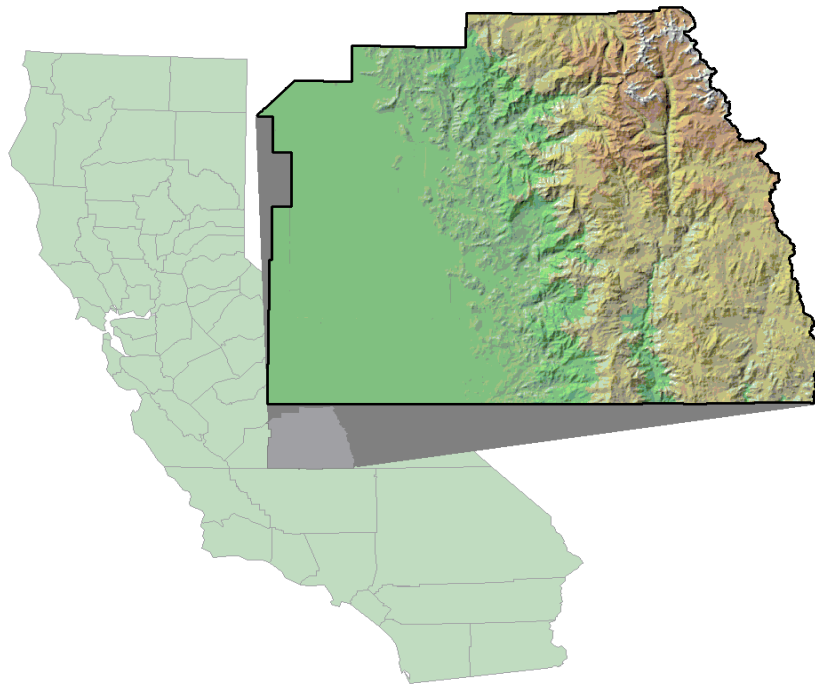


# TULARE COUNTY LOCAL AGENCY FORMATION COMMISSION



## ***POLICY AND PROCEDURES***

<Last Update: 9/4/24>

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## ***Section A***

# ***INTRODUCTION***

# ***Policies and Procedures***

## ***Tulare County Local Agency Formation Commission***

### **1. PURPOSE OF LAFCO**

- 1.1.** The procedures for establishing and revising local government boundaries are set in the constitutions and laws of the 50 states. The range of procedures includes judicial approval, special state legislation, or the use of "boundary commissions" such as California's Local Agency Formation Commissions (LAFCOs).

In California, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 1985 followed several years of cooperative effort between Assembly Member Dominic Cortese, former Chair of the Assembly Local Government Committee, and the California Association of Local Agency Formation Commissions (CALAFCo). The Act, which became operative January 1, 1986, consolidated three major laws that were previously used by California's local governments for boundary changes into a single, unified law. The three laws that previously governed changes in the boundaries and organization of cities and special districts were:

- The Knox-Nisbet Act of 1963, which established LAFCO's with regulatory authority over local agency boundary changes.
- The District Reorganization Act of 1965 (DRA), which combined separate laws governing special district boundaries into a single law.
- The Municipal Organization Act of 1977 (MORGA), which consolidated various laws on city incorporation and annexation into one law.

Since 1963, when State law created LAFCO's, commissions in each California County have encouraged the orderly formation of local government agencies, preserved agricultural and open space land, and discouraged urban sprawl. The Tulare County Local Agency Formation Commission (LAFCO) has jurisdiction over changes in local government organization occurring within Tulare County.

The most significant recent changes are the result of the passage of AB2838 (Hertzberg) in 2000, which completely revised the Act and substantially strengthened the powers of LAFCO. The Act is now known as the Cortese/Knox/Hertzberg Local Government Reorganization Act of 2000.

- 1.2.** The following proceedings for changes in organization of special districts or cities are subject to LAFCO review, pursuant to the Cortese/Knox/Hertzberg Local Government Reorganization Act of 2000 (Government Code Section 56000, et seq.). A change in organization can mean any of the following:

- A city incorporation;
- A district formation;
- An annexation to, or detachment from, a city or district;
- A disincorporation of a city;
- A district dissolution;
- A consolidation of cities or special districts;

- A merger or establishment of a subsidiary district;
- An authorization of a special district to exercise one of its latent powers or to extend the area over which a latent power is exercised; or
- A reorganization involving two or more of the above-listed changes of organization.

**1.3.** Specifically excluded from LAFCO's jurisdiction are the following local government agencies:

- A school district or community college district;
- A special assessment district;
- An improvement district;
- A community facilities district formed pursuant to the Mello-Roos Community Facilities Act of 1982;
- A permanent road division formed pursuant to Section 1160 of the Streets and Highways Code;
- An air pollution control district or an air quality maintenance district;
- A service zone of a fire protection district.

**1.4.** Several local government agencies are subject to LAFCO jurisdiction, but are not subject to the conducting authority proceedings of the Cortese/Knox/Hertzberg Act. Conducting authority proceedings are held in accordance with the principal act that established the agency. These agencies include:

- A unified or union high school library district;
- A bridge or highway district;
- A joint highway district;
- A transit or rapid transit district;
- A metropolitan water district; or
- A separation of grade district.

The following local government agencies are subject to LAFCO jurisdiction, but are not subject to the conducting authority proceedings of the Cortese/Knox/Hertzberg Local Government Reorganization Act if the commission determines that they are not a district or a special district. If a determination is made that these agencies are not districts or special districts, conducting authority proceedings are held in accordance with the principal act that established the agency:

- A flood control district;
- A flood control district and floodwater conservation district;
- A flood control district and water conservation district;
- A conservation district;
- A water conservation district;
- A water replenishment district;
- A California water storage district;
- A water agency; or
- A county water authority or a water authority

# ***Policies and Procedures***

## ***Tulare County Local Agency Formation Commission***

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**Policy Number:** A-2

**Effective Date:** *February 6, 2002*

**Authority:** *GC §56000 et seq., LAFCO Resolutions 02-006, 10-030*

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**Title:** **LAFCO Process**

**Policy:** The powers and responsibilities of Local Agency Formation Commissions (LAFCOs) are defined in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code section 56000 et seq.)

**Purpose:** To outline LAFCO's responsibilities and process.

**Scope:** This procedure applies to Tulare County LAFCO

**History:** This policy was adopted with the original Manual on 2/6/02. The policy amended on 12/8/10 to be made consistent with other policies and duplications with other policies were removed.

**Procedure:**

### **2.1. LAFCO Mission**

The mission of Tulare County LAFCO and other LAFCOs is to encourage the logical and orderly development of cities and special districts. Through their power to approve or deny changes of organization, LAFCOs attempt to avoid unplanned or premature extension of services which can contribute to urban sprawl, the loss of agricultural land, and inefficient delivery of public services. The purposes of LAFCOs are set forth in GC §56301, which reads as follows:

“Among the purposes of a commission are: discouraging urban sprawl, preserving open space and prime agricultural lands, efficiently providing government services, and encouraging the orderly formation and development of local agencies based upon local conditions and circumstances. One of the objects of the commission is to make studies and to obtain and furnish information which will contribute to the logical and reasonable development of local agencies in each county and to shape the development of local agencies so as to advantageously provide for the present and future needs of each county and its communities. When the formation of a new government entity is proposed, a commission shall make a determination as to whether existing agencies can feasibly provide the needed service or services in a more efficient and accountable manner. If a new single-purpose agency is deemed necessary, the commission shall consider reorganization with other single-purpose agencies that provide related services.”

## 2.2. LAFCO Responsibilities

### A) **Changes of Organization:**

LAFCOs are the responsible agency for changes of organization such as the annexation or detachment of territory into cities or special districts, city incorporation or disincorporation, district formation or dissolution, consolidation of cities or districts, merger or establishment of a subsidiary district and proposals for the exercise of new or different services within districts. The Commissions review proposals and approve, conditionally approve, or deny cities or special districts permission to annex territory. **[Policies C-2, C-3 and C-7]**

### B) **Spheres of Influence (SOIs):**

LAFCOs set and adopt the Spheres of Influence for cities and districts. A Sphere of Influence is a plan for the probable physical boundaries and service area of a local agency. Municipal Service Reviews (MSRs) are required in order to prepare and update SOIs. **[Policy C-5]**

### C) **Extraterritorial Service Agreements (ESAs):**

LAFCOs are authorized to review proposals that would extend services beyond the jurisdictional boundary of a local agency. **[Policy C-6]**

## 2.3 LAFCO Process – Changes of Organization

Typically, proposals considered by Tulare County LAFCO are initiated by resolution of the affected agency (the city or special district). Proposals may also be initiated by petition of property owners or registered voters, by action of LAFCO (limited to special districts) or in some cases by action of the Board of Supervisors. The following is a general summary of the change of organization process initiated by a city or special district resolution as it relates to LAFCO. Please refer to the referenced policies for more detailed information. Also, additional steps and information may be required for more complex changes of organization such as incorporations and district formations.

### A.) **Application:**

After a pre-consultation meeting **[Policy B-1]**, the city or special district submits an application that contains an initiating resolution, information regarding the proposal, a processing fee charged by LAFCO **[Policy B-2]** and other required information. Form E-1 lists all of the required information and documents for an application.

### B.) **Staff and Commission Review:**

LAFCO staff determines whether the application is complete, analyzes the proposal to see if it meets the requirements of the Cortese-Knox-Hertzberg Act (**GC §56000, et seq.**) and LAFCO policy, writes the staff report, and sets a public hearing or meeting date. At the scheduled meeting or public hearing, the Commission reviews staff analysis, receives oral and written testimony and adopts a resolution approving or denying the proposed annexation or detachment with or without conditions. **[Policies C-1 and C-2]**

**C.) Conducting Authority:**

Pursuant to Government Code 57000 (effective January 1, 2001) and unless the process can be waived, the Commission is required to conduct “protest proceedings” to determine whether the proposal can be ultimately approved without election, whether an election should be held, or whether the proposal must be terminated due to majority protest. ***[Policy C-4]***

**D.) State Board of Equalization:**

If approved, LAFCO certifies that the change of organization is complete, has the change of organization recorded by the County Clerk, notifies interested Local and State Agencies and other interested parties of the change and files a Statement of Boundary change with the State Board of Equalization (BOE). Changes that are filed with the BOE by December 1<sup>st</sup> effect the property tax rate (if applicable) for the tax year beginning March 1<sup>st</sup> of the following year. The BOE charges a filing fee that is based upon the size of the annexation. This fee is paid by the applicant of the change of organization.



# ***Policies and Procedures***

## ***Tulare County Local Agency Formation Commission***

### **FREQUENTLY ASKED QUESTIONS**

#### **3.1. What is LAFCO?**

LAFCO means Local Agency Formation Commission. LAFCO's are independent regulatory agencies that receive their powers directly from the California State Legislature. LAFCO's regulate the boundaries of cities and most special districts under their jurisdiction and are responsible for encouraging the orderly formation of local governmental agencies, discouraging urban sprawl, and preserving prime agricultural lands and open space. All counties of the state have a LAFCO.

#### **3.2. What does LAFCO do?**

LAFCO's are responsible for reviewing and approving proposed jurisdictional boundary changes including annexations and detachments to/from cities and special districts, incorporation of new cities, formation of new special districts, and the consolidation, merger, and dissolution of existing special districts. LAFCO is also responsible for reviewing and approving extraterritorial service agreements between local governmental agencies and establishing and reviewing spheres of influence for cities and special districts.

#### **3.3. Who runs LAFCO?**

The Tulare County LAFCO is composed of five regular commissioners: two members from the County Board of Supervisors; two members who represent cities in the county; and one public member. There are also three alternate commissioners; one from each of the above categories. LAFCO staff consists of an Executive Officer, Staff Analysts, legal counsel and support services provided under a contract with the County of Tulare.

#### **3.4. When and where does LAFCO meet?**

LAFCO meetings typically occur on the first Wednesday of each month at 2:00 pm at the Administrative Building, Board of Supervisors Chambers, County Civic Center, Visalia, California. If the first Wednesday of the month is a holiday, the meeting is held, generally, on the next available Wednesday of the same month.

**3.5. How do I submit an proposal for annexation or other type boundary change with LAFCO?**

Cities and special districts may submit proposals to LAFCO by certified resolution or petition of landowners/registered voters making application.

**3.6. How long does it take to process my proposal?**

If the proposal is found to be complete and is considered to be of a routine nature, it should be completed within 3 to 4 months after receiving the initial application. More complicated proposals will require additional time.

