries of the agency using a planning horizon that forecasts expansion of the local agency's service area within 20 years of the SOI approval.
3. The Commission shall consider the affected local agency's capacity to provide an adequate level and range of services when considering amendments of the agency's sphere of influence.
4. The Commission will evaluate sphere of influence amendments in light of the local agency's adopted plans and policies including, but not limited to, its general or master plan and related CEQA documents, service plans, and the financial ability of the affected local agency to provide services.
5. All proposals for a change of organization or reorganization shall conform with the affected local agency's sphere of influence.
6. The Commission encourages changes of organization such as consolidations, mergers, dissolutions, where the result will be better service, reduced cost, and/or more efficient and visible administration of services to public.

**102 The Commission discourages formation of new local agencies.**

1. To reduce and minimize the number of agencies providing services, proposals for formation of new special districts are discouraged unless:
  - a. There is evidence from the landowners and/or residents of a clear need for the proposed special district's services;
  - b. There are no existing agencies that are able to annex and provide similar services; and
  - c. The proposal demonstrates the financial ability of the new agency to provide services.

**103 Local agencies are responsible for annexation planning in their spheres of influence.**

1. Each local agency is encouraged to implement an orderly, phased annexation program pursuant to the Annexation Program Guidelines (Appendix A).
2. A proposed annexation should not be approved solely because the affected territory falls within the sphere of influence of a local agency. The sphere of influence is one factor among several that the Commission considers when reviewing proposals.

**104 The Commission discourages service extensions.**

1. Pursuant to GC sec. 56133 *et seq.*, a city or district may provide new or extended services by contract or agreement outside its jurisdictional boundary only if it first requests and receives written approval from the commission.
2. Extension of services by a local agency outside its sphere of influence is prohibited unless it

is in response to an existing or impending threat to the health or safety of the public or the residents of the affected territory.

3. The Commission requests that extensions of service be granted to those parties that agree to not protest a future annexation.

**105 Cities should be the provider of municipal services within their sphere of influence.**

1. Cities should be the provider of municipal services within their sphere of influence due to their higher visibility, their substantially broader sources of revenue, and their historical and legal right to provide services to citizens within their boundaries, particularly land use planning services and controls.

**106 The Commission supports transition agreements where a special district's service area is within a city's sphere of influence.**

Discussion

The following policies apply where a special district's service area is within a city's sphere of influence, and it is reasonably foreseeable that the special district's service area will be reduced over time by detachments when territory is annexed to a city. If a special district relies on funding from general purpose *ad valorem* property tax revenue from property in its service area, detachments will lower its tax base and property tax revenue. Although the special district would no longer directly provides services to detached properties, its district-wide and inter-agency service obligations may not be reduced commensurately and may, in fact, increase. The consequence of reduced revenue and increasing service obligations is of concern to the Commission.

1. Cities whose sphere of influence includes a special district's service area are encouraged to develop comprehensive annexation policies that anticipate the total inclusion of the district's territory into a city's limits.
2. These policies should support agreements between cities and special districts to address the local agencies' respective interests to orderly transition services and revenue between agencies.
3. The city's proposed services in the affected territory to be annexed to the city should be of equal or higher quality than the detaching special district's services provided in that territory.
4. When a reorganization proposes to annex territory to a city and detach from a fire protection district (hereinafter, a "City/Fire Protection District Reorganization"), evidence of a current transition agreement to provide for the orderly transition of services from the district to the city shall be required as a part of a complete application.
5. The Commission may impose its own conditions of approval to ensure an orderly transition of services. Such conditions shall be deemed to satisfy this policy.

The Commission is not a party to these agreements and other than the terms specified in section 1, above, will not dictate the terms of the transition agreement. The intent of the transition agreement is to provide for the orderly transition of services. Therefore, the Commission expects the parties to negotiate the transition agreements in good faith and to obtain terms and conditions in such agreements that are reasonable under the circumstances.

6. Applicants for a City/Fire Protection District Reorganization—whether by application of the city, by a private party, or by petition—shall include a copy of the transition agreement as part of their complete application.
7. The Commission's imposition of conditions shall be consistent with GC sec. 56886 and may include, but not be limited to, the transfer of fire stations, personnel, equipment, and/or property tax revenues. The Commission may at its discretion include additional conditions of approval not otherwise contained in the staff report.

**107 The Commission encourages annexation of developed and developing land within cities' spheres of influence.**

1. All developed land inside a city's sphere of influence is encouraged to annex to the city.
2. Each city shall develop plans, procedures, or standards to annex developed or developing territory in its sphere of influence.
3. All unincorporated islands and substantially surrounded areas within a city sphere of influence are encouraged to annex to the city.

**108 Encourage orderly urban development and preservation of open space.**

1. The Commission encourages well-planned, orderly, and compact urban development patterns for all developing areas.
2. Local agencies that provide municipal services are encouraged to develop and implement plans and policies which will provide for well-planned, orderly, and compact development patterns, with consideration of preserving permanent open space lands within those urban patterns.
3. Development of existing vacant non-open space and non-prime agricultural land within an agency's boundaries is encouraged.
4. Annexation proposals to cities shall demonstrate that planned development is imminent for all or a majority of the proposal area by either demonstrating that existing use of the proposal is consistent with the affected city's general plan or by providing evidence of an approved site plan review or tentative subdivision map with an annexation application.
5. Proposals resulting in non-contiguous urban or rural residential development patterns are discouraged.

6. Orderly growth of cities is supported by applications for change of organization and reorganization that demonstrate development of the affected territory is imminent by evidence of an approved tentative map, site plan review, or other land use permit.
7. The Executive Officer shall record the approved change of organization or reorganization once he or she has determined that the facts pertaining to the application during the time of recording are materially similar to those facts considered by the Commission when the application was approved. Facts, as used in the proceeding sentence, is defined to include, but not be limited to, whether or not the proposed project is materially similar to the project described in any application before the Commission.

Amended: February 18, 2015

**109 Encourage conservation of prime agricultural lands and open space areas.**

1. Proposals that conflict with a city's general plan to maintain the physical and economic integrity of open space lands, agricultural lands, or agricultural preserves, are discouraged.
2. Annexation of existing vacant within an agency's sphere of influence is encouraged prior to expansion of a city sphere of influence.
3. Development shall be guided toward areas containing non-prime agricultural lands, unless such action will promote unplanned, disorderly, inefficient development of the community or area.

**110 Provide public access to the commission via the internet.**

1. The Commission has established and will maintain, or otherwise provide access to notices and other Commission information for the public through an Internet website. Notice of all public hearings and Commission meetings shall be made available in electronic format on that site. The Commission's web site is <http://www.fresnolafco.org>
2. The commission encourages all cities and special districts to establish and maintain websites pursuant to AB 949.

Reference: December 19, 2001

**111 LAFCo Disadvantaged Unincorporated Communities Policies**

1. For the purposes of this policy, a DUC is an inhabited unincorporated territory with an annual median household income that is less than 80 percent of the statewide annual median household income as defined in GC sec. 56046 and Water Code sec. 79505.5, all as amended, and presents at least 15 dwelling units at a density not less than one unit per acre.
2. LAFCo has determined that, as of the date of the adoption of this policy, there may be a deficiency in census data to accurately assess median income in unincorporated communities. As a result, LAFCo shall consider various sources of information to determine

whether a DUC exists.

3. Cities and special districts are required to identify DUCs within or contiguous to their boundaries in their applications for Commission action.
4. An MSR conducted by LAFCo for a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection, shall identify any DUCs within or contiguous to the sphere of influence of that city or special district and describe the present and probable needs or deficiencies for the provision of those public facilities or services to such DUC.
5. For any updates to 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, the Commission shall consider and prepare written determinations regarding the present and probable needs and deficiencies for those public facilities and services for any DUC within or contiguous to the sphere of influence of the city or special district.
6. The Commission shall not approve an annexation to a city of any territory greater than 10 acres, where there exists a DUC that has been identified and evaluated in any MSR or Sphere of Influence Update for that city or has been subsequently identified by staff to be contiguous to the area of the proposed annexation unless an application to annex the DUC to the subject city has been filed with the LAFCo Executive Officer.
7. Pursuant to Government Code 56375(a)(8)(B), an application to annex a contiguous DUC shall not be required if either of the following facts are present: (i) a prior application for annexation of the same DUC has been made in the preceding five (5) years; or (ii) the Commission finds, based upon written evidence sufficient to the Commission, that a majority of the residents within the affected DUC are opposed to annexation.

"Written evidence" may be in the form of annexation survey results from residents of the DUC. The Commission shall be provided a copy of any mailing list used to collect this survey. The survey must be completed no longer than eighteen (18) months before the filling of underlying annexation proposal. The following must be included as part of the survey:

- a. Survey Cover Letter;
- b. Survey;
- c. Map of proposed annexation area and DUC in relation to existing city boundaries;
- d. Information about city services (a review of the types of services, timing of when the services would be provided and financing of the services), effects of city/zoning/land use and city elections.

All information sent to residents in DUCs should be in English and Spanish, and any other languages reasonably calculated by LAFCo to be understood by a majority of the residents of a household in the area.

8. A DUC that is identified to be within 300 feet of the underlying annexation is sufficient to start the annexation proceedings for a DUC.

9. The processing costs for DUC annexation, including but not limited to application fees and fire transition expenses, are the responsibility of the applicant.

Reference: January 9, 2013

## **112 Municipal Service Review policy**

### Discussion

Pursuant to GC sec. 56430, in order to prepare and to update spheres of influence (SOI) in accordance with GC sec. 56425, the Commission shall conduct a review of the municipal services provided by a local agency. A municipal service review (MSR) is a comprehensive study prepared by LAFCo to inform local agencies, the public, and LAFCo about municipal services provided by local agencies within a designated geographic area. LAFCo evaluates the municipal services provided by one or more local agencies, makes determinations based upon this information and may recommend actions to promote the efficient provision of those services.

An MSR need not be prepared if no action to prepare or update a SOI is proposed, though LAFCo may choose to prepare a MSR at its discretion.

Pursuant to GC sec. 56430, LAFCo must make the following written determinations regarding the following areas:

- Growth and population projections for the affected area.
- The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence (see Policy 106, LAFCo DUC Policies).
- Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged, unincorporated communities within or contiguous to the sphere of influence.
- Financial ability of agencies to provide services.
- Status of, and opportunities for, shared facilities. Accountability for community service needs, including governmental structure and operation efficiencies.
- Any other matter related to effective or efficient service delivery, as required by commission policy.

An MSR concludes with adoption of the determinations by the Commission. While the Commission is not required by law to make any changes to a SOI based upon MSRs, the Commission may at its discretion opt to shrink or expand an SOI, or approve, deny, or approve with conditions any change of organization or reorganization impacting the governmental agency as a result of the information contained in the MSR. The Commission's determinations may result in recommendations to the subject local agency regarding the areas specified by the statute. When recommendations are made, they will be conveyed to the local agency for response and/or action.

1. The goal of the Fresno LAFCo MSR program is to provide cities and special districts with an assessment on their provision of services, make recommendations regarding areas of improvement, and determine whether an agency is equipped to effectively provide services within its existing or expanded SOI.

2. In order to achieve this goal, MSRs will:
  - a. Evaluate a local agency—including, but not limited to, services delivered by the agency or other agencies, the agency’s compliance with its principal act, activities of its legislative body, the agency’s managerial practices, sufficiency of its annual budget, presence of an agency’s long-range plan for services, opportunities for public participation at its legislative body’s meetings, and the agency’s compliance with "sunshine" laws, such as the Brown Act—in order to present thoughtful and accurate information in support of Commission determinations;
  - b. Provide recommendations to encourage effective and efficient municipal service delivery;
  - c. Build and maintain effective relationships between LAFCo and local agencies; and
  - d. LAFCo actively encourages local agencies affected by these policies to include LAFCo at the beginning of any city planning application that may result in an annexation or SOI amendment or extension of services.
3. The term “municipal services” relates to services provided by cities and many special districts to relatively dense populations at comparatively high levels of service, including:
  - Public safety (police, fire, building inspection, etc.);
  - Public utilities including solid waste collection and disposal, wastewater collection and treatment, domestic water production, treatment and distribution, and electricity;
  - Land use authority including planning, code enforcement, and building code enforcement;
  - Parks and recreation;
  - Public facilities;
  - Airports;
  - Public transit;
  - Improvement, maintenance, repair, and operation of streets and highways;
  - Flood control; and
  - Water supply, drainage, storage, and conservation.

“Municipal service” also encompasses a service or function provided to one local agency by a contract with another local agency, as permitted by GC sec. 54981.

There are other types of services provided by local agencies that may not be considered “municipal,” and do not in themselves facilitate or induce growth. However, LAFCo deems it appropriate to include the local agencies that provide these services in the MSR program as their services were deemed necessary when the local agency was formed and are provided within a specified geographic area under the authority of the California Code. Further, performance of a MSR for a non-municipal service provider permits the full expression of LAFCo goals with all local agencies under its jurisdiction.