**3.7. Is there a fee associated with LAFCO review?**

Yes. Tulare County LAFCO charges a fee of \$3,410 to process annexations, detachments, and other similar changes of organization or reorganization. A fee is also charged to process extraterritorial service agreements and spheres of influence changes. A complete schedule of fees can be found on Section B-2.

**3.8. What is a Sphere of Influence?**

A Sphere of Influence is a planning document adopted by LAFCO that shows on a map the probable future boundaries and service area of a city or special district. In general, the sphere of influence tells residents, landowners, and public officials where LAFCO thinks a city or special district will annex territory in the future.

**3.9. Can a Sphere of Influence be changed?**

Yes. LAFCO may amend or update spheres of influence. LAFCO is required to review spheres of influence for cities and special districts at 5-year intervals and either adopts or amends them as necessary. However, a city or special district may petition LAFCO to amend their sphere of influence at any particular time if a need arises and the proposal qualifies under LAFCO's Sphere of Influence policy (See Section C-5).

**3.10. Is LAFCO subject the California Environmental Quality Act (CEQA)?**

Yes. Although LAFCO never engages directly in land use decisions, its decisions indirectly affect land use. Annexations, detachments, and revisions to a local sphere of influence are all subject to environmental review under CEQA.

# ***Policies and Procedures***

## ***Tulare County Local Agency Formation Commission***

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**Policy Number:** A-4

**Effective Date:** February 6, 2002

**Authority:** GC §56325:56337 and LAFCO Resolutions 96-006, 02-006, 07-019, 11-018

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**Title:** **Commission Composition**

**Policy:** The method for selecting the Commissioners and Alternates of the Commission shall be equitable, efficient, and clearly articulated.

**Purpose:** To outline the method for selecting Commissioners and Alternates to the Commission that is equitable, efficient, and clearly articulated.

**Scope:** This procedure applies to all Tulare County LAFCO's county, city, and public members and alternates.

**History:** A public member selection and appointment policy was adopted on 4/3/96 and was incorporated into this policy in the initial adoption of the Policies and Procedures Manual on 2/6/02. The procedure was amended on 3/7/07 to add the process for the selection of Commission officers (A-4.5). The procedure was amended on 10/5/11 to modify the public member selection process and add the commissioner vacancy sub-section.

### **Procedure:**

#### **4.1. Composition**

Tulare County LAFCO consists of a five member commission composed of two members of the County Board of Supervisors, chosen by the board; two members representing the cities in Tulare County, chosen by the city section committee and one public member, chosen by the other members of the commission. Also part of the commission are three alternates, each representing the county, cities, and the public, selected as described above.

#### **4.2. Terms of Office**

In accordance with Government Code Section 56334, the term of office of each member shall be four years to expire on the first Monday of May and until appointment and qualification of his or her successor.

- A. County and City Commissioners are required to vacate their seat if he or she ceases to hold the originating office. [GC §56337]
- B. Public Commissioners are required to vacate their seat if he or she becomes an officer or employee of the County or any city or district with territory in the County. [GC §56331]

#### **4.3 Alternate Members**

Alternate commissioners are encouraged to take an active role in LAFCO business including discussions and deliberations on project proposals, CALAFCO legislative activities and training workshops, interagency coordination and communication, and participation in policy development and other working groups. Alternate commissioners may vote in place of regular commissioners, in the same category as the alternate commissioner, who is absent or who disqualifies himself or herself from participating in an action.

#### **4.4 Commissioner Vacancy**

Any commissioner's office may be declared vacant by the Commission prior to the expiration of the commissioner's term pursuant to Government Code section 1770.

- A. The Commission may recommend to the appointing authority that a commissioner's office is vacant before the expiration of the commissioner's term, as defined by GC §1770, including but not limited to: when the commissioner ceases to discharge the duties of his or her office for the period of three consecutive months, except when prevented by sickness, or when absent from the state with the permission required by law.
  - I. If a commissioner will fail to attend a meeting, he or she must call the LAFCO Clerk prior to the public meeting and advise whether his or her absence will be due to sickness or other permission required by law.

#### **4.5 Public Member Selection and Appointment Policy (Resolution 96-06, 4-3-96)**

The method for selecting the Public Member and Alternate Public Member should be equitable, efficient and clearly articulated for all concerned.

- A. In accordance with GC §56334, the term of office for the Public Member and Alternate Public Member shall be four years to expire on the first Monday in May or upon the qualification of the Commissioner's successor. The terms of office of the Public Member and Alternate Public Member shall be staggered by two years. The first full term for the Alternate Public Member shall begin on the first Monday in May, 1996.
- B. At least two months prior to the expiration of the term of office, the Executive Officer shall seek application to the position from the community at large. Reasonable effort shall be taken to advertise the opening of the broadest selection of candidates possible. Candidates should be encouraged to submit a resume and statement regarding their qualifications and interest in serving on the Commission. This does not preclude the incumbent Public or Alternate Public Member from applying for appointment.
- C. At least one month prior to the expiration of the term of office, the Commission shall appoint a selection committee consisting of one County Member and one City Member. The committee will consider any materials submitted by the applicants and may conduct interviews of the candidates. It is anticipated that the candidates will be asked to present their qualification in an initial statement to be followed by questions from the members of the selection committee. Following this process, the committee will select a candidate to recommend to the commission. The

Executive Officer will place the matter of the selection of the Public member or Alternate Public Member on the agenda of a regular meeting of the Commission. The recommendation of the selection committee will be presented to the Commission at the meeting. The Commission will select the successful candidate by a majority vote on a motion to appoint the candidate to the Commission.

- D. The application and selection process as outlined above shall begin immediately following a Commission determination that a Public Member or Alternate Public Member position has become vacant before the expiration of the term.

**4.6 Officers**

- A. The officers of the Commission shall be a chair and vice-chair, and the vice-chair shall serve in the absence of the chairman. In the absence of both the chair and the vice-chair, the members present at such a meeting may elect a chair pro tem.
- B. The Executive Officer shall be selected by the Commission in accordance with the Staff Services Agreement with the County and TCAG (Policy D-3) and GC §56384.
- C. The terms of office for chair and vice-chair shall be one year from January 1 to December 31: for chairman pro tem, for the meeting only at which he or she is appointed.
- D. It is the policy of this Commission to annually rotate the membership of its officers so that all members of the Commission will have an equal opportunity to serve as an officer of the Commission.

**4.7 Current Commissioners and Terms**

<u>Commissioner</u>	<u>Representing</u>	<u>Term Expires</u>
Maribel Reynosa**	City Council	May 2027
Dennis Townsend	Board of Supervisors	May 2028
Rick Feder*	Public	May 2026
Dennis Mederos	City Council	May 2028
Pete Vander Poel	Board of Supervisors	May 2026

\*Chair, \*\*Vice-Chair

**4.8 Current Alternates and Terms**

<u>Alternate</u>	<u>Representing</u>	<u>Term Expires</u>
Larry Micari	Board of Supervisors	May 2027
Steve Harrell	City Council	May 2025
Fred Sheriff	Public	May 2028

# ***Policies and Procedures***

## ***Tulare County Local Agency Formation Commission***

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**Policy Number:** A-5

**Effective Date:** March 7, 2007

**Authority:** GC Section 56000 et. Seq., and LAFCO Resolutions: 07-020, 09-015, 10-030, 14-001, 16-021, 22-02a, 23-004

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**Title:** Commission Meetings and Hearings

**Policy:** The method for setting meetings and conducting hearings shall be equitable, efficient, and clearly articulated.

**Purpose:** To outline the method for setting meetings and conducting hearings.

**Scope:** This procedure applies to all Tulare County LAFCO meetings and hearings.

**History:** This was a new policy adopted on 3/7/07. The procedure was amended on 9/2/09 to add a process for the cancellation and overriding a cancellation of regular meetings (A-5.1.F). The original Policy C-8 (Conduct of Commission Business) contained duplicate information to Policy A-5. Unique information from Policy C-8 was moved to this policy and Policy C-8 was removed on 12/8/10. Rosenberg's replaced Roberts' Rules of Order and qualifying affirmative voting was amended on 2/5/14. Legislative Process Participation was added on 8/3/16. Commissioner Code of Ethics and Roles & Responsibilities added 3/2/22. Commissioner Stipends added 4/5/23.

### **Procedure:**

#### **5.1. Meetings**

- A. By November of each year, the Commission shall adopt a meeting schedule for the following calendar year.
- B. The regular meetings of the Commission shall be held the first Wednesday of each month at 2:00 p.m. at the Board of Supervisors Chambers. However, the Commission may set an alternate day, time and/or location in case of a holiday or other scheduling conflicts.
- C. If, for any reason, the business to be considered at a regular meeting cannot then be completed, the Commission may either continue the unfinished business to the next regular meeting or designate the time for an adjourned meeting. Such action shall serve as adequate notice to members present at such meeting and, with respect to members not present, it shall be the standing order that the Executive Officer shall endeavor to advise absentee members of the determination to hold such adjourned meeting. Such adjourned meeting shall not be later than the date for the next regular meeting.

- D. If a quorum of the Commission is not present, the members present may at such meeting designate the time for an adjourned meeting, or continue all business to the next regular meeting. If no members are present at such regular meeting, the Executive Officer may adjourn the meeting in which case all business on the agenda shall be continued to the next regular meeting. Any adjourned meeting shall not be later than the date for the next regular meeting. Such adjournment of meeting by members present shall serve as sufficient notice thereof to the general public and all members present, and it shall be the duty of the Executive Officer to employ such reasonable means as may be necessary to notify the absentees.
- E. The Chair, or three members, may direct the Executive Officer to send out notices for a special meeting, in accordance with GC §54956. Said notices may be mailed seven business days prior to the date of the meeting, or three days if notice is given by telephone or e-mail. The special meeting agenda and notice shall be posted at the Resource Management Agency Permit Center at least 24 hours prior to the special meeting.
- F. Any regular meeting may be cancelled either by action of the Commission or by direction of the Chair if the Executive Officer advises that there are no public hearings or matters of substance scheduled for that meeting. In such cases the other Commissioners, affected parties and the public shall be given seven days notice about the cancellation. The cancellation may be overridden if a majority of the Commissioners notifies the Executive Officer with their objection to the cancellation at least 72 hours prior to the cancelled meeting.

## **5.2. Quorum and Voting**

- A. A majority (three) of the members and/or eligible voting alternates (see Policy A-4.3) of the Commission shall constitute a quorum for the conduct of routine business.
- B. The affirmative vote of a majority of the full membership at any qualified meeting shall be sufficient to act on any matter before the Commission. A tie vote shall constitute non-action, except that a subsequent tie vote on the same or an identical motion shall constitute denial without prejudice.
- C. All members of the Commission, both regular and alternate, are encouraged to participate in the discussions of a proposal before the Commission. However, only regular members may vote on an action. Alternates may vote only when sitting in place of a regular member who is absent or is disqualified from a particular action.
- D. The representation by a member or alternate of a city or district shall not disqualify, or be cause for disqualification of, the member or alternate from acting on a proposal affecting the city or the district, as provided by GC §56336.
- E. The determination by a Commissioner to abstain from voting on any action before the Commission does not indicate, and shall not be counted as, either a “yes” or “no” vote on that count.

## **5.3. Conduct of Business**

- A. Rosenberg’s Rules of Order shall govern the conduct of meetings of the Commission.
- B. The typical order of business of the Commission is:

- I. Call to Order
- II. Approval of minutes from previous meeting
- III. Public Comment Period
- IV. Consent Calendar
- V. Continued Action Items
- VI. New Action Items
- VII. Executive Officer's Report
- VIII. Correspondence
- IX. Other Business
- X. Setting time and place of next meeting
- XI. Adjournment

#### **5.4. Hearings**

- A. Hearings conducted by the Commission shall conform to the provisions of law in the matter of public notice, time, number and reporting.
- B. A formal hearing before the Commission which, for any reason, can not be completed at the time and/or place originally advertised shall be continued to a subsequent regular or adjourned meeting of the Commission, and the announcement of such continuance and the time and place of such continued hearing shall constitute a sufficient notice to all parties concerned.
- C. Any matter coming before the Commission may, if deemed necessary, be referred to staff or a committee of the Commission for additional study and recommendation. Except as herein below provided, any member, or members, designated by the Chair for the purpose, shall be authorized and qualified to preside over and conduct any informal public meeting, provided that the purpose of such meeting shall be confined to the taking and recording of a summary of all pertinent testimony. The member, or members, conducting such meeting shall summarize the testimony introduced and render an opinion thereon to the full Commission. The decision on all matters held at such informal meetings before a member, or members, shall, however, be made only at and by a regular meeting of the Commission.
- D. In the case of hearings which are held on more than one meeting, any Commissioner who was not present at all the hearings on a particular matter and has not heard all of the testimony, shall abstain from voting on the matter subject to the hearing. However, if for any reason it becomes necessary for a Commissioner who has not heard all of the testimony on a particular matter to take an action on the matter, the Commissioner may do so if the Commissioner has listened to the tape recording of the hearing(s) that he/she has missed.