4. Environmental Determination. Local agencies that request a SOI amendment that is consistent with the agency’s general or master plan are expected to be the lead agency as defined by the California Environmental Quality Act (CEQA, PRC sec. 21067). The lead agency has the principal responsibility for carrying out or approving a project which may have a significant affect upon the environment. The lead agency will conduct all necessary environmental determinations as appropriate under CEQA (i.e., notice of exemption, negative declaration, environmental impact report). Under this circumstance, LAFCo will be



a responsible agency as defined by CEQA (PRC sec. 21069). This relationship should be clearly identified in the lead agency's CEQA documentation, as well as the requested actions (annexations and/or detachments) anticipated by the lead agency in its environmental analysis.

When LAFCO initiates an MSR, it will be the lead agency and will prepare the appropriate documentation pursuant to CEQA.

5. MSR Preparation. The Commission shall conduct a programmatic update of a local agency's MSR before, or in conjunction with, but no later than the time it is considering an action to update a sphere of influence.

The Executive Officer will assess local agencies' spheres of influence as necessary, by reviewing the current MSR, and contacting the local agency to determine the following:

- the local agency's progress on the Commission's earlier MSR recommendations,
- the adequacy of its current SOI, and
- whether the current SOI is consistent with its long-range plans.

If staff determines that an amendment to a sphere of influence may be necessary and would necessitate an update of that agency's MSR, it may provide local agencies with an MSR questionnaire for them to complete and may request additional information. Once this information is received, staff will prepare a draft MSR.

A local agency may also be provided with a MSR template to complete and submit as an administrative draft document subject to LAFCo staff's review for documentation, completeness, and thorough analysis.

The adoption of a MSR is not subject to a statutory public hearing (GC sec. 56430). However, to allow for public participation that demonstrates a transparent decision-making process, the following actions will take place:

- The draft MSR shall be posted on the Commission's website for a 21-day public review period;
- Notice of the public review period will be posted at the offices of Fresno LAFCo and the Clerk of the Board of Supervisors and on the Commission's website; and
- Notice will be mailed or e-mailed to the subject local agency to be posted in its jurisdiction.

6. The following MSR policies will assist LAFCo staff in preparing MSRs and complying with CKH. These policies are based on circumstances unique to Fresno LAFCo and as such will ensure that municipal services are evaluated in an orderly, logically, and efficient manner.

1. The SOI should reflect a 20 -year planning horizon and may include additional areas that may relate to the agency's planning. This boundary shall be reviewed and either affirmed or, if necessary, updated on average of every five years thereafter.
2. The Commission will evaluate proposed SOI amendments in light of many of the local agency's own adopted plans and policies including, but not limited to, its general or master plan and related CEQA documents, service plans, annual budgets, fee structure, and capital

improvement plans.

3. MSRs may be updated independently from an SOI modification, either to facilitate review of an agency's service deficiencies or in response to other LAFCo actions.
4. The Commission reserves the right to have an MSR prepared by a consultant under contract with the Commission and associated expenses may be borne by the requesting local agency.

Adopted: November 5, 2014

Reference: December 14, 2016, September 11, 2019

## **SECTION 200 STANDARDS FOR CHANGES OF ORGANIZATION**

As authorized by State law, the Commission has adopted the following standards to review proposals. Each standard is developed from the factors to be considered presented in GC sec. 56668 and the preceding Commission policy statements. Standards are developed for review of proposals for city annexation, district annexation, city incorporation, and district formation.

The purpose of these standards is to give indication of how the staff and Commission will evaluate a proposal and make recommendation and determination.

Generally, proposals should meet all standards to be approved. However, when appropriate, the Commission may waive a standard where evidence of overriding circumstances presented in the application and at the hearing warrant such a waiver.

Reference: February 26, 1992

### **210 Standards for annexation to cities and special districts that provide municipal services.**

Proposals shall be evaluated in light of following standards:

1. A proposal is consistent with the affected agency's sphere of influence and does not conflict with the goals and policies of the Commission.
2. A proposal to annex to a city is consistent with the affected City's land use plan by rezoning and approval of planning entitlement applications. Proposal to annex to a special district has been deemed consistent with the affected special district's service plan.
3. Proposal mitigates any significant adverse effect on continuing agricultural operations on adjacent properties by execution of a right-to-farm covenant.
4. Proposal is consistent with the affected city's general plan, is contiguous to the affected city, and demonstrates in its service plan that it will result in logical, orderly, and efficient service delivery.
5. Proposal shows that there is existing substantial development or gives an indication of imminent development in the form of an approved tentative subdivision map or site plan review, requiring municipal services.
6. Proposal's service plan demonstrates that development can be provided all necessary services, public improvements, and facilities.
7. Proposals that would create islands are discouraged. Boundaries should minimize creation of peninsulas and corridors and should include any developed islands or substantially surrounded area with the proposed developing area.
8. There is a timely availability of water supplies adequate for projected needs as specified in GC sec. 65352.5.

9. Prezoning Requirement
  - a. Prior to the affected city or petitioner submitting an application to the Commission for a proposed annexation the affected territory must be prezoned consistent with the city's general plan.
  - b. When territory has been prezoned, a copy of the enacted ordinance bill verifying that required prezoning has been applied to territory included in an annexation proposal shall be submitted to the Executive Officer as a part of a complete application. An application for annexation to a city will be deemed incomplete without submission of certified copies of the prezoning ordinance or a Clerk's Certification indicating the prezoning has occurred.
  - c. The Commission shall not specify how, or in what manner, territory shall be prezoned nor shall the Commission impose any conditions that would directly regulate land use density or intensity, property development, or subdivision requirements (GC sec. 56886).
  - d. The applicant for a proposed annexation must participate in at least one pre-application meeting with LAFCo staff (or in the case of landowner petition a representative from the city) prior to applying for annexation to LAFCo. All territory to be included in a proposed annexation shall be determined at the pre-application meeting(s). As a general rule, inclusion of additional territory (if any) by LAFCo staff may be determined at the pre-application meeting(s).
  - e. As a general rule, including additional territory (if any) by LAFCo staff may be determined at the pre-application meeting(s). However, the Commission may determine to add additional territory to a proposed annexation to prevent the creation of unincorporated islands and/or peninsulas of land, to create more logical boundaries, or for any reason necessary to ensure orderly, logical, and efficient boundaries.
  - f. No subsequent change may be made to the general plan or zoning for territory included in an annexation to a city that has been prezoned or rezoned that is not in conformance with the city's general plan or zoning designations for a period of two years after the completion of the annexation. Changes to the land use designation or zoning can only be made if the legislative body for the city makes a finding at a public hearing with written notice provided no less than 21 days to the commission that a substantial change has occurred in circumstances that necessitate a departure from the prezoning in the application to the Commission (GC sec. 56375(e)).

Reference: August 27, 2003

## **220 Standards for annexation to special districts**

1. The proposed annexation to a special district is consistent with the affected special district's sphere of influence.
2. Services can be provided by the annexing special district as shown by the district's service plan and district annexation is the most economical and practical method of supplying services.
3. Proposal would not have a significant adverse operational or economic effect on subject or affected agencies, and on adjacent areas.
4. Proposal shows a benefit to landowners and residents in the affected territory.

Reference: December 19, 2001

### **230 Standards for evaluation of proposals in the unincorporated portion of cities' spheres of influence.**

#### Discussion

The Commission recognizes that cities and the County are considered "planning agencies" under GC sec. 65300 (Planning and Zoning Law) and are therefore responsible to prepare and adopt comprehensive, long-term general plans for the physical development of the territory under their respective jurisdiction, and of any land outside the cities' incorporated area which in their judgment bears relation to their long-term growth and development.

GC sec. 56425 requires that the Commission develop and determine the sphere of influence of each city and special district within the County and enact policies designed to promote the logical and orderly development of areas within those spheres. The SOIs typically include territory outside of a city's limits that is also planned for growth by its general plan.

Though the Commission does not adopt a SOI for the County, the County has land use jurisdiction over all unincorporated territories including those that are also within a SOI adopted by the Commission for a city or special district that provides municipal services.

The County's general plan land use diagrams are not frequently coordinated with that of the underlying city. In most cases known to LAFCo, the County's land use plans for territory in a city's SOI are obsolete, meaning that they have not been comprehensively updated in the current century and were not updated during a city's most recent general plan update.

As a consequence, even though both the cities and the County are complying with their respective planning and zoning obligations under law, there is a general disagreement between their respective land use plans in the unincorporated territory within cities' SOIs. The general disagreement being that County plans rely on historical land use practices related to agricultural or rural uses and, in contrast, the cities plan for future urban level residential, commercial, and industrial uses. Further, there is a marked difference between agricultural/rural development standards and those needed for urban uses.

The effect of this disagreement between land use plans is that the County's evaluation of planning and building activities in a city's unincorporated SOI can be at odds with the planning and development vision of a city's general plan.

When the Commission adopts a city's SOI, it does so to carry out its purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies. These responsibilities endure long after a SOI is adopted.

The following policies reflect LAFCo's continued interests in orderly and logical growth and development.

1. LAFCo will provide comment as it deems necessary on a range of development, planning, and building activities proposed in unincorporated territory within cities' spheres of

influence.

2. When development is proposed within the unincorporated portion of a city's sphere of influence the Commission recommends that such development be annexed to the city and in the event that this is not possible, that development standards applied by the County be consistent with the respective city's general plan and development standards.

## SECTION 300 PROCEDURES FOR EVALUATION OF APPLICATIONS

The Commission has adopted the following procedures in compliance with GC sec. 56375(g).

### 1. Information to be submitted.

Any proposal for a change of organization or reorganization shall contain sufficient information to determine that adequate services, facilities, and improvements can be provided and financed by the agencies responsible for the provision of such services, facilities, and improvements.

### 2. Pre-application review

The Commission recommends that each applicant participate in a pre-application review with LAFCo staff to provide applicants with information related to LAFCo laws, adopted policies, standards, and procedures, and provide a preliminary evaluation of the applicant's proposal.

Any staff comments associated with a pre-application review shall not bind the Commission in its consideration of any formal application.

A LAFCo pre-application review processing fee may be paid in accordance with Section 350. The fee shall be credited toward the formal application fee, should one be filed within one year from the date that the pre-application review processing fee was paid.

### 3. Complete Applications

All applications initiated by either petition or resolution shall not be considered as complete until submitted to the Commission together with the appropriate application requirements in the form required by the Commission and Executive Officer, and as provided by GC sec. 56652.

The minimum application requires are:

- a. A petition or resolution of application initiating the proposal.
- b. A statement of the nature of each proposal.
- c. A map and description, acceptable to the executive officer and the County Assessor, of the boundaries of the affected territory for each proposed change of organization or reorganization.
- d. Any data and information as may be required by any regulation of the commission.
- e. Any 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.
- f. The names of the officers or persons, not to exceed three in number, who are to be furnished with copies of the report by the executive officer and who are to be given mailed notice of the hearing, their physical addresses and email addresses.
- g. If the applicant is a local agency serving as the CEQA lead agency, the application will contain all pertinent environmental documents. If the applicant intends that LAFCo will serve as the lead agency a complete application will include the commission's adopted CEQA processing fee.
- h. Evidence of a property tax revenue sharing agreement pursuant to Revenue and Taxation Code.
- a. LAFCo application fee as presented in section 350.

### 4. Applications for a change of organization or reorganization submitted pursuant to this part, shall also include:

- a. A plan for providing services within the affected territory enumerating the information in GC sec. 56653.
  - b. Evidence that a required rezoning has been applied to territory included in an annexation;
  - c. Evidence of a current transition agreement between a city and a fire protection district
5. Additional information as may be deemed necessary by the executive officer.
  6. Within 30 days of the receipt of the application, the Executive Officer will make one of the following findings:
    - a. The application is complete and may be accepted for processing.
    - b. The application is not complete and will not be accepted for processing.
  7. In the event that an application is not accepted as complete, the applicant shall be notified in writing of the determination. The notice shall specify the additional information necessary to make the application complete.

### **303 Indemnification of the Commission by applicant**

To further good government practices and policies of the Commission, and protect the Commission from the costs associated with legal challenges, the Commission requires that:

1. All applicants shall sign a standard short-form legal indemnity agreement before an application is certified for filing by the Executive Officer. This agreement shall provide that the applicant shall indemnify, defend, and hold harmless the Commission, its agents, officers, attorneys, and employees from any legal challenges or appeals brought to challenge the review or approval as a result of the application.
2. At the discretion of the Executive Officer, the Commission may also require the applicant to enter into a comprehensive legal indemnity agreement providing for the terms of such indemnification and the reasonable costs incurred by the Commission associated with the preparation of such agreement shall be borne by the applicant. The comprehensive legal indemnity agreement shall be approved by the Executive Officer in consultation with LAFCo counsel.
3. In the event that a lawsuit has been filed, or if LAFCo Counsel or the Executive Officer have reasonable grounds to believe that a lawsuit will soon be filed, with the court to challenge the Commission's review or approval of a proposal, the Executive Officer shall submit an invoice to the applicant for a deposit to be held by the Commission to offset its litigation-related expenses. The amount of the deposit will be based upon the complexity of the matter as reasonably determined by the Executive Officer in consultation with LAFCo counsel.
4. The Executive Officer shall not issue a Certificate of Filing for an application unless a short-form or comprehensive indemnification agreement is executed by the applicant and all preparation fees have been paid.

Reference: August 13, 2008; August 8, 2012



### **304 Meeting and notice requirement**

1. Proponents of inhabited proposals shall conduct an informational meeting for the affected landowners and residents prior to the Commission's consideration of the proposal. For uninhabited proposals, similar information may be provided by mail. In both cases, notices to landowners and residents shall also be provided to LAFCo. If available, such notice shall include information of the LAFCo hearing.

Written documentation of the concerns and responses will be included in the LAFCo staff report to the Commission, with alternative boundaries and/or conditions, which will respond to the concerns of residents.

Reference: June 16, 1993

### **305 Affected agencies and interested parties' review.**

Agencies whose boundaries or sphere of influence are affected, county departments, affected local agencies, and other reviewing agencies will be provided by the executive officer with an opportunity to review and comment on the matter.

### **306 Revision of proposal boundaries**

1. The full width of contiguous public rights of way may be added to a proposal at the discretion of the executive officer.

2. Request for Revision.

An affected agency, landowner, or interested party may request a revision of the boundaries of any proposal to add or remove contiguous territory. Such a request in writing must be received by the executive officer at least 15 days prior to the hearing and shall clearly justify and give reasons for the requested revision and include a map of the revision. A revision may be subject to a fee, in accordance with the LAFCO Fee Schedule and may be subject to County review and rezoning by affected city.

3. Review of Revision

In the event of a revision, affected agencies and landowners shall be mailed a notice by LAFCO of the revision at least ten days prior to the hearing unless their consent is provided. Requests or revisions shall be reviewed in the same manner as the original proposal by the Executive Officer and the Commission and may be continued by the Commission from time to time.

4. Approval of Revision

When the Commission approves a revision of the boundaries from those proposed by the petition or resolution of initiation, a revised map and description shall be prepared and submitted to the Executive Officer, subject to approval by the County Assessor, prior to certification of completion.

Reference: January 24, 1990

### **307 Amendments to/reconsideration of Commission resolution**

In accordance with GC sec. 56895, a request to amend or reconsider a Commission resolution shall comply with the provisions of that section. A written request to request amendments to or reconsideration of a resolution shall be accompanied by the fee adopted by the Commission in section 350.

### **308 Extension of time to complete proceedings.**

1. Extensions of time to complete proceedings are generally disfavored by the Commission.
2. Prior to the date of expiration, staff shall notify the proponent of the pending termination of the proceedings.
3. The proponent may request an extension of time to be considered by the Commission at a public hearing. The request for an extension of time shall be comprised of the following, including any additional information deemed necessary by the executive officer:
  - a. Written request for an extension of time, including the requested period of time and appropriate fee as described in Commission fee schedule section 350.
  - b. Description of the changed circumstances of the project that have delayed completion of proceedings.
  - c. An explanation of the project's feasibility and what progress will be made to complete conditions of approval and all necessary prerequisite actions by any party.
  - d. Written confirmation from the city or district representative to which annexation is proposed supporting the extension request; a district located within the unincorporated area, written correspondence in support of the extension request shall also be provided from the County of Fresno.
4. A copy of the Commission agenda and the Executive Officer report on the request for an extension shall be conveyed via US Mail at least five days prior to the hearing to the Commission and alternates, the persons named in the original application, each affected agency, and any person or landowner requesting notice of hearing for the application.
5. The Executive Officer's report shall indicate when the application was initially approved, how many previous extensions have been granted, and discuss any other factors that bear on the viability of the proposal.
6. No more than one extension of time will be authorized by the Commission. Notwithstanding, any project in furtherance of the provision of governmental services on property owned by a governmental agency shall be eligible for additional extensions at the discretion of the Commission.

Reference: June 16, 1993; April 5, 1995; June 23, 1999; January 9, 2008; April 15, 2009; November 3, 2010; February 18, 2015

### **320 Extension of Service Procedures**

Pursuant to GC sec. 56133 *et seq.*, a city or district may provide new or extended services by contract or agreement outside its boundaries only if it requests and receives written approval from

the Commission.

On October 1, 2014, by resolution no. 127, the Commission delegated to the Executive Officer the authority to approve, disapprove, or approve with conditions applications for extended service.

Requests for approval of extension of service shall be by application in the form provided by the Commission. All requests will be reviewed for consistency with Commission policies and spheres of influence.

Pursuant to GC sec. 56133(e), contracts or agreement solely involving two or more public agencies are exempt from these procedures. A service enumerated in instant aid agreements, mutual aid agreements, or similar agreements for emergency response is also exempt from these procedures.

The following policies shall be used to evaluate applications for extended services.

1. It is the policy of Fresno LAFCo that authorization of an extension of a city service shall be conditioned on the property owners' agreement to not protest annexation.
2. "Extended service" is defined as either an extension of physical infrastructure (service mains or facilities), or the provision of one or more municipal services (including but not limited to solid waste or enhanced levels of fire or police services) by a public agency to territory is outside of the agency's city limit, service area, or sphere of influence.
3. The Executive Officer may deny applications for extended service if, in his/her opinion, the service is more appropriately provided through annexation or some other reasonable solution rather than by extended service.

The following procedure shall apply to applications for extended services:

- a. Within 30 days of receipt of an application for extended service the Executive Officer shall determine whether the application is complete and acceptable for filing or whether the application is incomplete.
- b. If the application is determined to be incomplete, the Executive Officer shall immediately transmit that determination to the applicant, specifying those parts of the application that are incomplete and the elements necessary to make the application complete.
- c. Applications for extended service outside of the affected local agency's sphere of influence shall include documentation of actual impending threat to public health and safety of the residents of the affected territory. Upon receipt of such an application, the executive officer shall notify any alternate service provider, including any water corporation as defined in Section 241 of the Public Utilities Code, or sewer system corporation as defined in Section 230.6 of the Public Utilities Code that has filed a map and a statement of its service capabilities with the Commission.
- d. When the application is deemed complete by the Executive Officer, the Executive Officer shall, within 90 days, approve, disapprove, or approve with conditions the contract for extended services.
- e. The Executive Officer may require as part of his or her conditioning authority a condition of approval that the property owner benefitting from the extended service shall covenant to not protest future annexation of the subject property.
- f. The Executive Officer's decision regarding an application for extended service shall be

conveyed by letter to the applicant in a timely manner.

- g. If the application is disapproved or approved with conditions, the applicant may request reconsideration pursuant to the criteria and time requirements specified in GC sec. 56895, citing the reasons for reconsideration.
- h. The Executive Officer shall provide a summary report to the Commission at the next available meeting.

See Appendix "D," Extension of Services Worksheet

Reference: August 24, 1994; December 19, 2001; October 1, 2014

### **330 Sphere of influence updates and revisions**

1. In order to carry out its purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies so as to advantageously provide for the present and future needs of the County and its communities, the Commission shall develop and determine the sphere of influence of each local agency under its jurisdiction within the County pursuant to these policies. This will promote the logical and orderly development of areas within the sphere (GC sec. 56425).
2. Under CKH, prior to a city submitting an application to the Commission to update its sphere of influence, representatives from the city and representatives from the County shall meet to discuss the proposed new boundaries of the sphere and explore methods to reach agreement on, development standards and planning and zoning requirements within the sphere to ensure that development within the sphere occurs in a manner that reflects the concerns of the affected city and is accomplished in a manner that promotes the logical and orderly development of areas within the sphere. If an agreement is reached between the city and County, the city shall forward the agreement in writing to the Commission, along with the application to update the sphere of influence. The Commission shall consider and adopt a sphere of influence for the city consistent with the policies adopted by the Commission pursuant to this section, and the Commission shall give great weight to the agreement to the extent that it is consistent with Commission policies in its final determination of the city sphere.
3. If the Commission's final determination is consistent with the agreement reached between the city and County, CKH provides that the agreement shall be adopted by both the city and County after a noticed public hearing.
4. If no agreement is reached between the city and County, the application may be submitted to the Commission and the Commission shall consider a sphere of influence for the city consistent with the policies adopted by the Commission pursuant to this section.
5. In determining the sphere of influence for each local agency, the Commission shall consider and prepare a written statement of its determinations with respect to those specific items set forth in GC sec. 56425 or as amended, which are summarized as follows:
  - 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 provides or is authorized to provide.
  - The existence of any social or economic communities of interest in the area.
  - For a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection, the present and probable need for those public facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.
6. Upon determination of a sphere of influence, the Commission shall adopt that sphere, and shall review and update, as necessary, the adopted sphere not less than once every five years.
  7. Upon determination of a sphere of influence of a special district, the Commission shall establish the nature, location, and extent of any functions or classes of services provided by the affected special district.
  8. The Commission's determination of a local agency's sphere of influence update shall be comprehensive, based on historical growth patterns, and use a twenty to twenty-five year planning horizon.
  9. The local agency's request for a sphere of influence update shall be supported by its long-range planning document: for a city, its general plan; for a special district, its master plan.

Reference: June 16, 1993; August 24, 1994; December 19, 2001; March 5, 2008

## SECTION 350 FEE SCHEDULE

### Discussion

The commission has established a schedule of fees and service charges pursuant to GC sec. 56383, including, but not limited to, the following:

- Filing and processing applications filed with the commission,
- Amending or updating a sphere of influence,
- Reconsidering a resolution making determinations,
- Proceedings undertaken by the commission and any reorganization committee.

GC sec. 56021 defines a "change of organization" as any of the following:

- a. A city incorporation.
- b. A district formation.
- c. An annexation to a city.
- d. An annexation to a district.
- e. A detachment from a city.
- f. A detachment from a district.
- g. A disincorporation of a city.
- h. A district dissolution.
- i. A consolidation of cities.
- j. A consolidation of special districts.
- k. A merger of a city and a district.
- l. Establishment of a subsidiary district.
- m. The exercise of new or different functions or classes of services, or divestiture of the power to provide particular functions or classes of services, within all or part of the jurisdictional boundaries of a special district.

GC sec. 56073 defines a "reorganization" as two or more changes of organization contained within a single proposal. For example, an annexation to a city may require detachment from an underlying special district. If a reorganization consists of annexations and detachments only, the fee for only one change of organization, whichever is larger, is charged. If other types of changes of organization are included, fee for each change of organization may be charged at the discretion of the executive officer.

#### 1. Application Processing Fees

GC sec. 56069 defines a "Proposal" as a desired change of organization or reorganization initiated by a petition or by resolution of application of a legislative body or school district for which a certificate of filing has been issued.

#### 2. Fee based on acreage of entire affected territory.

Proposal acreage shall be determined by rounding to nearest whole number the combined gross acreage of all affected parcels as shown on the Assessor's Parcel Map and shall include the full rights of way of adjacent public streets.

#### 3. Fee schedule for changes of organization, reorganization

Under 3 acres:	\$ 1,200
3 to 5 acres:	\$ 2,400

6 to 10 acres:	\$ 4,800
11 to 20 acres:	\$ 7,200
21 to 40 acres:	\$ 9,600
41 to 80 acres:	\$ 12,000
81 to 160 acres:	\$ 14,400
Over 160 acres:	\$ 16,800

4. Exceptions

Dissolution of a special district initiated by resolution of the affected special district	\$ 2,400
Merger, formation of a subsidiary district	\$ 8,000
Consolidation	\$ 8,000
Activation or divestiture of special district power(s)	\$ 2,400

Incorporation or disincorporation of a city, or formation of a special district requires a \$10,000 deposit and will be billed at cost for staff's time including legal services, government fees and charges, and for any consultant(s) that may be required, plus 9% administration fee.

5. Sphere of Influence Revision

The application fee for a sphere of influence amendment shall be equivalent to the application processing fee for an equivalent change of organization or reorganization.

If an application for a sphere of influence amendment is submitted at the same time as a conterminous change of organization or reorganization, the fee for the sphere of influence amendment is 35% of the fee of the corresponding change of the organization or reorganization.

6. Request for Commission Review \$750

"Commission review" is defined as:

- A request for extension of the time for completion of proceedings,
- A request to reconsider a resolution making determinations, or
- A request for Commission authorization of an extension of services.

7. Petition Check \$ 40 + \$0.65 signature check, per signature

8. Compliance with CEQA where LAFCo is the Lead Agency

The fee for required CEQA environmental assessment, including, but not limited to preparation of an environmental impact report, shall be a deposit of the estimated amount required to perform this activity.

9. Financial Feasibility Report

When the commission is requested to review a financial feasibility report the fee shall be a deposit of the estimated amount required to perform this activity.

10. Copies of Papers on File

Any request for copies of any documents on file in the office of the Commission will be \$1.00 each page and \$0.75 after 10 pages, and as necessary to recover costs of making such copies

and any mailing costs.

11. Exceptions to Required Fees

The Commission may reduce or waive any processing fee by a four-fifths affirmative vote if the imposition of such fee would be detrimental to the public interest, as determined by the Commission. Any change specifically recommended by the Commission in a study approved by Commission may not require a fee. Requests must be made in writing.