#### **5.5. Brown Act Compliance**

- A. At least 72 hours (3 days) before a regular meeting, the Commission's agenda containing a brief general description of each public hearing and item of business to be transacted or discussed, shall be posted on the Commission's website and at the front public counter at the Resource Management Agency Permits Center, Visalia, California, complete with the time and location of the meeting.
- B. Action shall be taken only on those items appearing on the posted agenda except under an emergency situation or special circumstance pursuant to state law regulations.



- C. The agenda shall provide an opportunity for the general public to directly address the Commission on items of interest to the public within the subject matter jurisdiction of the Commission. The comment period shall be limited to five minutes for each individual and thirty minutes overall or as determined by the Commission Chair at the beginning of the public hearing.
- D. Posted notice for special meetings shall be a minimum of twenty-four hours prior to the meeting and as soon as possible for emergency meetings pursuant to state law regulations.
- E. The Commission may hold Closed Sessions during a regular or special meeting as allowed by the Ralph M. Brown Act (GC §54950 et seq.)
- F. The Commission shall observe all other applicable regulations and requirements under the Brown Act.

**5.6. Suspension or Change to Rules of Order**

Any of these rules not required by law may be suspended or changed by a majority of the members of the Commission.

**5.7. Legislative Process Participation**

- A. The Commission shall consider adoption of a legislative platform annually, or as needed.
- B. In emergency situations when proposed legislation affecting LAFCO cannot be considered by the full Commission due to timing, the Executive Officer is authorized to provide written or e-mail correspondence regarding the Commission's position if the position is consistent with the adopted legislative platform of the Commission.
- C. The Chair and Vice-Chair shall review and either sign the letter or approve the email prior to it being submitted for consideration.
- D. After submission, the Executive Officer shall forward the approved e-mail or letter to the Commission.
- E. The correspondence will be placed in the next available Commission agenda for affirmation.

**5.8. Commissioner Roles & Responsibilities (3/2/22 Res 22-002a)**

- A. Diligently prepare for meetings by understanding the background, purpose, and arguments for and against items of business before a meeting.
- B. Seek background information about agenda items and operational matters by contacting the LAFCO's Executive Officer prior to the Board Meeting.
- C. Respect confidences and information designated as "confidential." Do not disclose information received during a Closed Session of the LAFCO Board held pursuant to state law.

- D. Treat everyone with respect by actively listening to other viewpoints, and not interrupting, ignoring, or belittling the contributions of others. Members of the Commission will use professional language.
- E. State views briefly and clearly during LAFCO Board and Committee meetings. Refrain from discussing non-agenda items.
- F. Refrain from abusive conduct, personal charges, or verbal attacks upon the character, motives, ethics, morals, or comments of other Commissioners, staff, or the public.
- G. Make impartial decisions in the best interest of the public, free of narrow political interest, financial, and other personal interests that impair independence of judgment or action, and are consistent with, but not limited to, the requirements of the Political Reform Act and other state and local laws.
- H. Recognize and accept legitimate differences of opinion. Act with integrity in accepting, supporting, and defending LAFCO. Once the Commission takes action, all Commissioners should respect the decision of LAFCO and not create barriers to the implementation of said action. The dissenting Commissioner(s) should acknowledge the decision of the Board and current position of LAFCO.
- I. Provide fair and equal treatment of all persons and matters coming before the Commission.
- J. Support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; bear true faith and allegiance to the Constitutions of the United States and the State of California; and well and faithfully discharge the duties of the office.
- K. Commissioners will strive to work in cooperation with other public officials unless prohibited from so doing by law or officially-recognized confidentiality of their work.
- L. Abide by and defend all applicable laws and policies, especially the political campaign, lobbying, and conflict of interest laws enforced by the Fair Political Practices Commission, state laws, and the Tulare County LAFCO's Policies and Guidelines.
- M. Safeguard LAFCO's ability to make independent, objective, fair and impartial judgments by scrupulously avoiding financial and social relationships and transactions that may compromise, or give the appearance of compromising objectivity, independence, and honesty.
- N. Carefully consider if exceeding or appearing to exceed authority of office for personal or financial gain. When in doubt, avoid actions that create, in the mind of a reasonable observer, the appearance of impropriety, ethical lapses, legal violations, or actions inconsistent with this Policy.
- O. Refrain from making unauthorized commitments or promises of any kind purporting to bind LAFCO.
- P. Refrain from using status as a public office holder to influence the outcome of a community meeting. When attending as a citizen, indicate when expressing

personal opinions, and refer questions related to LAFCO policies to LAFCO's Executive Officer.

- Q. Utilize LAFCO resources, including but not limited to, equipment, supplies, staff time, telephones, computers, and fax machines in a manner consistent with LAFCO policies and state laws.
- R. Correspondence paid for with public funds or on agency stationery must relate to bona fide LAFCO business and must not purport to advance or advocate a policy not previously approved by the Commission as a whole. No individual Commissioner shall create or transmit any LAFCO correspondence without authorization from LAFCO to serve as spokesperson for this purpose.

**5.9 Commissioner Code of Ethics (3/2/22 Res 22-002a)**

- A. Each Commissioner shall sign a Code of Ethics (Form E-12).

**5.10 Commissioner Stipends (4/5/23 Res 23-004)**

- A. The Public and Alternate Public Members shall receive a \$100 stipend for attendance to each regular Commission meeting, subcommittee meeting, ad hoc meeting and CALAFCO meeting.
  - I. Multi-day CALAFCO meetings are considered attendance to one event.

## ***Section B***

# ***EVALUATION OF PROPOSALS***

# ***Policies and Procedures***

## ***Tulare County Local Agency Formation Commission***

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**Policy Number:** *B-1*

**Effective Date:** *October 6, 2004*

**Authority:** *LAFCO Resolutions 04-026, 10-030, 11-003*

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**Title:** **Pre-Consultations**

**Policy:** It is the policy of the Tulare County Local Agency Formation Commission to require that the applicants or agents representing the applicants for a change of organization meet with LAFCO staff to discuss the issues surrounding the proposal and resolve any inconsistencies or conflicts with current policy or law.

**Purpose:** The purpose of this policy is to disclose any inconsistencies or conflicts early in the process in order to provide the most efficient and streamlined processing of an applicant's proposal.

**Scope:** This procedure applies to all individuals and entities applying to LAFCO for various proposals under LAFCO jurisdiction.

**History:** This policy was added to the Manual on 10/6/04. The procedure was amended on 12/8/10 to add more detail to the discussion points at the pre-consultation meetings. The procedure was amended on 3/9/10 to add a fiscal impact analysis determination.

### **Procedure:**

#### **1.1 Pre-Consultation Process**

It is of utmost importance that the applicant or applicant's agent meet with LAFCO staff prior to submitting the application for a change of organization. The following process shall be utilized in that respect.

- A. Arrange a meeting with LAFCO staff.
- B. Bring the following information to the meeting:
  - I. Project map for the proposal; and
  - II. General Plan and zoning designations; and
  - III. Proposed Development plans, if available or applicable. Tulare County LAFCO generally encourages proposed development plans, such as a tentative map, specific plan, etc., when vacant territory is proposed for annexation to a city or district. A key consideration in LAFCO's review

of the annexation request is the timing of the action. Annexation of vacant land is discouraged unless it can be demonstrated that services are needed in the near future. Without proposed development plans, it is difficult to demonstrate what level of services are required. Proposed development plans also provide the information necessary to evaluate a proposal. They also enable LAFCO to evaluate the impact of a jurisdictional change on adjacent areas.

- C. The following information, and other information as appropriate, will be reviewed and discussed at the meeting:
- I. Change of Organization and/or Sphere of Influence amendment process. **(Policy C-2 and C-5)**
  - II. Information and documentation requirements. **(Policy C-1 and Form E-1)**
  - III. Consistency of proposal with adopted Sphere of Influence and Urban Development Boundaries.
  - IV. For cities and urban districts, would the project create a city/district peninsula or county island or create isolated County road segments. **(Policy C-10)**
  - V. For cities, does the project include adjacent County road right-of-ways. **(Policy C-1.2(G))**
  - VI. For cities and urban districts, does the change of organization contain land under Williamson Act contract and if so for cities, is there a valid protest.
  - VII. If the change of organization is a city annexation, does it need to include detachment from a special district.
  - VIII. Whether or not a fiscal impact assessment is needed pursuant to Policy C-1.4(D). However, a fiscal impact assessment may still to be required after the issuance of the Notice of Filing pursuant to Policy C-2.4.
  - IX. The potential effect of the change of organization on any neighboring disadvantaged communities.
  - X. Processing Fees. **(Policy B-2)**
  - XI. The California Environmental Quality Act will be explained and determination made as to the lead agency. **(Policy B-3)**

## 1.2 CEQA Review

### A. LAFCO's role under CEQA

- I. LAFCO's role under CEQA is typically one of a responsible agency, which means that it does not take the lead in preparing the environmental document for the proposed action. There are occasions, however, when LAFCO will be the lead agency. The CEQA role of LAFCO will be an important topic of discussion at the pre-consultation meeting.

### B. Scope of Review

- I. The topical CEQA issues identified in Policy B-3.6 will be reviewed at the pre-consultation meeting as they may or may not pertain to the particular action.

# ***Policies and Procedures***

## ***Tulare County Local Agency Formation Commission***

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**Policy Number:** B-2

**Effective Date:** February 6, 2002

**Authority:** GC §56383, LAFCO Resolutions: 02-006, 03-008, 04-026, 05-068, 06-043, 10-030, 11-003, 14-006, 19-010

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**Title:** Processing Fees

**Policy:** Local Agency Formation Commissions are authorized to establish a schedule of fees for the costs of proceedings pursuant to GC§ 56383.

**Purpose:** To outline fees charged to individuals and entities that apply to LAFCO for various proposals under LAFCO jurisdiction.

**Scope:** This procedure applies to all individuals and entities applying to LAFCO for various proposals under LAFCO jurisdiction.

**History:** This policy was adopted with the original Manual on 2/6/02 (a schedule of fees was previously adopted and amended several times before the inclusion of the fee schedule in the Manual). Fees were increased by \$40 for changes of organization on 3/5/03 to account for a fee increase by County Public Works. Fee discount language was modified and actual costs were defined as the RMA planning service rate on 11/2/05. Fees were increased by \$27 for changes of organization effective on 10/1/06 to account for a fee increase by the County Assessor. A discount for disadvantaged communities and fee waiver information was added on 12/8/10. Responsibility of costs for fiscal impact analysis was added on 3/9/11. Half fee for projects qualifying for waiver of public notice and hearing was added on 4/2/14. Amended on 11/5/14 for \$500 activation of latent powers. Amended on 8/7/19 to add fee for land owner petition verification.