12. Legal Fees for proposal processing shall be a deposit of estimated amount required.

13. Pre-Application review \$500.

14. Use of Consultants

If staff finds it necessary to hire a consultant to assist with the analysis of a proposal, the applicant will be responsible for depositing the expenses associated with the consultant's work, plus 15% of the total consulting fee for administration of the contract, with the Commission prior to approval of the contract. The contract will be approved in accordance with Fresno LAFCo's Financial and Accounting Procedures. If actual expenses exceed the original deposit, those additional funds plus the administrative fee shall be paid to LAFCo prior to final consideration of the proposal by the Commission.

Reference: November 29, 1978; July 1, 1984; February 19, 1987; April 16, 1987; December 10, 1987; July 1, 1991; July 1, 1992; June 16, 1993; May 25, 1994; June 28, 1995; July 1, 1995; August 23, 1995; September 1, 1998; August 13, 2008; August 11, 2010; November 2, 2011; December 14, 2016



## **SECTION 400 PROCEDURE FOR PREPARATION OF SERVICE PLANS**

1. Pursuant to GC sec. 56653, the applicant of a proposal for a change of organization or reorganization shall submit a plan prepared by the affected local agency for providing services within the affected territory. The plan for providing services shall include the following information and any additional information required by the commission or the executive officer:
  - a. An enumeration and description of the services currently provided or to be extended to the affected territory.
  - b. The level and range of those services.
  - c. An indication of when those services can feasibly be extended to the affected territory.
  - d. An indication of any improvement or upgrading of structures, roads, sewer or water facilities, or other conditions the local agency would impose or require within the affected territory if the change of organization or reorganization is completed.
  - e. Information with respect to how those services will be financed.
2. A local agency has the option of creating and annually updating a master service delivery plan with the information enumerated in section 401.01. This will suffice for proposal-specific service plans for the calendar year such proposals are submitted.

## SECTION 500 COMMISSION ORGANIZATION, CONDUCT OF HEARING, AND COMMISSION BUSINESS

### Discussion

The following regulations have been adopted by the Commission to comply with GC sec. 56375 (i)-(k) and establish organizational procedures for Commission hearings, selection of officers and public member, and other Commission business.

#### 1. Regular Meetings

The Commission shall adopt a schedule of regular meetings for the forthcoming calendar year at such time as sufficient information is available to do so. The schedule shall indicate the time, date, and location for the meetings. However, whenever the Commission at a regular meeting sets a different time and place for its meeting, such meeting shall constitute a regular meeting for all purposes.

#### 2. Special Meetings

Special meetings may be called at any time by the Chair of the Commission or by a majority of the members of the Commission pursuant to the provisions of the Ralph M. Brown Act found at GC sec. 54956 *et seq.*

#### 3. Adjourned Meeting

Any regular or special meeting may be adjourned to a time and place specified in the order of adjournment. Less than a quorum may make an order for adjournment.

Reference: April 3, 1986, October 20, 1999

#### 4. Commission Chair

##### a. Election

The Chair of the Commission shall be elected by the members thereof by a majority vote of all the members.

##### b. Term

The term of office of the Chair shall be one calendar year beginning each May and shall be succeeded annually by the chair pro tempore.

##### c. Eligibility

All members of the Commission are eligible to serve as Chair.

##### d. Duties

The Chair shall be the presiding officer of the Commission. The Chair shall preserve strict order and decorum at all meetings of the Commission, state questions coming before the Commission, announce the Commission's decision on all subjects, and decide all questions of order subject, however, to an appeal to the Commission as a whole, in which event a majority vote shall govern and conclusively determine such questions of order. The Chair shall vote on all questions, and on roll call his name shall be called last. The Chair shall sign all directives and contracts approved by the Commission, unless delegated to the executive officer or other member of the Commission and may sign Commission resolutions in the absence of the executive officer.

#### 5. Commission Chair pro tempore

a. Term and Duties

There shall be a Chair Pro Tempore, whose term of office shall coincide with that of the Chair and who shall, in the absence of the Chair, perform all the functions and duties of the Chair.

b. Election

Chair Pro Tempore of the Commission shall be elected by the members thereof by a majority vote of all the members.

c. Eligibility

All regular members not representing the appointing authority of the chair may be nominated and serve as chair pro tempore.

Reference: February 14, 2015, March 14, 2018

6. Call to order

The Chair shall take the chair at the time and place appointed for the meeting and shall call the Commission to order. In the absence of the Chair and the Chair Pro Tempore, the Executive Officer of the Commission shall call the Commission to order, whereupon a temporary chair shall be elected by the members present. Upon the arrival of the Chair or the Chair Pro Tempore, the temporary chair shall relinquish the chair at the conclusion of the business then before the Commission.

7. Roll call

Before proceeding with the business of the Commission, the Executive Officer or Clerk to the Commission shall call the roll of the members and the names of those present shall be entered in the minutes.

8. Quorum

A majority of the Commission shall constitute a quorum for the transaction of business; however, unless specifically otherwise provided, the Commission shall take no action except upon the affirmative vote of at least three members.

If at any public meeting of the Commission there shall be less than a quorum so present, the commissioners present may adjourn the meeting from time to time until a quorum shall be present.

9. Minutes

a. Preparation

The minutes of the Commission shall be kept by the Executive Officer or such other person as he or she may designate and a record of each particular type of business transacted set off in paragraphs with proper subheads; however, the Executive Officer shall be required to make a record only of such business as was actually passed upon by a vote of the Commission and shall not be required to record any remarks of members or any other person, except at the special request of a member.

b. Distribution

As soon as possible after each meeting, the Executive Officer shall cause the draft minutes to be placed on the consent calendar of the next available hearing agenda where it will be presented to the Commission for its review and approval.

c. Reading

Unless the reading of the minutes of a meeting is requested by a member, such minutes may be

approved without reading if each member has previously been furnished a copy thereof.

#### 10. Resolutions

A resolution shall be prepared for each action and determination of the Commission as required by law. The resolution shall be signed and certified by the Executive Officer.

#### 11. Order of procedure

The order of procedure in conducting a hearing shall be as follows:

- a. The Chair shall request the Executive Officer to inform the Commission of the nature of the matter pending, the notice provided, a summary of the report and recommendation, any new information or correspondence not in the staff report, and other pertinent matters.
- b. All proponents shall be heard.
- c. All opponents shall be heard.
- d. Proponents shall be afforded an opportunity to a rebuttal. New matter may not be introduced except by specific permission of the Chair, in which event opponents shall, again, be given an opportunity to rebut.
- e. The Chair shall ask for any additional information of the Executive Officer.
- f. The Chair may then close the public portion of the hearing and refer the matter to the Commission for discussion and debate.
- g. The Commission may make a determination at the hearing or may continue consideration of the matter to develop additional information or testimony.

#### 12. Rules of debate

- a. The Chair may debate and vote.
- b. The Chair may move, second, and debate from the chair; subject only to limitations of debate as are by these rules imposed on all members and shall not be deprived of any of the rights and privileges of a member by reason of acting as Chair.
- c. Every member desiring to speak shall address the chair and, upon recognition by the Chair, shall confine themselves to the question under debate, and shall adhere to accepted standards of good conduct.
- d. A member once recognized shall not be interrupted when speaking unless it shall be to call them to order or as otherwise specifically provided. If a member, while speaking, shall be called to order, that member shall cease speaking until the question of order has been determined and, if in order, they shall be permitted to proceed.
- e. A motion to reconsider any action taken by the Commission at a meeting may be made only on the day such action was taken and must be made while the interested parties, if any, are present. Such motion shall be made by a commissioner on the prevailing side but may be seconded by any member and may be made at any time and have precedent over all other motions. This section shall not apply to written requests for reconsideration of an adopted resolution of determination pursuant GC sec. 56895.

#### 13. Rules of order

Except as otherwise specifically provided in this policy, Robert's Rules of Order as last revised shall govern the proceedings of the Commission in the conduct of meetings thereof.

#### 14. Voting

- a. While serving on the Commission, all Commission members shall exercise their independent judgment on behalf of the interests of residents, property owners, and the public as a whole

in furthering the purposes of CKH. (GC sec. 56331.4)

- b. Any member appointed on behalf of local governments shall represent the interests of the public as a whole and not solely the interests of the appointing authority. This section does not require the abstention of any member on any matter, nor does it create a right of action in any person. (GC sec. 56331.4)

- c. Roll Call Vote

A roll call vote shall be taken and recorded. Whenever a roll call vote is in order, the Clerk or Executive Officer shall call the names of the members in the following order: the mover, the second, other members according to alphabetization of last names; provided that the name of the chair shall be called last except where the chair has made or seconded the motion.

Reference: December 19, 2001

#### 15. Addressing the Commission

- a. General

Any person desiring to address the Commission shall first secure the permission of the Chair to do so. The Chair shall direct speakers to step up to the microphone and give their name and address in an audible tone of voice.

- b. Spokesperson for Groups

Whenever any group of persons wishes to address the Commission on the same subject matter, the chair may request that a spokesperson be chosen by the group to address the Commission and in the event additional matters are to be presented by other persons in the group, to limit the number of persons so addressing the Commission to avoid unnecessary repetitions.

- c. Discussions

No person, other than a member and the person addressing the Commission shall be permitted to enter into any discussion with the person addressing the Commission without the permission of the Chair.

#### 16. Decorum

- a. By Members

When the Commission is in meeting, the members shall preserve order and decorum and no member shall, by conversation otherwise, delay or interrupt the proceedings or the peace of the Commission nor disturb any member while speaking or refuse to obey the orders of the Chair, except as provided in this resolution.

- b. By Other Persons

Any person making personal, impertinent, or slanderous remarks, or who shall become boisterous while addressing the Commission shall be forthwith, by the Chair, barred from further audience at such meeting, unless permission to continue shall be granted by majority vote of the Commission.

#### 17. Commission Directives

The Commission shall, from time to time, by directives issued by it, establish procedures for the processing of the business of the Commission. Such directive shall be binding upon the staff of the Commission and all persons having business before the Commission.

#### 18. Reimbursement of expenses

- a. The members of the Commission shall be reimbursed \$100.00 for their necessary expenses

incurred in connection with their attendance at meetings of the Commission exclusive of attendance at CALAFCO events.

- b. The members of the Commission shall be reimbursed for their reasonable and necessary expenses incurred in connection with their attendance at regular public hearings and meetings called by the Chair or Executive Officer.
- c. The Commission may authorize payment of a *per diem* allowance to Commission members and alternates for each day they attend CALAFCO meetings.

Reference: June 6, 2012

#### 19. Retirement award

The Executive Officer shall upon the retirement of a member of the Commission, cause to be prepared one of the following, and transmit same to the Chair for presentation at the next meeting.

- a. Retiring alternates, or regular members serving less than two years, shall receive a certificate and letter from the Chair.
- b. Retiring regular members serving two years or more shall receive an engraved 6" x 8" plaque.
- c. For unusual service an exception to this standard may be made by the Chair.

Reference: August 27, 1997

#### 20. Selection of public member

The term of the public member is set by law to be four years, to expire the first Monday of the month of May. However, the public member's term shall continue until the appointment and qualification of a successor.

Prior to the expiration date, no later than March 20, the Executive Officer shall:

- a. Publish a notice in a newspaper of general circulation in the County, stating the coming vacancy of the public member position. The notice shall conform to that notice approved by the Commission.
- b. Post a notice outside the Commission hearing room, being the same notice as published.
- c. Make available to all applicants an approved application form and a description of the duties and responsibilities of the public member, as described on the application.  
No application shall be accepted if received after April 20, preceding the term expiration. A roster of all applicants and their application shall be mailed to the Commissioners making the selection at least ten days prior to the date of the selection.
- d. A public hearing shall be held on the regularly scheduled hearing date in May, for the purpose of making the selection.

Each applicant shall be invited to an interview at the hearing by the Commissioners making the selection. The interview shall be for an approximate duration of five minutes. Each Commissioner may question the applicant directly.

As an alternative, the Commission may, at its sole discretion, form a subcommittee to review all applications received, select the top candidates to be interviewed by the Commission, and make recommendations to the Commission.

The public member and alternate public member shall be selected by the Commission as follows:

- a. Each Commissioner, other than the public member and alternate public member, shall have the right to nominate one candidate from among the applicants.
- b. Selection shall be by majority affirmative vote of the Commission (excluding the public member and alternate public member), which shall include an affirmative vote by at least one of the members selected by each of the appointing authorities.
- c. If no candidate should receive the required votes, one or more additional sets of nominations and votes may be conducted from among the candidates, with nominations and voting being conducted in the same manner as provided above, if such is supported by a majority of the Commissioners authorized to vote. If no candidate should receive the required votes, then a new recruitment shall be conducted.
- d. The new public member and alternate public member shall begin their terms immediately.

Reference: February 24, 1988; December 20, 2000; July 17, 2013

#### 21. Procedures for public comment

- a. Every meeting agenda shall provide an opportunity for members of the public to directly address the Commission on any item of interest to the public, before or during the Commission's consideration of the item, that is within the subject matter jurisdiction of the Commission, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by state law.
- b. Time limit for public comment shall be no more than three minutes per person, or as allowed by the Chair. Commissioners shall have opportunity to ask questions of each person giving comment.
- c. Public comment may be allowed by the Chair without written request being filed. At the discretion of the Chair, persons wishing to speak shall file a written request with the Clerk of the Commission in advance of the public comment agenda time. The request shall state the person's name and address, and the subject of the comment. The Chair shall ask the clerk if any requests have been filed.
- d. Action taken by the Commission on any matter considered under public comment shall be subject to the noticing requirements of state law and the Regulations and Procedures adopted by the Commission.

Reference: February 19, 1987

#### 22. Fresno LAFCO Practice for Timely Participation in the Legislative Process

- a. In situations when a legislative bill affecting LAFCO cannot be considered by the full Commission due to timing, the Executive Officer, in consultation with the Chair (or Chair Pro Tempore if the Chair is unavailable), and LAFCo Counsel, is authorized to provide written or email comments communicating the Commission's position.
- b. The Chair (or Chair Pro Tempore if the Chair is unavailable), and LAFCo Counsel will review the letter or email prior to it being submitted for consideration.
- c. The Executive Officer will forward the email or letter to the Commissioners as soon as possible.
- d. The item will be discussed as an informational item at the Commission's next regular meeting.

## **SECTION 525 CONFLICT OF INTEREST CODE FOR THE FRESNO LAFCO**

The Political Reform Act (Government Code Section 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict-of-interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. Section 18730) that contains the terms of a standard conflict-of-interest code and may be incorporated by reference in an agency's code. After public notice and hearing, the standard code may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendices A designating positions and B establishing disclosure requirements shall constitute the conflict-of-interest code of the Fresno Local Agency Formation Commission ("LAFCo").

The Form 700s for designated positions, other than LAFCo Commissioners along with any alternates ("Commissioners") and Executive Officer, shall be filed with LAFCo. The Commissioners and Executive Officer are to file their original Form 700s directly with the Clerk of the Board for the Fresno County Board of Supervisors using the electronic filing system. If the Form 700s are not filed electronically, the paper Form 700 and waiver shall be filed with LAFCo and, upon receipt of these paper Form 700s with waivers, LAFCo shall make and retain a copy and forward the original to the Clerk of the Board of Supervisors.

LAFCo shall retain a copy of all electronically filed Form 700s, a copy of all paper Form 700s with waivers and the original Form 700s of designated positions not required to file electronically. LAFCo shall make the Form 700s available for public review, inspection, and reproduction. (Gov. Code section 81008.)

The provisions of all Conflict of Interest Codes and amendments thereto previously adopted by LAFCo are hereby superseded.

Reference: August 26, 1998; August 23, 2000; September 13, 2006; August 8, 2012; September 5, 2018



## SECTION 540 PROCEDURES TO IMPLEMENT THE POLITICAL REFORM ACT

The Commission has directed staff to proceed in the following ways to implement the campaign contribution requirements of the Political Reform Act (GC sec. 84308).

Informing the public who may apply for or participate in a proceeding, by inserting a notice of the general requirements of the Political Reform Act on the application, consent form, certificate of filing, mailed notice, newspaper notice, staff report, and agenda. The notice requests consultation with staff as to specific requirements of CKH.

The wording of the public notice shall be as follows:

“If you are an applicant for, or a participant in, any proceeding on the agenda for a land use entitlement and have made campaign contributions totaling more than \$250.00 to any member or alternative member of the Commission within twelve (12) months prior to the Commission considering your application, please immediately inform the Commission of your contribution. State law disqualifies each Commissioner and Alternative Commissioner from participating in and voting on land use entitlement decisions (which include changes of organization and reorganizations) if the Commissioner or Alternative Commissioner has received campaign contributions from (i) an applicant for a land use entitlement, (ii) someone who lobbies the Commission or LAFCo staff regarding an application for land use entitlement, (iii) someone who testifies in person before the Commission regarding an application for land use entitlement, or (iv) someone who otherwise acts to influence the outcome of an application for land use entitlement. State law also prohibits applicants and participants from making campaign contributions to a Commissioner or Alternate Commissioner within three (3) months after the Commission’s action. If you have any questions regarding these requirements (which are contained in the California Political Reform Act GC sec. 84308 *et seq.*) please feel free to contact LAFCo staff at (559) 600-0604.”

Informing the Commissioners of the general requirements of CKH as it applies to the Commission, and then informing them of who the applicants or participants may be in advance. This advance notice will be accomplished by:

First, sending a copy of the certificate of filing with a list of the landowners or parties of real interest listed on the bottom. This list includes all landowners of uninhabited proposals, and landowners of larger, undeveloped parcels in inhabited proposals. This notice is usually sent out approximately one month prior to actual hearing.

Second, a list of the same landowners and real parties of interest on the staff report, received just prior to the hearing.

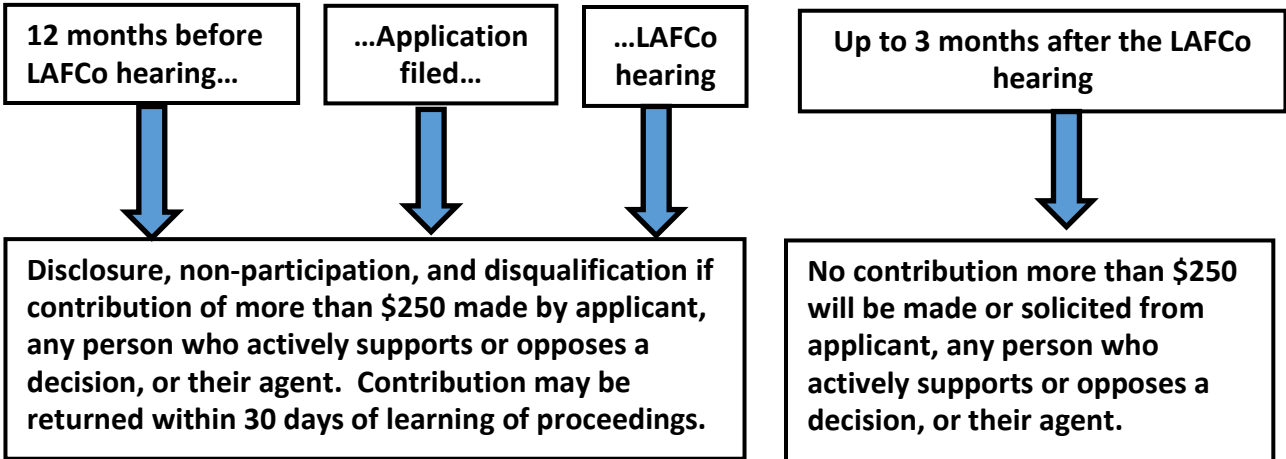
For each of the landowner lists received, the Commission will be responsible to comply with the law by:

Refusing a contribution of more than \$250 from an applicant or participant from the date of filing (certificate) until 3 months after the hearing; and

Disclosure, non-participation, and disqualification from the proceeding if a contribution of more than \$250 has been received from an applicant or participant up to 12 months prior to the LAFCO hearing.

A timeline showing the requirements for each of the two responses (disclosure, etc./no contribution) follows:

Timeline showing Political Reform Act procedure for more than \$250 contribution



Reference: October 2, 1986; March 26, 1996; September 18, 2002

## SECTION 541 DISCLOSURE PROCEDURES

### **Procedures Requiring the Disclosure of Contributions and Expenditures Made for the Purpose of Affecting or Influencing Changes of Organization, Reorganizations, and Protest Hearings**

Pursuant to GC secs. 56700.1, 57009, and 56100.1, expenditures for political purposes related to a proposal for a change of organization or reorganization initiated by petition or resolution by application and contributions in support of or in opposition to any proposal at the conducting authority stage of the LAFCO process shall be subject to disclosure and reporting pursuant to Political Reform Act, GC sec. 81000 *et seq.*, and the regulations of the Fair Political Practices Commission implementing that law.

Fresno LAFCo adopts the following reporting and disclosure requirements.

#### Definitions:

“Contribution” as used herein shall have the same definition as provided in GC sec. 82015, as amended.

“Expenditure” as used herein shall have the same definition as provided in GC sec. 82025, as amended.

“Independent expenditure” as used herein shall have the same definition as provided in GC sec. 82031, as amended, except that the term “measure” as used in Section 82031 shall be replaced with the term “proposal for organization or reorganization.”

“Political Purposes” as used herein shall mean for the purpose(s) of: (i) influencing public opinion; (ii) lobbying public officials; and/or, (iii) influencing legislative or administrative action as defined in GC sec. 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 (GC sec. 56800) or documents necessary to comply with the California Environmental Quality Act, Public Resources Code sec. 21000 *et seq.*, such as a mitigated negative declaration or environmental impact report.

### **Disclosure Requirements for Petitions or Resolution of Application for Proposals for Organization or Reorganization**

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 GC secs. 56654 or 56700.1 applies, shall comply with the reporting and disclosure requirements of the Political Reform Act (GC sec. 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.

Disclosures made pursuant to this Section shall be filed with the Commission’s Executive Officer as

designated in Section 05 below.

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 Executive Officer establish a date to serve as the “election” date for this purpose. The Executive Officer shall establish a date, such as, but not limited to, the date which is 6 months after the first filing with the Commission regarding the proposal and inform the requestor of that date in writing.

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 10<sup>th</sup> 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.

### **Disclosure Requirements for Conducting Authority Proceedings**

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 GC sec. 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 (GC sec. 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.

Disclosures made pursuant to this Section shall be filed with the Commission’s Executive Officer as designated in the “Where to File” section below.

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 executive officer establish a date to serve as the “election” date for this purpose. The Executive Officer shall establish a date, such as, but not limited to, the date which is six months after the first filing with the commission regarding the proposal and inform the requestor of that date in writing.

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 10<sup>th</sup> 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.

## **Other Reports and Disclosures**

This policy requires that the persons subject to it disclose via reports to the Commission's Executive Officer contributions, expenditures, and independent expenditures with respect to expenditures for political purposes related to a petition or resolution by application to the Commission for a proposal for an organization or reorganization.

This policy also requires that the persons subject to it comply with 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 GC secs. 84501 *et seq.* and the regulations of the Fair Political Practices Commission implementing those sections.

## **Where to File**

All reports and disclosures required hereunder shall be filed with the commission's Executive Officer.

## **Reporting Requirements are Non-Exclusive**

The disclosure and reporting requirements herein are in addition to any other requirements that may be otherwise applicable under provisions of the Political Reform Act or by local ordinance.

## **Sunset Provision**

This policy is intended to implement GC secs. 56700.1, 57009, and 56100.1 and shall be of no further force and effect upon the effective date of legislation repealing or amending those sections to transfer responsibility for enforcing disclosure of expenditures for political purposes affecting commission proceedings to the Fair Political Practices Commission or otherwise terminates the responsibility of this commission to adopt and implement this policy.

Reference: December 5, 2007; January 9, 2008

## SECTION 550 IMPLEMENTATION OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

### 1. Adopted by reference

The California Administrative Code, Title 14, Division 6, Chapter 3, "Guidelines for Implementation of the California Environmental Quality Act," as amended and currently in effect (State CEQA Guidelines), is adopted by reference. The criteria, purpose, and objectives of the State CEQA Guidelines with regard to the evaluation of projects, the preparation of Initial Studies, Environmental Impact Reports (EIRs), and Negative Declarations, and time limits imposed shall apply to activities undertaken within the County of Fresno subject to CEQA, except those standards, criteria, and procedures relating solely to State agencies.

### 2. Application of regulations to projects subject to discretionary action by LAFCo

- a. The Executive Officer is responsible for the preparation of environmental documents, as provided for in these regulations, for matters that are brought before the commission for action.
- b. The Executive Officer may require the proponent to supply data and information to determine whether a proposal may have a significant adverse impact on the environment prior to acceptance of the application for processing.
- c. No application will be accepted as complete until environmental information is deemed adequate by the Executive Officer.

### 3. Procedure for categorical exemption implementation

The Executive Officer shall recommend categorical exemption status where it can be demonstrated that the activity is consistent with one or more of the classes of categorical exemptions enumerated in the State CEQA Guidelines. The determination of categorical exemption status for projects filed by the Executive Officer shall be subject to review in the manner provided for in CEQA section 15300 *et seq.*

### 4. Procedures for environmental assessment (initial study)

For the adequate environmental assessment and evaluation of projects subject to CEQA (and not otherwise exempt) it is necessary that an Environmental Assessment be prepared at the earliest possible time which will address all phases of project planning, implementation, and operation. The Environmental Assessment shall take into consideration the purpose, objectives, rules, regulations, standards, and criteria set forth in CEQA, the State CEQA Guidelines, and the adopted plans and policies of LAFCO.

### 5. Public or Private Projects Subject to Discretionary Action by LAFCO

Where LAFCO is a responsible agency under CEQA, the lead agency is strongly advised to consult with the Executive Officer on the project during the preparation of the Initial Study.