**Procedure:**

**2.1. Processing fees for proposals submitted to LAFCO.**

<b>Proposal</b>	<b>Processing Fee</b>
Change of Organization/Reorganization	\$3,476.00
Petition for Change of Organization	\$3,476.00 (plus signature review fee)
Protest Hearings for Changes of Organization/Reorganization	\$300.00
Change of Organization that eliminates or reduces (by at least 50%) a 100% surrounded unincorporated island and	\$1,791.00



any island that qualifies under the streamlined process	
Change of Organization that results in the creation of a 100% surrounded unincorporated island.	\$5,412.00
Request for reconsideration of a LAFCO Resolution Making Determinations	\$300
Sphere of Influence Amendment	\$1,500.00 (plus actual costs* in excess)
Extraterritorial Service requests processed by the Executive Officer	\$121.00 (plus actual costs* in excess)
Extraterritorial Service requests decided by LAFCo	\$334.00 (plus actual costs* in excess)
Activation of Latent Power	\$500.00 (plus actual costs* in excess)
Land owner petition verification	.75 per signature

\* 'Actual costs' shall be determined by Tulare County RMA's hourly rate for planning services

- 2.2. The fee for a change of organization or reorganization shall be reduced by \$150 if the agency provides evidence that it has already given notice of the LAFCo hearing to property owners and registered voters within 300 feet of the change of organization boundary. This notice shall contain a project description and time, date and location of the Commission hearing.
- 2.3. The fee for a change of organization or reorganization shall be reduced by \$50 if the agency provides evidence that it has already given notice to interested and subject agencies pursuant to GC §§56658(b)(1) and 56654(b).
- 2.4. CEQA fees – refer to Policy B-3.
- 2.5. The fee for a change of organization or reorganization shall be reduced by 50% if the following applies:
  - A. The proposed change of organization or reorganization includes a disadvantaged community as defined in Policy C-5.11(C), and
  - B. The disadvantaged community must account for at least 50% of the area within the proposed change of organization or reorganization, or
  - C. The proposal qualifies for a waiver of public notice and hearing pursuant to Policy C-2.9
- 2.6. Pursuant to GC §56383(d), the Commission may reduce or waive a fee if it finds that payment would be detrimental to the public interest. Applicants requesting fee reductions or waivers outside of those cited in this policy must submit the request at the project pre-consultation meeting (Policy B-1) and the Commission will make a determination prior to submittal of the project proposal.
- 2.7. Pursuant to Policy 2.4(C), the cost of a fiscal impact assessment would need to be determined on a case by case basis and would be paid for equally by both the subject and interested agencies or their contractors.

# ***Policies and Procedures***

## ***Tulare County Local Agency Formation Commission***

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**Policy Number:** B-3

**Effective Date:** February 6, 2002

**Authority:** CEQA, LAFCO Resolutions 85-020, 91-003, 02-006, 04-036, 07-030, 10-030

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**Title:** CEQA Guidelines

**Policy:** This policy is intended to be used in conjunction with the State “Guidelines for Implementation of the California Environmental Quality Act of 1970” and the “Tulare County Guidelines for the Implementation of the California Environmental Quality Act of 1970” for the preparation of environmental documents for proposals processed by Tulare County LAFCO for which no other public agency has acted as a lead agency to prepare the necessary documents to comply with the California Environmental Quality Act of 1970.

**Purpose:** To assess the environmental consequences of determinations made by Tulare County LAFCO and to exercise its authority in such a manner as to avoid or minimize adverse environmental impacts.

**Scope:** This procedure applies to all proposals processed by Tulare County LAFCO.

**History:** This was a pre-existing policy that was inserted and adopted with the original Manual on 2/6/02. The procedure was amended on 10/6/04 to add section 3.2 – LAFCO’s role as a Responsible Agency and 3.6 – Scope of Review. The procedure was amended on 6/6/07 to add a reference to public hearing exemptions (B-3.4). The procedure was amended on 12/8/10 to add a reference from CEQA regarding LAFCO responses to lead agencies (B-3.2).

**Procedure:**

### **3.1 Projects for which another public agency is acting as lead agency**

Where another public agency acts as a lead agency and submits a negative declaration or a final environmental impact report certified by resolution of the agency as having been completed in accordance with the California Environmental Quality Act of 1970 with an application for approval of a project by the Tulare County LAFCO, such negative declaration or final environmental impact report shall be submitted to the LAFCO without any further review, and without the payment of any additional fees, unless §15052 of the CEQA Guidelines would require LAFCO to act as the Lead Agency for the project. In such cases, if the project has not changed from the time that these environmental documents were prepared and none of the events described in §15162 of the CEQA Guidelines have occurred which would otherwise require a subsequent EIR, no additional environmental

documents shall be prepared on behalf of the LAFCO other than a notice of determination which shall be prepared and filed by the Commission with the County Clerk after approval or disapproval of the project.

### **3.2 LAFCO's role as a Responsible Agency**

Lead agencies shall comply with the State CEQA Guidelines requirements (§15086 to §15087) for distributing draft environmental documents to Responsible Agencies including LAFCO. The Executive Officer will transmit written comments to the lead agency within the noticed public review period. The Executive Officer, or his/her designee, shall respond in writing as to the adequacy of the proposed environmental document, including any specific areas of concern or disagreement, within the time specified in the lead agency's notice. LAFCO shall also identify, in writing, any significant environmental effects that it believes could result from the project. Comments should be limited to LAFCO's scope and responsibilities for review of the project. The lead agency must incorporate and address all LAFCO comments in the final environmental document. However, pursuant to CEQA Guidelines §15082(b)(2), if LAFCO fails by the end of the 30-day period to provide the lead agency with either a response to the notice or a well-justified request for additional time, the lead agency may presume that LAFCO does not have a response to make.

### **3.3 Projects for which no other agency is acting as a lead agency**

If an application for approval of a project for which no other public agency has acted as a lead agency to prepare environmental documents is brought to the Executive Officer, or for which subsequent environmental study is required by the §§15052 or 15162 of the CEQA Guidelines, the Executive Officer shall refer the applicant to the Tulare County Environmental Assessment Officer before filing the application. The Tulare County Environmental Assessment Officer, acting on behalf of the LAFCO, shall then make an initial study, prepare the necessary environmental documents, and carry out the other duties imposed upon a County Department responsible for a County project by the Tulare County Guidelines for Implementation of the California Environmental Quality Act of 1970 which are attached hereto as Exhibit "A", and are hereby incorporated herein by reference as they read now and as they be amended from time to time. The applicant, whether a private person or a public agency, shall pay the fees set forth in the Tulare County guidelines to the Tulare County Environmental Assessment Officer to cover the estimated costs incurred in preparing the environmental documents. After a draft environmental impact report or a negative declaration has been approved by the Tulare County Environmental Assessment Officer, or it has been found unnecessary to prepare any environmental documents, the Executive Officer shall permit the applicant to file its application, and shall then process the application in the normal manner.

### **3.4 Notice and Hearing**

The Executive Officer shall set any project for which an environmental impact report or a negative declaration had been prepared for a noticed hearing except for those

projects which qualify for a waiver of public hearing pursuant to Policy C-2.9 and GC §56663. The notice of hearing shall include a statement that the environmental impact of the project will be considered at the hearing, and state whether an environmental impact report or a negative declaration has been prepared. The notice shall also inform interested persons where they may inspect or obtain copies of such environmental impact report or negative declaration.

### **3.5 Payment of Department of Fish and Game Fees**

Fish and Game Code §711.4 requires the payment of certain fees imposed by the Department of Fish and Game for each Negative Declaration and Environmental Impact Report at the time that Notices of Determination are filed with the County Clerk. §711.4(g) specifically provides that only one filing fee shall be paid for each project. Therefore, when the Local Agency Formation Commission is acting in a Responsible Agency capacity for a project to be carried out by another Public Agency (or Lead Agency), the Commission shall not pay the filing fee unless the project is tiered or phased, and separate environmental documents or review by the Department of Fish and Game is required. In all other cases, the Lead Agency for the project shall be responsible for paying the fee or seeing that it is paid, and the Commission's Notice of Determination shall include a Certificate of Fee Exemption which states that is required. In the case of projects for which no other agency is acting as Lead Agency, any applicant for the project for which a Negative Declaration or Environmental Impact Report will be prepared by the Resource Management Agency shall be responsible for paying the filing fees required by §711.4. Notwithstanding PRC §21151(a), the Commission's Notice of Determination shall not be filed until said fee is paid, if required under guidelines or regulations adopted by the Department of Fish and Game.

### **3.6 Scope of Review**

In addition to the issues identified in LAFCO Policy and Procedure Section C-1 an environmental document that is being prepared for a subsequent LAFCO action, should include the following:

- A. Cumulative and Regional Impacts
- B. Impacts to public services, including but not limited to, water supply and distribution systems; wastewater treatment and sewer collection systems; solid waste disposal capacity and collection; public school districts, fire and police protection; and public facilities, including discussion on the ability of the receiving entities (i.e. water district, sewer district, city) to provide the services to the proposed boundary change area.
- C. Conversion of prime agricultural lands to urban uses and protection/preservation of prime agricultural lands and resources.
- D. Consistency with General and Specific Plans
- E. Affordable Housing

## ***Section C***

# ***LAFCO POLICIES FOR REVIEWING PROPOSALS***

# ***Policies and Procedures***

## ***Tulare County Local Agency Formation Commission***

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**Policy Number:** C-1

**Effective Date:** February 6, 2002

**Authority:** GC §56668, LAFCO Resolutions: 02-006, 06-032, 10-007, 10-030, 11-003, 12-004, 12-017

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**Title:** **Factors and standards to be considered in review of proposals**

**Policy:** The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 sets a number of factors that are to be considered when reviewing proposals for changes of organization, reorganization, incorporations, dissolution and other proposals processed by LAFCO

**Purpose:** To provide a guideline for reviewing and standards to consider when processing the various proposals processed by LAFCO.

**Scope:** This procedure applies to all proposals submitted to LAFCO.

**History:** This policy was adopted with the original Manual on 2/6/02. This procedure was amended on 7/12/06 to add requirements for Plans for Services (C-1.3 and 1.4). The procedure was amended again on 5/5/10 to add a fiscal impact assessment (if requested) when one agency proposes to provide an existing service being provided by another agency (C-1.4.D). The procedure was amended on 12/8/10 to make consistent with changes in State law and added a conditional waiver to land supply analysis. The procedure was amended on 3/9/11 to apply the fiscal impact analysis to just the activation of latent powers and not all changes of organization. The procedure was amended on 4/4/12 to address annexations neighboring disadvantaged unincorporated communities (new section 1.3) and amended on 12/5/12 to replace “resident” with “registered voter”.

### **Procedure:**

#### **1.1. Factors to be considered in review of proposal**

Government Code §56668 requires that a variety of factors shall be considered when reviewing proposals for a change in organization, reorganization, incorporations, dissolution and other proposals processed by Tulare County LAFCO.

- A. Population, population density, land area and land use, per capita assessed valuation, topography, natural boundaries, drainage basins, proximity to other populated areas, the likelihood of significant growth in the area and in adjacent incorporated and unincorporated areas, during the next 10 years.

- B. The need for organized community services, the present cost and adequacy of governmental services and controls in the area, probable future needs for those services and controls, probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas.

“Services,” as used in this subdivision, refers to governmental services whether or not the services are services which would be provided by local agencies subject to this division, and includes the public facilities necessary to provide those services.

- C. The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county.
- D. The conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities set forth in GC §56377.
- E. The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by GC §56016.
- F. The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.
- G. A regional transportation plan adopted pursuant to GC §65080, and consistency with city or county general and specific plans.
- H. The sphere of influence of any local agency which may be applicable to the proposal being reviewed.
- I. The comments of any affected local agency or other public agency.
- J. The ability of the newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.
- K. Timely availability of water supplies adequate for projected needs as specified in GC §65352.5.
- L. The extent to which the proposal will affect a city or cities and the county in achieving their respective fair shares of the regional housing needs as determined by the appropriate council of governments consistent with Article 10.6 (commencing with GC §65580) of Chapter 3 of Division 1 of Title 7.

- M. Any information or comments from the landowner or owners, voters, or residents of the affected territory.
- N. Any information relating to existing land use designations.
- O. The extent which the proposal will promote environmental justice. As used in this subdivision, “environmental justice” means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of services.
- P. An adequate Plan for Services has been provided by the applicant that details the financing and methods of extending municipal services to the area to be annexed [See C-1.3 & 1.4]. [GC §56653]
- Q. Other considerations - annexation to cities and special districts providing urban sewer and/or water service:
  - i) As a guideline for determining conformance with GC §56377, an analysis shall be prepared and considered of the amount of land within the existing city limits for the same land use classification as the land within the annexation proposal, relative to a 10-year supply for residential and 20 -year supply for commercial or industrial. This analysis is waived if the annexation is of a fully surrounded County island or if the annexation qualifies for the disadvantaged community discount pursuant to Policy B-2.5.

**1.2. Additional requirements for city annexations**

- A. The boundaries of the proposed annexation must be definite and certain and must conform to lines of assessment whenever possible.
- B. There is a demonstrated need for municipal services and controls.
- C. The City has the capability of meeting the need for services and controls.
- D. There is a mutual social and economic interest between the residents of the city and the proposed territory.
- E. The proposed annexation is compatible with the City's General Plan.
- F. The proposed annexation represents a logical and reasonable expansion of the annexing municipality.
- G. Boundary lines shall be located so that entire road rights-of-way are placed within the same jurisdiction as the properties fronting on the roads.

**1.3. City annexations contiguous to disadvantaged unincorporated communities**

An annexation of greater than 10 acres can not be approved if there exists a disadvantaged unincorporated community (as defined in Policy C-5.11(C)) that is



contiguous to the area of proposed annexation, unless an application to annex the disadvantaged unincorporated community has been filed with the executive officer. An application for annexation of the disadvantaged community shall not be required if an application for the community has been made in the preceding five years or the Commission finds, based on written evidence, that a majority of the registered voters and landowners within the affected community are opposed to annexation. *[GC §56375(a)(8)]*

- A. "Written evidence" may be in the form of annexation survey results from registered voters and landowners of the disadvantaged unincorporated community. The survey mailing list should also be provided to the Commission. The survey must be completed no longer than two years before the filing of the annexation proposal. The following must be included as part of the survey:
  - I. Survey cover letter [Form E-10]
  - II. Survey [Form E-11]
  - III. Map of proposed annexation area and disadvantaged community in relation to existing city boundaries
  - IV. 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. (Specific examples are listed on Form E-10)
- B. If the annexation is contiguous to a disadvantaged unincorporated community that is served by a special district that provides urban services, the provisions listed in this sub-section are only applicable to annexations that are at least one-third the size of the neighboring special district.
- C. The boundaries of a proposed annexation should be logical and be consistent with all applicable state laws and local policies and should not be gerrymandered in a way to either avoid or trigger this specific policy.
- D. Cities are required to send the annexation survey and cover letter in both English and Spanish (Forms E-10b and E-11b are Spanish translations of Forms E-10 and E-11).
- E. During development of the application package, LAFCO staff shall, upon request of the annexing municipality, assist with the coordination and conduct of a neighborhood outreach meeting held in conjunction with the County of Tulare, as the governing agency of the disadvantaged unincorporated community. Upon review of an annexation application submitted, where such a meeting has not been held, on a case by case basis, the Commission may continue the hearing and request that such a meeting be conducted to present information to, and verify the positions of community landowners and registered voters, prior to approval of the application.

**1.4. Government Code §56653 requires the following information to be included in a project's Plan for Services:**

- A. An enumeration and description of the services 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 improvements 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.

**1.5. Additional requirements for Plan for Services**

In addition to the general requirements listed above in C-1.1.1, the following information is required when applicable (the Municipal Service Review for the affected city or district may be referenced for information that has remained unchanged):

- A. If sewer service is to be provided to the territory, the following information shall be included (flows should be in mgd – million gallons per day):
  - I. Specify whether or not sewer service is already provided to the territory.
  - II. Distance to connection and location of the agency's existing system.
  - III. Current certified capacity of the agency's wastewater treatment plant.
  - IV. Current flow to the agency's wastewater treatment plant.
  - V. Total estimated flow from the anticipated development.
  - VI. Total estimated flow of other development projects already within the city/district (please note if recently approved annexations are included in this figure).
  - VII. Indicate if there is adequate trunk line capacity to serve the proposed project and other developing projects already within the city/district.
  - VIII. Specify any improvements, both on and off site, that will be necessary to connect and serve the anticipated development.
  - IX. Specify any plans and timelines to expand the treatment facility capacity.

- X. Indicate the method of financing for any improvements; for example, assessment district, developer funded, impact fees, etc.
- B. If domestic water service is to be provided to the territory, the following information shall be included (flows should be in mgd – million gallons per day):
- I. Specify whether or not a public water system is already provided to the territory. If it is, indicate the method of provision (for example, water district, mutual water company, public utility etc.).
  - II. Indicate whether the agency is prepared to provide community water service to the site. Provide explanation if the agency isn't prepared.
  - III. Distance to connection and location of the agency's existing system.
  - IV. Current system-wide water capacity.
  - V. Current system-wide water use (groundwater and surface water).
  - VI. Total anticipated water demand from project site. Express in terms of groundwater and/or surface water quantities anticipated.
  - VII. Total anticipated water demand from other development projects already within the city (please note if recently approved annexations are included in this figure).
  - VIII. If groundwater is the primary source, what measures have the agency undertaken to offset overdraft conditions (if any).
  - IX. Specify any improvements, both on and off site that will be necessary to connect and serve the anticipated development.
  - X. Indicate the method of financing for any improvements; for example, assessment district, developer funds, impact fees, etc.
  - XI. Indicate if a water supply assessment has been completed for this project. If yes, please make a reference to the title and location of the assessment.
  - XII. If the water supplier is a private purveyor, a 'will-serve' letter should be provided with the proposal application.
- C. The following additional information should be included in regards to Police and Fire Services:
- I. Indicate whether the nearest fire station is a County or City station and specify the location and response time.
  - II. Indicate whether the nearest police station is a County Sheriff or City station and specify the location.

- D. In cases where the proposed activation of a latent power that could result in a public agency providing one or more services to an area where those service(s) are already being provided by another public agency, the plan for services shall include an assessment of the fiscal impact on the ability of the current provider agency to continue to provide the service outside the area subject to the change of organization (*see Policy C-2.4*). The Executive Officer may waive the requirement if the public agency currently providing the service does not request the assessment (*see Policy B.1.1(C)(VIII)*).
  - I. Pursuant to GC §61107(b), the Commission shall not approve a Community Service District's (CSD's) proposal to exercise a latent power if the Commission determines that another local agency already provides substantially similar services or facilities to the territory where the district proposes to exercise that latent power.
    - a. For CSDs, the plan for services must show that the proposed latent service to be activated is not substantially similar to a service already being provided by another local agency.

**1.6. Standards for Annexation to Special Districts**

- A. A demonstrated immediate need exists for the required services and there is no reasonable alternative manner of providing them.
- B. The proposed annexation represents a logical and reasonable expansion of the district.
- C. The proposed annexation reflects the plans of the adjacent governmental agencies.
- D. The proposed annexation does not represent an attempt to annex only revenue-producing property.
- E. The proposed boundaries must be definite and certain and conform to lines of assessment whenever possible.

**1.7. Standards for the Formation of Special Districts**

- A. There is a demonstrated need for services or controls that can be provided by a special district.
- B. There is no alternative that would provide for the required service in a more reasonable manner.
- C. There will be sufficient revenue to adequately finance the required services or controls.
- D. The proposal does not represent a conflict with the reasonable and logical expansion of adjacent governmental agencies.

- E. The boundary configurations will not create or result in areas difficult to serve.
- F. The boundaries of the proposed formation must be definite and certain and must conform to lines of assessment whenever possible.
- G. The boundaries must not conflict with boundaries of other public agencies possessing the same powers unless properly justified.

**1.8. Standards for City Incorporation**

Incorporation will be given more favorable consideration if:

- A. A community is geographically located some distance from any other municipality;
- B. There is a demonstrable public need for additional governmental services and controls, or a need for a higher level of some or all of those being provided; and
- C. The needed governmental services can be shown to be most quickly and economically provided by incorporation.
- D. The area to be incorporated is compact and contiguous and possesses a community identify.
- E. The proposed incorporation must reflect and consider the general plans of the County and affected cities.
- F. The proposed incorporation must not conflict with the logical growth of adjacent cities as reflected in Commission approved spheres of influences.
- G. The proposed incorporation does not represent an attempt to incorporate only revenue-producing territories to preempt neighboring cities.
- H. The proposed boundaries do not create or result in areas that are difficult to serve.
- I. The proposed boundaries must be definite and certain and wherever possible should conform to lines of assessment.
- J. The effect of incorporation on Special Districts must be considered.
- K. Within the proposal there must be a cost versus benefits justification of the proposed incorporation.
- L. Sufficient revenue to supply required municipal services is evident in the incorporation proposal.
- M. Consideration will be given to the effect of incorporation upon adjacent landowners, governmental agencies, and the County.

# ***Policies and Procedures***

## ***Tulare County Local Agency Formation Commission***

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**Policy Number:** C-2

**Effective Date:** October 6, 2004

**Authority:** GC §56000 et. Seq., LAFCO Resolutions: 04-036, 05-051, 05-080, 06-012, 07-030, 10-030, 11-003, 14-006

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**Title:** Change of Organization/Reorganization

**Policy:** It is the policy of Tulare County LAFCO to conform to the requirements outlined in the Cortese-Knox-Hertzberg Reorganization Act of 2000 (C-K-H Act of 2000) when processing proposals for a change in organization or reorganization.

**Purpose:** To provide a summary of the procedure by which all proposals for changes of organization may be processed by the manners prescribed in the C-K-H Act of 2000. (Note: This summary is not intended to conflict with the CKH Act. In the event of any conflicts with CKH, CKH shall control).

**Scope:** This procedure applies to all changes of organization submitted to LAFCO.

**History:** This policy was added to the Manual on 10/6/04. The Waiver of Protest Hearing Requirements section (C-2.10) was added on 8/23/05. References to Forms E-1 and E-8 were added on 12/7/05. The Waiver of Public Notice and Hearing section (C-2.9) was added on 3/1/06. Requirements were added for projects that qualify for waiver of public notice and hearing (C-2.9) on 6/6/07. The procedure was amended on 12/8/10 to add more detail to the LAFCO process and to adjust for changes in State law. The procedure was amended on 3/9/11 to add the fiscal impact assessment process (C-2.4). Requirements were amended for waiver of public hearing & notice (C-2.9) on 4/2/14.

**Procedure:**

**2.1. General Procedures for Changes in Boundaries or Organization to be processed by the Local Agency Formation Commission.**

The procedures for proposals considered by LAFCO are guided by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Section 56000 et seq.), and any proposal submitted must conform to the requirements outlined in the Act. The procedures outlined below represent broad guidelines as to the steps required.

**2.2. Initiation**

Generally, proposals for changes in boundaries, formations, or changes of organization can be submitted for the consideration of LAFCO by petition of the registered voters or affected landowners; however, prior to the circulation of any petition, a "Notice of Intent to Circulate" must be presented to the LAFCO Executive Officer. A proposal may also be initiated by a resolution adopted by the governing body of any related public body (county, city, or special district). The proposal must be submitted on forms available from the LAFCO staff office, or on the LAFCO website, along with the applicable number of maps, legal descriptions, and filing fees to cover the proposal submitted. The contents of a complete application are listed in Form E-1.

### **2.3. LAFCO Staff Review Process**

Upon receipt of an application, the LAFCO staff does the following:

- A. A Notice of New LAFCO Case with a copy of the applying agency's application materials is distributed to various County departments. Information and comments are sent back to LAFCO staff when applicable.
  - I. The Elections Division will provide the number of registered voters within the change of organization area.
  - II. The County Surveyor will check the map and legal description for accuracy and consistency with the standards issued by the State Board of Equalization (BOE).
  - III. The Assessor will provide a list the Assessor Parcel Numbers (APNs) within the change of organization area.
  - IV. The Auditor will assign the tax rate area (TRA) or areas for the change of organization area and provide a Statement of TRA Assignment.

*NOTE: There is master property tax sharing agreement currently in effect in the County. If that agreement is ever terminated, no proposal can be considered by the Commission until LAFCO receives from the County Board of Supervisors (for itself and affected districts) and any affected city, a resolution approving any changes in ad valorem tax distribution which is caused by the proposed change.*
  - V. Other County departments such as Project Review, Countywide Planning, Community Development, County Counsel and Public Works may also provide comments.
- B. A Notice of Filing is sent to all interested (each agency that currently provides facilities or services in the affected territory) and subject (the proposing agency) agencies. In addition, this notice is required to be sent to the County Committee on School District Organization and each school superintendent whose school district overlies the change of organization

area. (This notice can be sent by the applying agency prior to the submittal of the application to LAFCO.) [GC §56658(b)(1), GC §56654(c)]

- C. If a city change of organization area includes land under Williamson Act contract, within 10 days of receiving the application, a notice must be sent to the Director of the Department of Conservation. [GC §56753.5]
- D. After an application is determined to be complete, a Certificate of Filing is sent to the applicant. The Certificate of Filing can not be issued until at least 20 days after the Notice of Filing is issued. [GC §56658(e)]
- E. If the application is determined to be incomplete, a Notice of Incomplete Filing is sent to the applicant. This notice shall specify what parts of the application are incomplete and the manner in which it can be made complete. [GC §56658(h)]
- F. If the appropriate fees have been paid and no Certificate of Filing or Notice of Incomplete Filing has been issued then the application is deemed accepted for filing after 30 days from submittal. [GC §56658(f)]

#### **2.4 Fiscal Impact Assessment (outside of change of organization area)**

Pursuant to Policy C-1.4(D), a fiscal impact assessment may be required. (“Interested” and “subject” agencies are defined in C-2.3(B) and GC §§56047.5, 56077.)