Where LAFCO is the lead agency under CEQA, an Initial Study shall be prepared in accordance with the provisions of the CEQA Guidelines. The following procedure shall also apply:

The Executive Officer shall solicit comments from other agencies and individuals with appropriate expertise to assist in identifying potential impacts and determining their significance.

The Executive Officer shall initiate the CEQA process upon acceptance of a complete application

Unless the need for an Environmental impact Report is required, when the Environmental Assessment is completed, the Executive Officer shall publish a notice of Negative Declaration or Mitigated Negative Declaration in a newspaper of general circulation at least ten days prior to the date action has been scheduled for the project. The notice shall:

- a. Specify that an Environmental Assessment has been completed and a Negative Declaration or Mitigated Negative Declaration has been prepared; and.
- b. Solicit written comments on the Negative Declaration or Mitigated Negative Declaration.

Where LAFCO is required to hold a public hearing state the date, time, and place to determine whether a Negative Declaration/Mitigated Negative Declaration or an Environmental Impact Report (EIR) is appropriate; at such hearing all written comments and oral testimony will be considered.

When LAFCO is not required to hold a public hearing, state the place where written comments on the Negative Declaration or Mitigated Negative Declaration may be delivered and the date when LAFCO shall determine whether a Negative Declaration/Mitigated Negative Declaration or an Environmental Impact Report is appropriate.

LAFCO shall either approve the Negative Declaration/Mitigated Negative Declaration or require an Environmental Impact Report.

Once the Commission has taken final action on a project for which a Negative Declaration or Mitigated Negative Declaration has been approved, the Executive Officer shall file with the County Clerk a Notice of Determination with a copy of the Negative Declaration or Mitigated Negative Declaration attached.

## 6. Projects Initiated by LAFCO Subject to Discretionary Action

The Initial Study shall be prepared in accordance with the provisions of the State CEQA Guidelines. The following procedure shall apply:

Project information shall be submitted to the Executive Officer at the time the Initial Study is to be performed.

The Executive Officer shall solicit comments from other departments, agencies, and individuals with appropriate expertise to assist in identifying potential impacts and determining their significance.

After acceptance of the project as complete and during preparation of the Initial Study, the public agency submitting the project shall also submit subsequent clarification, amplification, or correction of information originally submitted with the project that is necessary to prepare an adequate assessment.

The Executive Officer shall make one of the following findings after consideration of the Environmental Assessment:

- a. An EIR is not required, and a Negative Declaration shall be prepared and published once in a newspaper of general circulation at least 10 days prior to initiating or undertaking the project.
- b. An EIR is required and shall be prepared by the Executive Officer or a consultant selected by the Executive Officer.
- c. Any aggrieved person or agency may appeal the decision of the Executive Officer for final determination.

#### 7. Procedure for preparation of Environmental Impact Reports (EIR)

All draft EIRs pursuant to these regulations shall contain the information required by the State CEQA Guidelines and shall be prepared consistent with criteria set forth therein. The Executive Officer shall maintain a list of consultants to prepare Environmental Impact Reports required by these regulations. A Notice of Preparation shall be distributed in accordance with the State CEQA Guidelines.

#### 8. Draft EIR Process

- a. Private Projects: The applicant shall be given the proposal requirements and a copy of the Environmental Assessment. The applicant shall select a consultant to prepare a proposal for staff review. If the proposal is acceptable to staff, the applicant shall be offered an agreement with LAFCo in which the applicant will agree to pay LAFCo for all costs related to the processing of the EIR. The applicant shall be required to deposit such funds with LAFCo. The applicant shall be responsible for the contract with the consultant and all consultant costs.

If the proposal is rejected by staff, the applicant may appeal such decision to LAFCo. LAFCo may allow the original consultant to revise the proposal or require the applicant to select another consultant. As an alternative, LAFCo may select a consultant in the manner described in the following paragraph.

If the applicant does not want to or is unable to select a consultant, the Executive Officer shall select and provide a list of all acceptable proposals to the applicant. The applicant shall be offered an agreement with LAFCo in which the applicant will agree to pay LAFCo for all LAFCo costs related to the processing of the EIR. The applicant shall be required to deposit such funds with the LAFCo. The applicant shall then select a consultant to prepare the EIR. The applicant shall be responsible for the contract with the consultant and all consultant costs.

- b. LAFCo Projects: Where the project is initiated by LAFCo, the Executive Officer may prepare the EIR in its entirety or in conjunction with consultants selected by the Executive Officer and approved by LAFCo. LAFCo shall incur the cost of preparation of the EIR except where a project is initiated by LAFCo at the request of a person or agency. In such event, the person or agency requesting the initiation shall incur such costs of preparation as determined by LAFCo.

#### 9. Notice of Completion

A Notice of Completion shall be filed by the Executive Officer with the State Office of Planning



and Research as soon as the Draft EIR is completed.

#### 10. Public Hearing on Draft EIR

Any request for a public hearing on a Draft EIR shall be subject to approval by the Executive Officer. The Executive Officer may require a public hearing on a Draft EIR without any formal request. The decision or determination that a public hearing on a Draft EIR be conducted shall require findings that:

- a. The project subject to the EIR does not require approval at a public hearing, and
- b. Such a public hearing is necessary to facilitate the purposes of the CEQA. The reviewing body at such public hearing shall be the LAFCo Commission. All comments made on the Draft EIR at such public hearing shall be summarized and addressed and made part of the Final EIR.

#### 10. Final EIR Process

- a. Response to Comments: All comments received during the public review processes shall be responded to in the Final EIR.
- b. Use of Final EIR: The Final EIR shall become a part of the project application and shall be taken into consideration when action is taken.
- c. Final Action on Applications: Where the Commission approves a project which allows the occurrence of significant adverse effects identified in the Final EIR without mitigation, the approval must contain a finding that the benefits of the project outweigh unavoidable environmental damage. These overriding considerations must be fully explained in the record of approval of the project.
- d. When the Commission approves a project for which the potential adverse impacts have been mitigated, the record of approval shall include the changes, alterations, and mitigation measures which have been required or incorporated into the project.

Reference: March 27, 1974; February 2, 1977; December 21, 1977; September 28, 1983; September 24, 1996

#### 11. List of projects determined to be exempt.

For any of the following types of discretionary projects, the executive officer can determine with certainty the project will not have a significant effect on the environment, as provided for under Sec. 15061 of State CEQA Guidelines. For example:

- The project is to annex an area already developed to urban uses and no change in zoning, subdivision, or development is proposed.
- The project is to annex to the city an area within an unincorporated island, or within an unincorporated corridor over 1/2 miles in length and less than 1/2 mile in width at its narrowest point, and no change in zoning, subdivisions or development is proposed.
- The project is to detach from a city or district where services are no longer provided, are not needed nor contemplated by the agency for future provision.
- The project is to dissolve a district for nonuse of corporate powers.
- The project is similar in nature, scope, and location to other projects for which a negative declaration or mitigated negative declaration was issued.
- The project is for an area considered as urban infill and the proposal conforms to the subject city or county plans.
- A municipal service review.

All other discretionary non-exempt projects must have an environmental assessment. Any of the above projects which appear to the Executive Officer to need an assessment, though meeting the criteria, should also be assessed if there is a possibility of a significant effect on the environment.

## **SECTION 600 CONDUCTING AUTHORITY PROCEEDINGS**

1. Unless the Commission waives the protest proceedings, as provided in GC sec. 56663, after adoption of a resolution making determinations by the Commission pursuant to Part 3 of CKH (commencing with GC sec. 56650), the Commission will conduct protest proceedings for a change of organization or reorganization pursuant to Part 4, Chapter 1 of CKH (commencing with Code sec. 57000). (GC sec. 57000(a)).
2. On July 11, 2012, pursuant to GC sec. 57000(c), the Commission delegated authority to the Executive Officer to perform the conducting authority proceedings. (LAFCo resolution no. 88)

Reference: December 19, 2001

## **SECTION 700 RETENTION AND DESTRUCTION OF RECORDS**

GC sec. 56382

1. This Policy applies to all physical and electronic records generated or obtained by Fresno LAFCo during the course of its operation, including both original records and reproductions. This Policy does not apply to documents that are not retained in the normal course of business, such as drafts, rough notes or calculations made for the preparation of other documents, etc. (collectively, "Non-Records"). However, if a Non-Record becomes integral to the final product, it shall be retained in accordance with this Policy.
2. Original records two years old or less shall be maintained in the LAFCo Office. Except as described further below, the Commission may authorize the destruction of original records more than two years old (so long as the subject matter of the records is not still active and the record would not be subject to an audit) if a photographic or electronic copy of the original record is made and preserved, provided that the following conditions are met:
  - a. Following review by LAFCo Counsel, the Executive Officer places on the Commission's agenda an item that describes the types of records to be destroyed and identifies the years in which they originated, and permission to destroy said records is granted by the Commission.
  - b. The records are reproduced on a medium that does not permit additions, deletions, or changes to the original document, or reproduced in compliance with the minimum standards or guidelines, or both, as recommended by the American National Standards Institute or the Association for Information and Image Management.
  - c. The device used to reproduce the records is one that accurately and legibly reproduces the original thereof in all details and that does not permit additions, deletions or changes to the original document images.
  - d. The reproductions are made as accessible for public reference as the original records were.

- e. A true copy of archival quality of the reproductions shall be kept in a safe and separate place for security purposes.
3. Original signed resolutions may not be destroyed.
4. Statements of Economic Interest (Form 700s) must be retained for seven years.
5. In the event the Commission is served with any subpoena or request for documents, or the Commission becomes aware of a governmental investigation or audit concerning the Commission, or the Commission becomes aware of the commencement of any litigation against or concerning the Commission, the Executive Officer shall ensure that any further destruction of records shall be suspended until such time as the Executive Officer, with the advice of Legal Counsel, determines otherwise.
6. The Executive Officer may destroy any duplicate record, paper, or other document if the original or a photographic or electronic copy of the record, paper, or other document is retained in the files of the Commission.
7. At least one copy of all electronic reproductions in .PDF, .JPEG or other electronic format that does not permit additions, deletions, or changes to the original record image or file and shall be stored on "flash" or USB drives, or other appropriate medium as technology allows, in a locked "fireproof" box in the LAFCo offices. A second copy shall be maintained on the County's "network" drive and/or secure server or other medium at an appropriate offsite location, as determined by the Commission.
8. In the case of Commission approved changes of organization and reorganizations where recordation is not achieved timely and where extensions of time are granted, the two-year time frame identified in Policy 730-01, shall be tolled from the time the change of organization or reorganization is completed (recorded).
9. In cases where a change of organization or reorganization is allowed to expire, the two-year time frame shall be tolled from the original date of approval or the date of the most recent time extension, if such extension(s) was granted.
10. Audio recordings of all Commission meetings shall be maintained on "flash" or USB drives or other appropriate medium as provided by State law and shall be stored in the manner as described in Subsection 730.07 above. These records are to be maintained as a permanent record of Commission proceedings.
11. Any document provided to the public shall have any and all confidential information (i.e., names, addresses, account numbers, medical histories, etc.) redacted from the produced documents.
12. Emails and other documents with electronic origins may be kept on a secure data management system pursuant to Secretary of State Guidelines and destroyed pursuant to these Policies and Procedures.

Reference: July 9, 2008; July 10, 2024

## Appendix A: Public Officials Who Manage Public Investments

It has been determined that positions listed below manage public investments *and will file a statement of economic interests pursuant to Government Code Section 87200*. These positions are listed for informational purposes only:

- LAFCo Commissioners
- Alternate LAFCo Commissioners
- Executive Officer
- Chief Financial Officer
- Consultants involved in the investment of public funds.

An individual holding one of the above-listed positions may contact the Fair Political Practices Commission for assistance or written advice regarding their filing obligations if they believe that their position has been categorized incorrectly. The Fair Political Practices Commission makes the final determination whether a position is covered by Government Code Section 87200.

### DESIGNATED POSITIONS

<u>Designated Positions</u>	<u>Disclosure Categories</u>
LAFCo Clerk	2
LAFCo Staff Analyst	2
LAFCo Counsel	1

### Investment Consultants

\* Consultants shall be included in the list of designated positions and shall disclose pursuant to the disclosure requirements in this code subject to the following limitation:

The Executive Officer may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to comply fully with the disclosure requirements in this section.

Such written determination shall include a description of the consultant's duties and based upon that description, a statement of the extent of disclosure requirements. The Executive Officer's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict-of-interest code.

(Gov. Code Sec. 81008.)

Reference: August 23, 2000; September 13, 2006; August 13, 2008; August 11, 2010; August 8, 2012; September 5, 2018

## **Appendix B: Disclosure Categories**

Individuals holding designated positions must report their interests according to their assigned disclosure category(ies).

### **Disclosure Category 1**

Interests in real property located within the jurisdiction or within two miles of the boundaries of the jurisdiction or within two miles of any land owned or used by the agency; and investments and business positions in business entities, and income, including loans, gifts, and travel payments, from all sources.

### **Disclosure Category 2**

Interests in real property located within the jurisdiction or within two miles of the boundaries of the jurisdiction or within two miles of any land owned or used by the agency.

### **Disclosure Category 3**

Investments and business positions in business entities and income, including loans, gifts, and travel payments, from sources, that provide services, supplies, materials, machinery, or equipment of the type utilized by the agency.

### **Disclosure Category 4**

Investments and business positions in business entities, and income, including loans, gifts, and travel payments, from sources, that provide services, supplies, materials, machinery, or equipment of the type utilized by the designated position's division or department.

### **Disclosure Category 5**

Investments and business positions in business entities, and income, including loans, gifts, and travel payments, from sources, that filed a claim against the agency during the previous two years, or have a claim pending.

### **Disclosure Category 6**

Investments and business positions entities, and income, including loans, gifts, and travel payments, from sources of the type to request an entitlement to use agency property or facilities, including, but not limited to:

- a license;
- utility permit;
- station vendor permit.

Reference: September 13, 2006; August 13, 2006; August 8, 2012; September 5, 2018

## **Appendix C: Annexation Program Guidelines**

It is Fresno LAFCo policy (102-01) that “within the sphere of influence each agency should implement an orderly, phased annexation program. A proposal should not be approved solely because the area falls within the sphere of influence of an agency.”

LAFCo recommends that each local agency fulfill this policy through the exercise of one or more of the following basic principles and actions.

The annexation program is consistent with LAFCo’s Sphere of influence (SOI) for the city.

Prior to a city submitting an application to the Commission to update its sphere of influence, the city and county shall meet and reach agreement on development standards and planning and zoning requirements within the sphere to ensure that development within the sphere occurs in a manner that reflects the concerns of the affected city and is accomplished in a manner that promotes the logical and orderly development of areas within the sphere. (GC sec. 56425)

LAFCOs are authorized to perform numerous powers under CKH. Every determination made by a commission must be consistent with the spheres of influence of the local agencies affected by those determinations. (GC sec. 56375.5)

The annexation program should also anticipate needed updates of the city’s sphere of influence and the appropriate development standards developed in consultation with the County to promote the logical and orderly development of areas within the sphere. GC sec. 56425

Because cities provide multiple municipal services, they occasionally extend service outside of their city limits and SOIs. The statute allows these extensions—with LAFCo authorization—subject to certain conditions, though not as an alternative to annexation or amendment of the SOI. GC sec. 56133.

The annexation program emphasizes the use of cities’ resolution of application versus property owner petitions.

### **Background:**

The LAFCo statute permits property owner petition-initiated reorganizations and SOI amendments. Though Fresno LAFCo must comply with statute, in many cases property-owner petitions complicate the process, increase liabilities, and otherwise thwart the orderly completion of LAFCo’s responsibilities. Some cities encourage petitions because they don’t have the resources to process annexations. The challenge is that all cities in Fresno County have MOUs with the County to comply with Revenue and Tax Code section 99 regarding property tax revenue transfer upon annexation.

Property-owner petitions may actually add inefficiencies to the MOU process. For example, in order to complete an approved annexation, LAFCo staff require certain documents from the city (right-to-farm, addressing, tentative map acceptance, etc.) and the city staff may not be prepared to respond in a timely manner. This could be remedied by earlier coordination between LAFCo and city staff if the staff were assisting with the application.

While it is possible to independently develop solutions for service delivery to a parcel, this practice does not promote the overall planning, construction, and integration of facilities into the municipal service delivery network. Proper long-range land use planning must recognize and balance competing interests and the need to provide for future roadways and coordination with other service providers that would be affected by planned growth. There is a civic obligation on the city's part that it assertively manages the implementation of its general plan beginning with the review and approval of planning applications, then make application to LAFCo for annexation, and finally take responsibility for the construction compliance with building and safety codes.

A city may consider discouraging property owner petition-initiated reorganizations as these would not necessarily have proceeded through a city's development review and approval, which is an important step in the management of a city's general plan and instead anticipate probable annexations and prepare to process these in a timely manner through resolution-initiated petitions.

The annexation program supports orderly growth by identifying areas to be annexed, general time frames for growth, and a plan for extension of services to these areas.

Suggested actions:

Capital improvement plan and/or facilities plans include all lands within the SOI;

Development impact fees that fund the extension of services are established and maintained;

Impacts to service delivery are assessed in the city's EIR or project-specific CEQA documents and appropriately-scaled mitigation is approved and implemented.

A city coordinates its public policy documents in support of the annexation program.

Background:

The annexation program should coordinate the policies, facilities, funding, and construction of city service infrastructure by linking the general plan land use diagram and policies, capital improvement plans, service delivery plans (such as a fire department's Standards of Coverage), and annual budget. The product of this work can serve as the foundation for development policies that direct growth to certain areas whether all or part of the city's sphere or restrict growth to defined areas until certain actions (funding, studies, etc.) are complete.

LAFCo's interest in cities' growth and development can be summarized by three words: order, logic, and efficiency.

Order is a state in which all components, elements, and actions are arranged logically, comprehensibly.

Logic describes the use of valid public policy reasoning in some activity. These elements can be found in a local agency's plans, policies, budget, etc.

Efficiency in general describes the extent to which time, effort or cost is well used for the intended task or purpose, it is measured by a comparison of production with cost (as in energy, time, and money) "Efficiency is doing things right, while Effectiveness is doing the right things."

An official document is created to describe how annexations implement the city's General Plan growth and development policies.

By coordinating a city's plans and policies, the annexation program also supports the efficient delivery of urban services throughout the rest of the city.



The annexation program anticipates changes of organization of existing special districts and service areas in or adjacent to the city's SOI.

Suggested action:

The Program should describe the transition of services that will occur when the city annexes/detaches (CID, NCFPD, FCFPD, KRCD, etc.); inversely, the document describes the status of or continuation of services when annexations do not result in detachment (FID, FMFCD, etc.).

The annexation program anticipates the location of Disadvantaged Unincorporated Communities within a city's sphere of influence.

Suggested action:

Cities should become proficient in implementing their responsibilities under Senate Bill 244, should review Fresno LAFCo DUC policy and review Senate Bill 244 Technical Advisory (attached).

Background:

The statute requires LAFCo to make determinations regarding "disadvantaged unincorporated communities" ("DUCs") when considering a change of organization, reorganization, a sphere of influence amendment and municipal service reviews (an "MSR"). Generally, LAFCo will not approve annexations of territory greater than ten (10) acres if there is DUC contiguous to the proposal.

GC sec. 65302.10 defines "Disadvantaged unincorporated community" as a fringe, island, or legacy community in which the median household income is 80 percent or less than the statewide median household income and requires that cities identify DUCs in their general plan land use element. GC sec. 56033.5 further refines this definition for the purposes of annexations and Fresno LAFCo policy 106 establishes procedures to evaluate DUCs in light of nearby annexation proposals.

LAFCo is working with the County and the Fresno Council of Governments to establish and update a County-wide map of DUCs. A map is currently publicly available on Fresno LAFCo's website at <https://www.fresnolafco.org/DUC.asp>.

The annexation program informs citizens in annexation areas of their rights, benefits, and changes that will occur on annexation.

Suggested actions:

City to establish and maintain on its website a description of the information above, how citizens can engage the process, how the city engages citizens and stakeholders and other information related to annexation. This information should include a description of the SOI, protest processes, and how LAFCo is involved.

For those portions of a city's SOI that contain a large number of rural residential parcels that are planned for urban uses, the city is strongly encouraged to develop a long-term plan to annex and serve these areas.

City entitlement analysis is integrated with LAFCo policies.

Suggested action:

Local agencies, including Fresno County, are advised to include Fresno LAFCo in their initial request

for comments.

When initial planning applications that will eventually require annexation are submitted to cities, they are encouraged to submit a pre-application to LAFCo so that LAFCo can track the project at its beginning and provide comments that would facilitate annexation in time for these to be considered in a timely and efficient manner.

Reference: December 10, 2014

## Appendix D: DUC Database Development Guidelines

### Introduction

These guidelines will be used to develop and maintain the database necessary to implement Fresno LAFCo policy 106-01, to conduct reasonable demographic surveys and studies. The database will be augmented by site investigation, and other materials supplied by government agencies and other interested parties (collectively, the "Information Sources").

DUCs in Fresno County are initially identified by reviewing US Census information including census tract, block group, or block data to obtain population estimates, economic composition, and demographic information. Census tracts occasionally include both incorporated and unincorporated territories which do not necessarily coincide with city or municipal local agency boundaries. Though a census tract may encompass a large geographic area, the sample data reported therein provides a reasonable assessment of the economic composition among residents within the tract. The smallest geographic units which the US Census collects and tabulates decennial census data are the census block groups and blocks. Census block groups are statistical divisions of a census tract. Census block groups are generally defined between 600-3,000 people. A block group consists of clusters of blocks within the same census tract that have the same first digit of their census block number. Data collected from census block groups and blocks are generally more detailed for areas within a census tract, if available. Most block groups identified by US Census data were delineated by local participants in the Census Bureau's Participant Statistical Areas Program.

The definition of a "disadvantaged community" (DAC) per GC sec. 56033.5, WC sec. 79505.5, and PRC sec. 75005(g), is "a community with an annual Median Household Income (MHI) that is less than 80 percent of the statewide annual MHI." For example, the 2020 statewide MHI in California reported by the US Census American Community Survey (ACS) 5-year report is \$78,672; thus, a community with a household income less than 80% of the MHI (\$62,937) would be a "disadvantaged community".

The Department of Water Resources (DWR) provides DAC mapping software and downloadable shape file maps are available through the DWR website. DWR's DAC mapping data is created using the ACS five-year period reports. The DWR maps identify DACs for different areas using census tracts or block group information. The shape file maps include pre calculated fields for census tracts and block groups that are identified as DAC (per PRC sec. 75005 (g)) with a "Yes or No."

Fresno LAFCo Policy 106 definition is more specific and includes two additional DUC indicators aside from the MHI margin:

the DUC will be inhabited territory (12 or more registered voters); and  
consist of at least 15 dwelling units at a density not less than one unit per acre.

In addition, LAFCo policy 106-05 established that a DUC up to 300 feet distant from a proposed annexation boundary "is sufficient to start the annexation proceedings for a DUC." This policy also identified "Legacy Communities" which are DUCs within one mile of an existing or proposed sphere of influence.

The DAC mapping information available in geographic information systems (GIS) shape files will be employed to develop a "first cut" of maps to identify areas in the County that report a MHI less

than 80 percent of the statewide annual MHI. The DAC GIS shape files will be layered with maps available on the County of Fresno's GIS database. Fresno County's shape file named "CY\_FRESNO.CENSUS\_BLKGRP" will be utilized to identify all census block groups in the County that meet the DAC threshold. The "CY\_FRESNO\_CITY\_NAMES" shape file will be used to map incorporated and unincorporated community boundaries. The "CY\_FRESNO.PARCEL\_VW" GIS shape file will be employed to identify parcelization patterns that could be compared to aerial photography in identification process of a DUC, per Commission Policy 106.

The DAC maps present an initial assessment of the areas based on MHI data at the census tract and block group levels. Further review of land parcelization patterns and identification of DUCs will be focused near city limits and within Municipal Local Agencies with SOI boundaries.<sup>1</sup> The data is selected to only identify DUCs near cities and Municipal Local Agencies that provide services related to sewer, municipal or industrial water, or fire protection. As such, each eligible Municipal Local Agency boundary was surveyed to identify and determine DUC locations that meet the 15 dwelling units at a density not less than one unit per acre.

Reference: February 11, 2015

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<sup>1</sup> Fresno LAFCo policy 107-04, "Municipal Local Agencies" include cities and special districts that provide municipal services.

## Appendix E: DUC Policy Implementation Guidelines

The Cortese-Knox-Hertzberg Local Government Reorganization Act OF 2000 ("CKH") requires LAFCo to make determinations regarding "disadvantaged unincorporated communities" ("DUCs") when considering a change of organization, reorganization, a sphere of influence amendment and municipal service review ("MSR").

LAFCo policy 106 supports the implementation of CKH and provides additional refinement of DUCs. The following directory guidelines may be used by staff to establish logical and predictable actions to implement the Commission's DUC Policy and CKH.

When a potential applicant meets with LAFCo staff to discuss a proposed project, the probable annexation boundaries will be estimated.

Staff will consult Fresno LAFCo policy 106 and Fresno LAFCo's DUC database to determine whether a potential DUC is identified adjacent to or within 300 feet of the proposed project and will convey this determination to the applicant and the subject city/municipal local agency.

The applicant is recommended to submit a pre-application. If the LAFCo DUC database indicates that a DUC is involved with the proposed project, a deposit of estimated time and materials expenses will be calculated and required prior to staff conducting additional work on the DUC analysis.