- A. After LAFCO staff issues the Notice of Filing, an interested agency or existing contractor must notify LAFCO staff within 20 days if the change of organization would impact the interested agency’s ability to provide service outside of the change of organization area. This notice shall include what service(s) would be impacted.
- B. After receipt of the notice from the interested agency or existing contractor, LAFCO staff shall issue a Notice of Incomplete Filing to the subject agency and attach a copy of the interested agency’s notice.
- C. The responsibility for the fiscal impact assessment is determined as follows:
  - I. The fiscal impact assessment must be completed by the subject agency or contractor if the subject agency will use a sole source contractor to provide the service. (See subsections H and I.)
  - II. The fiscal impact assessment must be completed by the interested agency or existing contractor if the subject agency will not be using a sole source contractor to provide the service. (See subsections F and G.)
  - III. Upon agreement by both the interested agency and the subject agency, the agencies may request that LAFCO complete the fiscal impact assessment. The cost of the assessment would need to be



determined on a case by case basis and would be paid for equally by both the subject and the interested agencies.

- D. For services that are being provided within a contract or license area, the fiscal impact assessment shall be limited to within the affected contract or license area of the interested agency.
- E. The scope and detail of fiscal impact assessments may vary substantially depending on the specific situation and services involved. However, the fiscal impact assessment shall include at minimum the following:
  - I. A description of the area proposed to be served by the subject agency and of the affected area currently being served by the interested agency. This includes a geographic description of the areas involved and the number of customers, hook-ups or other applicable measure of service.
  - II. Address the fiscal ability of the interested agency or existing contractor to continue to provide service to the remainder of the applicable service area. This should include an analysis of existing conditions within the affected service area and an analysis of conditions of the affected service area if the subject area is removed.
  - III. Address minimum level of service requirements pursuant to applicable federal, state and local regulations and ordinances.
    - a. For solid waste collection, the analysis must show that the impacted license area can still achieve a 35% diversion rate as currently required by County of Tulare ordinance.

Process for when the interested agency or contractor is responsible for the fiscal impact assessment

- F. Within 45 days of the interested agency's or existing contractor's notice of service impact, the interested agency or existing contractor shall provide a fiscal impact assessment of the affected service(s) to LAFCO staff and the subject agency.
  - I. Upon request by the interested agency or existing contractor, the Commission may extend the time period for the completion of the assessment if it is determined that additional time is warranted.
  - II. If the assessment isn't submitted within the required time period, the change of organization application will be deemed complete (if all other application requirements have also been met) and a Certificate of Filing will be issued to the subject agency.
- G. Within 45 days of the submittal of the interested agency's or existing contractor's fiscal impact assessment, the subject agency may provide comments or provide their own fiscal impact assessment.

- I. Upon request by the subject agency, the Commission may extend the time period for comments or the completion of the assessment if it is determined that additional time is warranted.
- II. The change of organization application will be deemed complete (if all other application requirements have also been met) and a Certificate of Filing will be issued to the subject agency after the subject agency provides comments or their own assessment or after the response time period has elapsed, whichever is sooner.

Process for when the subject agency or contractor is responsible for the fiscal impact assessment

- H. Within 90 days of the interested agency's or existing contractor's notice of service impact, the subject agency or its contractor must provide a fiscal impact assessment of the affected service(s) to LAFCO staff and the interested agency.
  - I. Upon request by the subject agency or its contractor the Commission may extend the time period for the completion of the assessment if it is determined that additional time is warranted.
  - II. The interested agency or existing contractor must provide all necessary information to the subject agency or its contractor for the completion of the assessment within 45 days of the interested agency's notice of service impact. If the interested agency doesn't provide the information, upon request by the subject agency or its contractor, the Commission may waive the assessment requirement and the Executive Officer may issue a Certificate of Filing to the subject agency. Notwithstanding any provision to the contrary, nothing herein is intended to require the interested agency or existing contractor to provide confidential and proprietary information to the subject agency or the contractor.
  - III. If the assessment isn't submitted within the required time period, the change of organization application will be terminated.
  - IV. The change of organization application will be deemed complete (if all other application requirements have also been met) and a Certificate of Filing will be issued to the subject agency after the subject agency or its contractor provides the fiscal impact assessment.
- I. Within 45 days of the submittal of the subject agency's or its contractor's fiscal impact assessment, the interested agency or existing contractor may provide comments or provide their own fiscal impact assessment.
  - I. Upon request by the interested agency or existing contractor, the Commission may extend the time period for comments or the

completion of the assessment if it is determined that additional time is warranted.

## **2.5. Environmental Review**

Environmental determinations are reviewed and considered prior to Commission evaluation of the proposal (**see Policy B-3**). The LAFCO review process cannot continue without a determination that the proposal:

- A. Qualifies for an exemption as defined within the California Environmental Quality Act (CEQA) and the Commission's environmental guidelines;
- B. Receives a Negative Declaration approved by the lead agency which indicates that, if approved, the project will have no adverse effects; or
- C. There is a completed Environmental Impact Report certified by the lead agency for the project.

## **2.6 Executive Officer's Report Preparation**

LAFCO Staff prepares and distributes the Executive Officer's Report making a recommendation to the Commission relating to the proposal. The Report includes recommended actions, findings and conditions of approval (when applicable). The factors and standards considered in the development of the Report are outlined in Policy C-1.

- A. The Report shall be completed not less than five days prior to date of the public hearing and shall be distributed to the following [GC §56665]:
  - I. The designees as listed in the change of organization application.
  - II. Each local agency whose boundaries or sphere of influence.
  - III. Each affected local agency which has filed a request for a report with the Executive Officer.
  - IV. The Executive Officer of another affected county when a district is or will be located in that other county.
  - V. Each affected city. (defined in GC §56011)

## **2.7 Conditions of Approval**

The Cortese-Knox-Hertzberg Reorganization Act of 2000 has given LAFCOs broad power to apply conditions of approval to changes of organization [GC §§56375, 56885, 56885.5, 56886 et. Seq.]. However, the Commission can not impose any conditions that would directly regulate land use density, intensity, property development, or subdivision requirements [GC §56375(a)(6)]. Conditions of approval may include but are not limited to the following:

- A. The inclusion of a surrounded or substantially surrounded unincorporated island. *[GC §56375(a)(5)]*
- B. The exclusion of land that would create a surrounded or substantially surrounded unincorporated island. *[GC §56744]*
- C. The initiation, conduct or completion of proceedings for another change of organization or a reorganization. *[GC §56885.5(a)(2)]*
- D. No subsequent change may be made to the general plan for the annexed territory or zoning that is not in conformance to the rezoning designations for a period of two years after the completion of the annexation, unless the legislative body for the city makes a finding at a public hearing that a substantial change has occurred in circumstances that necessitate a departure from the rezoning in the application to the Commission. *[GC §56375(e)]*
- E. The provision of services outside of the change of organization area and within the subject agency's sphere of influence (SOI). Services can be extended beyond the subject agency's SOI if the Commission finds that the condition would mitigate effects which are a direct result of the annexation. *[GC §56376]*
- F. Conditions relating to city annexation of Williamson Act land:
  - I. If the Commission determines that a city has a valid Williamson Act contract protest and the city exercises its option to not succeed to the contract, a Certificate of Contract Termination must be recorded at the same time as the Certificate of Completion. *[GC §§51243.5(h), 57330.5(b)]*
  - II. If there is no valid protest, the city shall not provide services to the site which support uses not allowed by the Williamson Act during the remaining life of the contract. *[GC §56754(a)]*
  - III. If there is no valid protest, the city shall adopt (if not already adopted) the rules and procedures required by the Williamson Act, including but not limited to the rules and procedures required by GC §§51231, 51237 and 51237.5. *[GC §56889]*
- G. The provision of a map and legal description which meets the State Board of Equalization's filing requirements. *[GC §54901(a)]*

## **2.7. Public Notice**

For changes of organization that are subject to a public hearing, public notice must be provided at least 21 days prior to the public hearing.

- A. The notice must include the following:
  - I. Type of proposal

- II. Case number
  - III. Time, date and location of the public hearing
  - IV. Type and location of the environmental document used for the proposal
  - V. A description of the location of the proposal
  - VI. Contact information
- B. Notice of a public hearing must be posted in at least one newspaper of general circulation within the affected county, city or district. *[GC 56153]*
- C. Notice of a public hearing must be mailed to the following:
- I. Landowners owning land within the affected territory. *[GC 56661(h)]*
  - II. Registered voters residing within the affected territory. *[GC 56661(i)]*
  - III. Each affected city, district, county, the proponents and persons requesting special notice. *[GC §56661(a)(b)(c)]*
  - IV. The Director of the Department of Conservation if the change of organization involves a city annexation of land under Williamson Act contract. *[GC §56753, 56661(g)]*
  - V. To each city within three miles of a change of organization. *[GC §56661(d)]*
  - VI. To the Director of Forestry and Fire protection if the change of organization involves fire protection services within a state responsibility area. *[GC §56661(f)]*
- D. Posted notice must be placed on or near the doors of the meeting room of the Commission or upon any official bulletin board used for the purpose of posting public notices by the Commission. *[GC §56158]*
- E. Notice must be posted on Tulare County LAFCO's website:  
<http://www.co.tulare.ca.us/lafco/> *[GC §56300(f)]*

## **2.8. Public Hearing/Commission Action**

The change of organization is considered by the Commission at a public hearing, and it either approves or denies the proposal.

- A. If the Commission denies the proposal, no further proceedings shall be taken on the proposal and no similar proposal involving the same or substantially the same territory shall be initiated for one year after the date of the adoption of the resolution terminating proceedings. However, the Commission may waive these requirements if it finds they are detrimental to the public interest. *[GC §56884]*
- B. If the Commission approves the proposal, LAFCO staff will provide a published Notice of Protest Proceeding announcing the date for

consideration of protest and the procedure and requirements for a valid written protest to the proposal. However, this process may be waived if the proposal is shown to meet the requirements of GC §56663(c) (for uninhabited proposals) or §56663(d) (for inhabited proposals).

- I. The protest hearing must be set within 35 days of Commission approval of the proposal. The hearing can not be held prior to the expiration of the 30 day reconsideration period. *[GC §57002(a)]*
  - II. The LAFCO Executive Officer will consider the item at the time and date indicated on the protest hearing notice, and will make a determination of the level of protest submitted. A recommendation for action to approve, deny, or submit the proposal to an election based on the amount of written protest received shall be submitted to the Commission at its next available hearing date. The protest hearing process is further defined in Policy C-4.
- C. Any person or affected agency may file a written request with the Executive Officer requesting amendments to or reconsideration to the change of organization within 30 days of the Commission's action *[GC §56895]*. The reconsideration process is further defined in Policy C-12.
- D. Upon the successful completion of the protest process and fulfillment of any required conditions of approval, LAFCO Staff files a "Certificate of Completion" with the appropriate bodies. The date on which the Certificate of Completion is recorded is the effective date of the action, unless a specific date is set by LAFCO pursuant to GC §56886(p).
- I. If a Certificate of Completion has not been filed within one year after the Commission approves a proposal, the proposal shall be deemed abandoned unless the Commission authorizes an extension of time. *[GC §57001]*
- E. After the recording of the Certificate of Completion, LAFCO Staff must file a Statement of Boundary Change or Creation with the State Board of Equalization with a filing fee from the subject agency. *[GC §57204(a)]*
- I. This filing does not apply to districts which are not funded by property taxes.

## **2.9. Waiver of Public Notice & Hearing**

- A. Certain proposals may qualify for waiver of public notice and hearing and will be placed on the Consent Calendar. The requirements are as follows:
- I. The proposal is for an annexation, a detachment or a reorganization consisting solely of annexations and/or detachments and,
  - II. The territory is uninhabited and,

- III. There is 100% signed consent of landowners or the petition accompanying the proposal is signed by all of the owners of land within the affected territory and,
- IV. An affected agency has not submitted a written demand for notice and hearing within 10 days of the mailing of the Notice of Filing pursuant to GC §56663(b) and,
- V. For cities and urban districts\*, all of the following must apply to the proposal:
  - a. Must not create or further envelope a County island (as defined in Policy C-10)
  - b. Must not contain any land under Williamson Act contract
  - c. Must consist of land that is developed
  - d. Notwithstanding subsections a through c, additional proposals based on their unique characteristics may be determined at the pre-consultation meeting (Policy B-1) to qualify for a waiver of public hearing and notice

*\*For purposes of this policy, 'urban districts' are defined as districts which will provide urban services such as domestic water and/or wastewater collection.*

- B. Proposals which qualify for the waiver of public notice and hearing are still subject to all other applicable laws and policies and the Commission retains the option to pull these items for discussion.

## **2.10. Waiver of Protest Hearing Requirements**

- A. Uninhabited annexations - Pursuant to GC §56663(c), the Commission may waive protest proceedings if both of the following apply:
  - I. All the owners of land within the affected territory have given their written consent to the change of organization or reorganization, and
  - II. No subject agency has submitted written opposition to a waiver of protest proceedings.
- B. Inhabited annexations – Pursuant to GC §56663(d), the Commission may waive protest proceedings if both of the following apply:
  - I. The Commission has provided written notice of commission proceedings to all registered voters or landowners within the affected territory and no written opposition from registered voters or landowners within the affected territory is received prior to the conclusion of the commission meeting. The written notice shall disclose to the registered voters and landowners that unless written opposition is received regarding the proposal or the commission's intention to waive

protest proceedings, that there will be no subsequent protest and election proceedings, and

- II. No subject agency has submitted written opposition to a waiver of protest proceedings.
- C. In addition to GC §56048(b), an “owner of land” or “landowner” does not include a public agency which owns highways, rights of way, easements, waterways, or canals, or the underlying fee-title holders of those highways, rights of way, easements, waterways, or canals if those underlying ownerships are not shown on the most recent assessment roll as separate parcels.



# ***Policies and Procedures***

## ***Tulare County Local Agency Formation Commission***

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**Policy Number:** C-3

**Effective Date:** April 6, 1994

**Authority:** Government Code §56700, et seq., LAFCo Resolution 94-10

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**Title:** Petition for change of organization

**Policy:** The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 authorizes private citizens to initiate petitions signed by registered voters or landowners to initiate proceedings for a change of organization.

**Purpose:** To outline the process by which registered voter and landowner petitions are processed by LAFCO for a change of organization.

**Scope:** This procedure applies to all proposals for a change of organization initiated by registered voter or landowner petition.

### **Procedure:**

#### **3.1. Purpose**

The purpose of these procedures is to implement the requirements of the Local Government Reorganization Act (Cortese-Knox-Hertzberg Act) and the California Environmental Quality Act (CEQA) of 1970 (as amended), the State CEQA Guidelines as adopted by the Secretary for Resources of the State of California, and LAFCO's CEQA Guidelines adopted and as amended from time to time by LAFCO.

#### **3.2. Use**

These procedures are intended to be used in conjunction with the C-K-H Act, the California Environmental Quality Act and the State CEQA Guidelines for the purpose of processing petitions to be considered by LAFCO for changes of organization of any City or Special District. In the event that these procedures conflict with the C-K-H Act, CEQA, the State CEQA Guidelines or LAFCO's CEQA Guidelines, the relevant State document or LAFCO Guidelines shall prevail.

#### **3.3. Fees**

- A. The following fees shall be charged to a petitioner for the review of any petition for sufficiency and for the processing of the application:
  - I. The standard Application Fee for filing a proposal with LAFCO as established by resolution of the Tulare County LAFCO.

- II. In addition to the Application Fee, the applicant shall be charged an amount sufficient to fund the "Determination of Sufficiency" process described in Section 3.4 B below, including any charges to LAFCo by other agencies for work performed in the course of completing that process. The Executive Officer shall secure a written agreement from the petitioner to reimburse LAFCo for the cost of the determination and shall collect a Deposit toward that cost in the amount of \$25.00 plus \$1.00 per signature on the submitted application prior to the processing of the petition. (GC §66014).
- B. In addition to the above fee for review and processing of petitions, an additional fee shall be charged to a petitioner for the preparation of appropriate environmental documents as set forth in LAFCo's CEQA Guidelines if the Environmental Assessment Officer determines that a Mitigated Negative Declaration or an Environmental Impact Report (EIR) are required. Prior to the preparation of said environmental documents, the Executive Officer shall secure a written agreement from the petitioner to reimburse LAFCo in the amounts set forth in the LAFCo's CEQA Guidelines. Said agreement may include a requirement that the petitioner deposit the estimated cost of the environmental document before the work is commenced.

### **3.4. Processing**

Petitions submitted to LAFCo shall be processed as follows:

- A. Project Submittal - The petitioner shall submit a completed petition along with an application for action by LAFCo and appropriate fees as required in Section 3.3 A above. The petition and application shall not be deemed to be filed, and the Executive Officer shall take no action on any petition until the required fees have been received. (GC Section 56706).
- B. Review for Sufficiency - Upon receipt of a petition and the required fees, the Executive Officer shall cause the petition to be reviewed for sufficiency as follows (GC §§56700-56828):
  - I. The petition shall first be examined to determine that it contains all of the information required by the C-K-H Act (GC §56700). If the Executive Officer determines that any required information was omitted from the submission, a Notice of Insufficiency shall be prepared as described in Section 3.4 B4 below.
  - II. If all required information is present in the application, the Executive Officer shall review the petition for compliance with the time limits between the dates of the first and last signatures and between the date of the last signature and the date that the petition is submitted for review (GC §56705). If it is determined that more time has elapsed

that is allowed by the C-K-H Act, a Notice of Insufficiency shall be prepared as described in Section 3.4 B4 below.

- III. Qualifications of Signatures - After the Executive Officer determines that the petition complies with the requirements outlined in Section 3.4 B above, the petition shall be qualified as either a "Registered Voter Petition" or a "Landowner Petition" and each signature shall be verified as follows:
  - a. Registered Voter Petitions - If the petition is a "Registered Voter Petition", the Executive Officer or the Assessors Office shall use the records of the Tulare County Assessor to create a list of all addresses within the affected area as described in the petition submission materials. The Executive Officer or the Elections Division shall compare this list of addresses to the Tulare County voter registration rolls to create a list of all registered voters residing within the affected area. After such a list is compiled, each signature shall be examined for compliance with GC §§56704 (a & b) which require that each signature be accompanied by a date and the place of residence of the signer. Each signature shall then be compared to the list of registered voters in the affected area. Any signature which is not accompanied by the information required by the C-K-H Act or which does not match the voter registration rolls shall be disqualified from the petition. Finally, the Executive Officer shall compare the total number of qualified signatures to the relevant signature requirements for the type of change of organization proposed by the petition (GC §§56750-56760). If the Executive Officer determines that the petition meets said signature requirements, a Certificate of Sufficiency shall be prepared as described in Section 3.4 B5 below. In the event that the petition does not contain a sufficient number of qualified signatures, a Notice of Insufficiency shall be prepared as described in Section 3.5 B4 below.
  - b. Landowner Petitions - If the petition is a "Landowner Petition", the Executive Officer or the Assessor's Office shall use the last equalized assessment roll to create a list of all parcels within the affected area as described in the petition submission materials. This list shall also include the names of the owners of all affected parcels, the assessed valuation of those parcels and the total assessed valuation of the affected area. The Executive Officer shall then evaluate each signature on the petition for compliance with GC §§56704 (a & c) which require that each signature be accompanied by a date and a description of the land owned by the singer. Any signature which is not accompanied by the information required by the C-K-H Act or which does not match

the property owners list shall be disqualified from the petition. The total assessed value of land represented by each qualified signature shall then be determined (GC §56710). Finally, the Executive Officer shall compare the total number of qualified landowner signatures and the total signature requirements from the type of change of organization proposed by the petition (GC §§56750-56760). If the Executive Officer determines that the petition meets said signature requirements, a Certificate of Sufficiency shall be prepared as described in Section 3.4 B5 below. If the petition does not represent a sufficient number of landowners or a large enough percentage of the total assessed value of the affected area, a Notice of Insufficiency shall be prepared as described in Section 3.5 B4 below.

- IV. Notice of Insufficiency - If the petition is determined to be insufficient for any of the reasons described in Sections 3.4 B1-3 above, a Notice of Insufficiency shall be sent to the petitioner by certified mail within 30 days of receipt of the petition and fees. Any supplemental petitions filed within fifteen days of the Notice of Insufficiency shall be reviewed for sufficiency within ten days of the submission. No additional application fee as established in Section 3.3 A shall be charged to the petitioner for a supplemental petition; however, the Executive Officer shall collect an additional deposit in the amount of \$25.00 plus \$1.00 for any additional signatures on the supplemental petition. If a supplemental petition is not submitted within 15 days, the Executive Officer shall, upon the written request of the petitioner, return any unused fees and deposits to the petitioner. If the deposits are not sufficient to cover the costs of the review of the petition, the difference shall be deducted from the application fee before it is returned. A new petition submitted after said fifteen day time limit has expired shall be required to be accompanied by new fees and shall be reviewed as an original submission (GC §56706).
  - V. Certificate of Sufficiency - If the petition is determined to be sufficient, the Executive Officer shall cause a Certificate of Sufficiency to be sent to the petitioner by certified mail (GC §56706). Issuance of the Certificate of Sufficiency shall not constitute the date of filing for use under the C-K-H Act (see Section 3.4 D below). After issuance of the Certificate of Sufficiency, the Executive Officer shall send notice to the applicant of any unused deposit or any fees due to cover the costs of the Determination of Sufficiency. Unused fees shall be returned upon the written request of the petitioner. The application shall not be deemed complete until any fees due in accordance with Section 3.3 A2 are paid.
- C. CEQA Review - Upon determining that a petition is sufficient, the proposal shall be sent to the Tulare County Environmental Assessment Officer for

further review in accordance with LAFCo's CEQA Guidelines, with the following notations and exceptions.

- I. Lead Agency - LAFCO shall be the Lead Agency under CEQA for all citizen petitions processed under this procedure (GC §56658(d)).
- II. Initial Determination - Upon receipt of a petition and associated application materials, the Environmental Assessment Officer shall first determine if the project is exempt from CEQA (CEQA Guidelines §§15319 & 15320). This determination shall be made after consultation with any known Responsible Agencies. (Note that CEQA Guidelines §15320 states that "...changes in the organization or reorganization of local government agencies where the changed do not change the geographical area which previously existing powers are exercised..." are Categorically Exempt.)
- III. Initial Study - If the Environmental Assessment Officer determines that a project is not exempt from CEQA, the Executive Officer shall cause an Initial Study to be prepared. Based on the Initial Study and any consultations, the Environmental Assessment Officer shall determine which type of environmental document to prepare, and shall provide notice of that decision to the petitioner and other interested parties by certified mail, return receipt requested, if the determination requires the preparation of a Mitigated Negative Declaration or an Environmental Impact Report (EIR).
- IV. Appeal Process - In the event that the applicant or other interested party wishes to appeal the determination of the Environmental Assessment Officer with regard to the appropriate Environmental Document, the appeal shall be made within ten (10) days of receiving notice of the requirement for the particular document. The appeal shall be in writing to the Tulare County Local Agency Formation Commission and shall include a statement of justification for appeal and shall be accompanied by the fee established in LAFCo's CEQA Guidelines. The appeal shall be scheduled and conducted in accordance with the procedure set forth in the LAFCo's CEQA Guidelines except that no further appeal to the Board of Supervisors shall be permitted. It shall be the responsibility of the appellant to establish reasons and facts why the Environmental Assessment Officer's decision should be reversed. In acting upon the appeal, LAFCo shall base its decision upon the facts relating to the appropriateness of the decision and not upon the merits or lack of merits of the project.
- V. Additional Information - The petitioner may be asked to submit to the Environmental Assessment Officer additional information required to prepare the appropriate environmental documents. Preparation of said documents shall not commence until the Environmental Assessment

Officer has determined that the required information has been received and is complete. Accepting the application as complete does not limit the authority of LAFCo to require the applicant to submit additional information needed for environmental evaluation of the project (GC §56652 (d & e)).