Pre-application process for DUC review and verification

Staff assembles data to determine if DUC exists:

- Acreage of DUC boundary is determined based on LAFCo's DUC database.
- Number of dwelling units within the DUC is determined, census data is used to assess preliminary MHI for the DUC, and field visits will be conducted.
- Number of registered voters within the DUC is determined.
- Identification of present and probable needs for public facilities and services for the DUC is determined.
- Information Sources, as defined in LAFCo policy 106-01, will be used to determine precise annual median household income of the DUC.
- Verification of any previous applications filed with the Commission for the same DUC within the preceding five years, if applicable, is determined.
- A mailing list of both property owners and registered voters within the DUC is generated.
- The affected city/municipal local agency will be contacted to participate in the evaluation of what services will be extended to the DUC if annexed. (service area)

Pursuant to LAFCo policy 106-04, "written evidence" shall be obtained in the following manner:

A DUC annexation notice letter, bilingual or multilingual (sample attached) will be sent to registered voters ("RVs") in the DUC with a copy sent to DUC property owners to advise registered voters of potential annexation of the DUC, describe the probable changes to services upon annexation, probable fees, taxes, and other assessments resulting from annexation.

The letter will request response from residents and registered voters within 21-days of receiving

the notice.

In compliance with CKH and LAFCo policy, the letter shall request written opposition to a potential annexation by the registered voters in a DUC. Based on the record of responses, the Executive Officer will present a recommended finding for the Commission action.

If the Executive Officer determines that based on written evidence, less than the majority of the DUC RVs respond to the annexation letter in opposition, or if majority of the RVs in the DUC respond in support of annexation, the applicant and subject local agency will be advised that this territory may be included in the proposed annexation or may be subject to a subsequent or concurrent annexation.

If the Executive Officer determines based on written evidence, that a majority of registered voters in the affected territory are in opposition to annexation, the applicant and subject local agency will be advised that this territory will be not included in any subsequent reorganization application pursuant to CKH and LAFCo DUC policy.

It should be noted that this does not preclude a DUC from being annexed by petition or resolution under other circumstances independent of CKH and LAFCo DUC policy.

An annexation application to annex a contiguous DUC shall not be required if either of the following apply:

- the Executive Officer determines that a previous application has been filed for the same DUC in the preceding five years, an application to annex will not be required.
- the Commission finds, based on written evidence, that a majority of registered voters in the affected territory are in opposition to annex, an annexation applicant will not be required.

<City Letterhead>

<Date>

Dear <name of registered voter and/or landowner>

You are receiving this letter because your neighborhood is next to a proposed annexation to the City of <name of City>. The City is proposing to annex <insert description of annexation – size, purpose, etc.>. A map of the proposed annexation area is enclosed. The City would like to know your interest in also being annexed.

You are currently residing on or own land in what is called unincorporated Fresno County. This means that the County of Fresno or the <name of special district> is responsible for services to your community. Annexation to the City of <name of City> would mean that the City would become responsible for many of the services to your community which may now be provided by the County or special district. Please see the enclosed information regarding the services that the City provides, how the services are paid for and the timing of when you could expect those services to be provided if your neighborhood is annexed into the City.

Enclosed is an annexation survey and postage paid envelope <or postage paid post card if the survey can fit>. Please return it by <date>. The return of this survey is important because State law requires the City to file an application to annex your neighborhood unless the majority of registered voters are against it. If you have any additional questions or would like more information, please contact <city contact name, phone number, e-mail>. For Spanish translation services for the enclosed City service information, please contact <city contact name, phone number, e-mail>.

<Ending salutation>

Enclosures:

Proposed Annexation Map

City Services and Other Information

City Annexation Survey and Return Envelope <or City Annexation Survey Postcard>

<City Letterhead>

<Date>

Estimado <name of registered voter and/or landowner>

Usted está recibiendo esta carta porque su vecindario está cerca de una anexión propuesta en la Ciudad de <name of City>. La ciudad está proponiendo anexar el territorio localizado <insert description of annexation – size, purpose, etc.>. Un mapa ilustrando el territorio de la anexión propuesta está incluido con esta carta. La ciudad también quiere saber su interés en ser incluido en la anexión.

Actualmente usted está viviendo o es dueño de propiedad en áreas que no son incorporadas en el Condado de Fresno. Por esta razón el Condado de Fresno o el <name of special district> es responsable de proveer servicios municipales a su comunidad. La anexión del territorio a la ciudad de <name of City> resultaría en que la ciudad se haga responsable de muchos de los servicios municipales a su comunidad que actualmente son proveídos por el Condado o el <name of special district>. Por favor mire la información incluida acerca de los servicios que la ciudad pueda proveer y como los servicios son pagados y cuando debe de anticipar los servicios que sean proveídos si su vecindad si el territorio es anexado a la ciudad de <name of City>.

Incluido esta una encuesta de la anexión y un sobre pre pagado <or postage paid post card if the survey can fit>. Por favor devuelva la encuesta antes del <date>. El regreso de esta encuesta es importante porque las leyes del estado de California requieren que la ciudad archive una aplicación para anexar su vecindario al menos que la mayoría de los residentes en su vecindario estén en contra de la anexión propuesta. Si usted tiene preguntas acerca de esta carta o quiere más información, por favor contacte a <city contact name, phone number, e-mail>. Para servicios de traducción en español sobre los servicios de la ciudad, contacte a <city contact name, phone number, e-mail>.

<Ending salutation>

Documentos Incluidos:

Mapa de la Propuesta Anexión

Servicios de la Ciudad y Otra información

Encuesta de Anexión y Sobre de Regreso <or City Annexation Survey Postcard>



City of X Annexation Survey

Please fill out this survey after reading the enclosed information regarding City services and potential annexation into the City of X.

Would you like to be annexed to the City of X?

Yes, I would like my property/residence to be annexed.

No, I do not want my property/residence to be annexed.

\_\_\_\_\_ I don't care, it doesn't matter to me if my property/residence is in the City or County.

\_\_\_\_\_ I don't know, I would like more information regarding annexation.

Would you be interested in attending a public meeting to hear more about what annexation means?

Yes

No

Contact information of the person(s) filling out this survey:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone or E-mail: \_\_\_\_\_

Ciudad de X Encuesta De Anexión

Por favor llene esta encuesta después de leer la información incluida sobre los servicios de la ciudad y la posibilidad de anexión a la Ciudad de X.

¿Le gustaría ser anexado a la Ciudad de X?

Si, Me gustaría que mi propiedad/residencia sea anexada.

No, No me gustaría que mi propiedad/residencia sea anexada.

\_\_\_\_\_ No me importa, no me importa que mi propiedad/residencia este en la ciudad o el condado.

\_\_\_\_\_ No Se, Me gustaría más información sobre la anexión.

¿Estará interesado en atender una ausencia publica para aprender más sobre la anexión?

Si

No

¿Cuántas personas (18 años o mayor) residen en su vivienda?

Información de contacto de la(s) persona(s) llenando la encuesta:

Nombre: \_\_\_\_\_

Dirección: \_\_\_\_\_

Teléfono o E-mail: \_\_\_\_\_

Reference: February 11, 2015

## Appendix F: Fresno LAFCo Extension of Services Worksheet

This worksheet outlines the statute, policy, and procedure to request extension of service(s). Once you have reviewed this worksheet, you are encouraged to consult with LAFCo staff prior to submitting an application.

### Authority

*Government Code (GC) sec. 56133(a) A city or district may provide new or extended services by contract or agreement outside its jurisdictional boundaries only if it first requests and receives written approval from the commission in the affected county.*

By Resolution No. 127, the Fresno LAFCo delegated to the Executive Officer the authority to approve, or conditionally approve, proposals to extend services outside jurisdictional boundaries.

### Applicant

It is strongly recommended that the local agency that will provide the service(s) be the applicant, not the subject property owner. A local agency's agreement to serve the subject property is a necessary part of the application and will carry great weight with the Executive Officer's analysis of the application. LAFCo staff encourages property owners to work through the affected local agency:

*GC 56017.2 (c). "Application" means: A request by a city or district for commission approval of an extension of services outside the agency's jurisdictional boundaries pursuant to Section 56133. (emphasis added)*

Information needed from a local agency for authorization to extend service(s)<sup>2</sup>

- Completed application (only the first page of the LAFCo master application is necessary for extension of service requests);
- Nature of the request;
- Location of proposed recipient(s), address, APN, and total acreage of the affected property(ies);
- Maps depicting:
  - subject property.
  - all public improvements needed to fulfill the proposed extension,
  - city limit/district boundary. and
  - affected local agency's sphere of influence (SOI);
- A draft copy of the proposed agreement or contract between local agency and owners of the affected properties;
- A local agency contact;

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<sup>2</sup> Note: An extension of service may be exempt from GC sec. 56133; see "Important exemption in the statute" later in this worksheet. If the extension is exempt the Executive Officer will communicate this in writing and fee will be returned.

- Known alternate providers of the type of service to be extended; and
- Fee per Fresno LAFCo policy 350-10.

### Process

Extension of service requests are not changes of organization pursuant to GC 56021 and are not publicly noticed pursuant to GC 56658(b)(1); rather, the process is administrative in nature with typical notice of action given only to the subject local agency, the party requesting service, Fresno County Public Works and Planning, County Auditor/Controller, and County Assessor.

Within 30 days of receipt of an application for approval by a city or district of a contract to extend services outside its jurisdictional boundary, the executive officer shall determine whether the request is complete and acceptable for filing or whether the request is incomplete.

If a request is determined not to be complete, the executive officer shall immediately transmit that determination to the applicant, specifying those parts of the request that are incomplete and the manner in which they can be made complete.

When the request is deemed complete, the executive officer shall, not more than 90 days from the date that the request is deemed complete, approve, disapprove, or approve with conditions the contract for extended services.

The executive officer may forward a copy of the application to the Fresno County Department of Public Works and Planning for review, comment, and recommended conditions of approval including necessity for encroachment permits, utility easements, and so forth.

If the executive officer has denied a request for extension of service, the local agency or an affected party may request that the executive officer's action be reconsidered by the commission within 30 days of executive officer action per GC sec. 56895.

There are essentially two thresholds to consider: is the service to be extended to property(ies) inside or outside of a SOI. If the subject property is inside of the affected agency's SOI:  
*GC 56133 (b) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries but within its sphere of influence in anticipation of a later change of organization.*

In comparison, service to property(ies) outside of the affected agency's SOI is a substantially higher threshold:

*GC 56133 (c) The commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries and outside its sphere of influence to respond to an existing or impending threat to the public health or safety of the residents of the affected territory if both of the following requirements are met:*

*(1) The entity applying for the contract approval has provided the commission with documentation of a threat to the health and safety of the public or the affected residents.*

*(2) The commission has notified any alternate service provider, including any water corporation as defined in Section 241 of the Public Utilities Code, or sewer system corporation as defined in Section 230.6 of the Public Utilities Code, that has filed a map and a statement of its service capabilities with the commission.*

Regarding (1), above, in the event that the requested extension is outside a SOI, as soon as possible, the local agency should contact Fresno County Department of Public Health, Environmental Health Division at (559) 600-3271 for a finding of an existing or impending threat to the public health or safety.

Regarding (2) above, Public Utilities Code sec. 241 identifies a “Water corporation” as including every corporation or person owning, controlling, operating, or managing any water system for compensation within this State. Maps and statements on file with the commission are:

- Columbia Canal Company
- Shaver Lake Point One Mutual Water Company
- Shaver Lake Point Two Mutual Water Company
- Bakman Water Company

#### Important exemption in the statute

*GC sec. 56133 (e) This section does not apply to contracts or agreements solely involving two or more public agencies where the public service to be provided is an alternative to, or substitute for, public services already being provided by an existing public service provider and where the level of service to be provided is consistent with the level of service contemplated by the existing service provider. This section does not apply to contracts for the transfer of nonpotable or nontreated water. This section does not apply to contracts or agreements solely involving the provision of surplus water to agricultural lands and facilities, including, but not limited to, incidental residential structures, for projects that serve conservation purposes or that directly support agricultural industries. However, prior to extending surplus water service to any project that will support or induce development, the city or district shall first request and receive written approval from the commission in the affected county. This section does not apply to an extended service that a city or district was providing on or before January 1, 2001. This section does not apply to a local publicly owned electric utility, as defined by Section 9604 of the Public Utilities Code, providing electric services that do not involve the acquisition, construction, or installation of electric distribution facilities by the local publicly owned electric utility, outside of the utility's jurisdictional boundaries.*

#### Typical Conditions of Approval

The LAFCo resolution authorizing extension of service pursuant to GC 56133 typically includes the following condition of approval:

- The record owner of title to each property shall record a covenant, in a form acceptable to the (service provider), stating that the record owner, and all subsequent owners of the subject property, shall not protest the future annexation of the subject property if such annexations are not subject to conditions, excluding the facts pertaining to the

annexation itself or the extension of service, which might materially prejudice those holding an interest in the real property.

- Other conditions of approval may be added to reflect circumstances unique to the application.

#### Distribution of Resolution

Upon expiration of the reconsideration period, the Executive Officer will distribute the resolution authorizing extension of service to the:

- local agency providing the extended service,
- owner(s) of the affected property,
- Fresno County Department of Public Works and Planning, and
- Fresno County Auditor-Controller/Treasurer-Tax Collector.

The Executive Officer shall provide a summary report of the resolution to the Commission at the next available meeting.