- VI. Preparation of Environmental Documents - After the Environmental Assessment Officer determines which environmental document is required, and after any fees required in Section 3.3 B above have been received, the Executive Officer shall prepare, or cause to be prepared, environmental documents sufficient to comply with the State CEQA Guidelines in the manner specified by, and to the satisfaction of, the Environmental Assessment Officer. In the event that an EIR is required, the Environmental Assessment Officer shall determine, after consultation with the petitioner, under contract with LAFCO, or by the petitioner subject to review and approval by Tulare County of LAFCO Staff and the Environmental Assessment Officer.
  - VII. Action on Environmental Documents - Once the Environmental Assessment Officer determines that the completed environmental document is adequate, the Executive Officer shall schedule a public hearing before LAFCo in accordance with the State CEQA Guidelines. Following the hearing or hearings, the Commission shall determine whether the environmental document is adequate, complete and appropriate. If the Commission determines that the environmental document is not adequate, complete or appropriate, the Commission shall provide direction to the Executive Officer and the petitioner as to the actions necessary to bring such document (s) into conformance, as provided in CEQA and the State CEQA Guidelines.
  - VIII. Subsequent Actions - If further findings are necessary for CEQA Compliance (e.g. a finding of overriding considerations), said findings shall also be made by LAFCo at the time the Commission considers whether to approve the project. In the event that LAFCo approves the petition proposal, the Executive Officer shall prepare a Notice of Determination which shall be filed in accordance with the State CEQA Guidelines. The petitioner shall be responsible for payment of any additional fees, including, but not limited to, the fees payable to the California Department of Fish and Game.
- D. Notice of Filing - After the completion of the application (including all Environmental Documents) to the satisfaction of the Environmental Assessment Officer and the Commission, the application which accompanied the petition shall be accepted for filing (GC §§56828 (d, g, & h), 56658). The Executive Officer shall then issue a Certificate of Filing which shall specify the date upon which the proposal shall be heard by the Commission.

- E. Public Hearing - Following the issuance of the Certificate of Filing, the Executive Officer shall proceed to set the proposal for hearing and give published notice thereof as provided in the C-K-H Act. The date of the hearing shall not be more than ninety days after the issuance of the Certificate of Filing (GC §56658 (i)). The hearing shall be held by the Commission upon the date and at the time and place specified. The hearing may be continued from time to time by not to exceed seventy days from the date specified in the original notice (GC §56666 (a)). The Public Hearing shall be conducted in the manner described in the C-K-H Act.
- F. Decision by LAFCO - LAFCO shall only approve a project initiated by a petition after considering all of the factors required by the C-K-H Act and after making the findings necessary to certify the Environmental Document prepared in accordance with Section 3.4 C above.
- G. Conducting Authority - In the event that LAFCO approves a project initiated by petition, the project shall be forwarded to the appropriate Conducting Authority for any further action required by the C-K-H Act.

# ***Policies and Procedures***

## ***Tulare County Local Agency Formation Commission***

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**Policy Number:** C-4

**Effective Date:** February 6, 2002

**Authority:** Government Code §57000 et seq., LAFCO Resolution 02-006

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**Title:** Protest Hearings

**Policy:** The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 delegates LAFCO as the conducting authority for protest proceedings after the adoption of a resolution making determinations pursuant to Part 3 (commencing with Section 56650).

**Purpose:** To outline the powers and duties of the Tulare County LAFCO in conducting protest proceedings pursuant to Section 57000 of the Government Code.

**Scope:** This procedure applies to all proposals processed by the Tulare County LAFCO.

**History:**

**Procedure:**

### **4.1. General**

Government Code §57000 (effective January 1, 2001) requires the Commission to conduct “protest proceedings” to determine whether the proposal can be ultimately approved without an election, whether an election should be held, or whether the proposal must be terminated due to majority protest. This is purely a ministerial process, where the Commission simply counts the written protest submitted to an action, determines the percentage that the landowner or voter protest bears to the total number of landowners and/or voters, and takes action based on that level of protest. Because this is a ministerial process, the Commission has delegated the responsibility for conducting the protest hearings to the Executive Officer.

The purpose of the protest proceedings is to provide a forum wherein the popularity of the issue is tested. Depending on the results of that test, the proposal is either approved or denied, as shown in the following outline:

### **4.2. Process**

#### **INITIATION OF PROCEEDINGS:**

Within thirty-five (35) days of the adoption of a resolution of approval by LAFCO, the formal protest proceedings must be initiated by providing legal notices of the



protest hearing. The final protest hearing must be set for a date not less than twenty-one (21) or more than sixty (60) days after the notice is given.

The Commission may waive protest proceedings if the proposal contains 100% landowner consent, is uninhabited, and all subject agencies have consented in writing to a waiver of protest proceedings, as authorized by GC §56663. That section also authorizes the Commission to waive protest proceedings for inhabited areas if the proper notice is given, no written opposition is received from the affected landowners and registered voters, and all subject agencies have consented in writing to a waiver of protest proceedings.

#### **4.3. Notice**

The LAFCO Executive Officer must publish the notice of hearing to be held on the proposal in a newspaper of general circulation, it must send individual notices to everyone who has formally requested such notice; and to other local agencies as outlined by statute.

#### **4.4. Final Hearing**

The LAFCO Executive Officer shall conduct the final hearing and make findings related to the level of written protest received. A recommendation shall be made to the Commission to take one of the following actions:

- A. Approval. If less than 25% of the voters in an "inhabited" proposal (legally defined as an area containing 12 or more voters), or if less than 50% of the landowners in an "uninhabited" proposal submitted written protest to the action, then the proposal must be approved, without an election.
- B. Call for Election. If written protests are filed by at least 25% and less than 50% of the voters, or 25% - 100% of the landowners in an inhabited area, then an election must be called and held, so the voters may decide the issue.
- C. Denial. If written protests are filed by 50% or more of the voters in an inhabited area, or if landowners representing 50% or more of the assessed value of an uninhabited annexation area have filed written protest, then the proposal must be denied.

NOTE: If the proposal is for city detachment or district annexation, the proposal shall be terminated if the detaching city or annexing district files an objection to that action, regardless of the level of consent or protest from affected landowners and voters.

#### **4.5 Completion**

If the proposal is approved, LAFCO issues a Certificate of Completion and notifies the state and other agencies of the successful jurisdictional change. If

LAFCO has waived the protest proceedings, the resolution adopted by LAFCO is considered the final resolution and becomes part of the completion package.

#### **4.6 Value of Written Protests**

Briefly outlined below are the levels of protest which require the Commission (or the Executive Officer, through delegation of responsibility) to call an election or terminate proceedings.

At the conclusion of the protest period, the written protest received will be counted, and one of the following actions will be taken:

- A. For an uninhabited change of organization (defined in GC §56046 as territory within which there reside less than 12 registered voters:
  - I. Terminate the change of organization if protest is received from landowners who represent 50% or more of the assessed value of land (improvement values are not counted) within the affected territory; or
  - II. Approve the change of organization if written protest is submitted by landowners who own less than 50% of the assessed value of land within the affected territory.

NOTE: In uninhabited changes of organization, the issue is decided solely on the basis of affected landowner protest.

- B. For an inhabited change of organization territory within which there reside more than 12 registered voters):
  - I. Terminate the change of organization if protest is received from 50% or more of the affected registered voters in the annexation area; or
  - II. Call an election on the change of organization issue if protest is received from at least 25% but less than 50% of the affected registered voters, or if 25% to 100% of the number of affected landowners--representing at least 25% of the total land value--submit written protest; or
  - III. Approve the change of organization without an election if written protest is received from less than 25% of the affected registered voters and less than 25% of the affected landowners (who represent less than 25% of the land value).

NOTE: Although both affected landowners and affected registered voters may submit a protest against a change of organization, the ultimate outcome of an inhabited change of organization is decided on the basis of affected registered voter protest or votes in a special change of organization election. Thus, the most that can be accomplished through affected landowner protest in an inhabited change of organization is the scheduling of an election wherein the affected voters--whether they own land or not--will decide the issue.

Further information concerning the change of organization protest procedures can be obtained through review of the Cortese-Knox-Hertzberg Local Government Reorganization Act (GC §56000 et seq.). Specifically, Sections 57025, 57051, and 57075 will be the most relevant to your review.

# ***Policies and Procedures***

## ***Tulare County Local Agency Formation Commission***

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**Policy Number:** C-5

**Effective Date:** February 6, 2002

**Authority:** Government Code §56425 et seq. and LAFCO Resolutions: 96-002, 02-006, 03-020, 05-056, 06-020, 08-023, 10-030, 11-004, 12-007(a), 13-005, 17-016

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**Title:** Spheres of Influence

**Policy:** Whenever possible, the Sphere of Influence of each city and those Special Districts which provide urban services to unincorporated communities within the County (see Appendix “A”) should reflect twenty-year growth areas with additional areas for communities of interest (GC §56425 (a) (4)). This boundary shall be reviewed and, if necessary, updated no more than once every five years. The updates should be sufficient to accommodate projected growth for twenty years from the date of adoption.

**Purpose:** To provide an efficient method to review and amend the Spheres of Influence for all agencies within Tulare County LAFCO’s jurisdiction.

**Scope:** This policy affects all agencies within Tulare County LAFCO’s jurisdiction.

**History:** This policy was a pre-existing policy that was adopted as part of the original Manual on 2/6/02. This procedure was amended on 7/2/03 to add the MSR exemption policy (Appendix B). This procedure was amended on 10/5/05 to add the section for the waiver of the City-County SOI meeting (C-5.10). This procedure was amended on 5/3/06 to add requirements for the timing of SOI amendments. This procedure was amended on 12/10/08 to require MSRs for vector and mosquito abatement districts (Appendix B). The procedure was amended on 12/8/10 and 4/13/11 to add further detail to MSR requirements. The procedure was amended on 5/2/12 to add an appendix listing disadvantaged unincorporated communities and on 4/3/13 to align MSR language with government code and define public review of MSRs. The procedure was amended on 8/30/17 to distinguish between SOI Updates and Amendments and timing of MSRs.

**Procedure:**

### **5.1 Definitions**

A Sphere of Influence (SOI) means a plan for the probable physical boundaries and service area of a local agency, as determined by the Commission [GC §56076]. SOIs shall, as necessary, be reviewed and updated every five years [GC §56425(g)] and SOI Updates must include a municipal service review (MSR) [GC §56430(a)]. SOI Amendments may be requested by any person or local agency [GC §56428(a)] and are not subject to a MSR.

- A. SOI Amendment: a modification to a SOI that is associated with a concurrent proposal for a change of organization or an out of agency service agreement.
- B. SOI Update: a comprehensive review and modification of a SOI that is not associated with a concurrent proposal for a change of organization or an out of agency service agreement.

## **5.2 Existing Boundaries**

It is recognized that the County of Tulare and its eight Cities regularly establish twenty-year growth boundaries as a part of the General Plan process. Whenever such a Planning Boundary exists and is sufficient to comply with the requirements of GC §56425, the Sphere of Influence shall be placed to be coterminous with that Planning Boundary with the addition of any communities of interest which were not included within the original boundary. For the purposes of this policy, communities of interest may include agricultural buffer areas, publicly-owned facilities, noncontiguous subdivisions and development areas, key intersections, highway corridors, and parcels of land associated with the affected community, and other similar areas as may be determined by the Commission.

## **5.3 Conflicting Boundaries**

Where differences exist between County and City adopted twenty-year boundaries, for the same community, the Commission shall determine which boundary most closely reflects the statutory requirements or intent of the Cortese-Knox-Hertzberg Act for the setting of Spheres of Influence. Among other considerations, the Commission may determine which boundary is supported by the most recent or most complete analysis, including such documentation as may be required by the California Environmental Quality Act (CEQA). Should LAFCO determine that no existing Planning Boundary complies with the statutory requirements or intent of the Cortese-Knox-Hertzberg Act, the Commission shall determine the twenty-year growth boundary independently of other agencies. In all cases of conflicting boundaries, the Commission shall attempt to reconcile the various boundaries and the Sphere of Influence before adoption.

## **5.4 Updates**

City and special district SOIs shall be periodically reviewed to determine the need for an update. Updates may be initiated by LAFCO or by the affected local agency. SOI updates should typically occur after general plan and community plan updates that result in a change of the affected local agency's or unincorporated community's 20-year growth boundary.

## **5.5 General Plan Consultation**

The Executive Officer shall actively encourage the agencies affected by this policy to include LAFCO in the consultation process for general plan and community plan

updates and amendments which may lead to SOI updates and amendments as early in the consideration process as feasible. The Executive Officer shall present all such consultations to the Commission for review and comments which will be forwarded to the agency.

## **5.6 Separation of Communities**

The Commission shall not extend the Sphere of Influence of any agency affected by this policy into the County designated Urban Area Boundary of another agency of the same type. An exception to this restriction may be approved by the Commission upon a finding that there exists a special relationship between the two agencies whereby development in one may be expected to have positive impacts upon the other and/or where eventual annexation of one agency by the other or a merger of both agencies is contemplated.

## **5.7 Municipal Service Reviews (MSRs)**

In order to prepare and update Spheres of Influence, the Commission must conduct a service review of the municipal services provided by the agency subject to the Sphere of Influence Update. The Commission has determined which agencies are exempt or subject to MSRs and the extent of the review as listed in Appendix B of this policy.

- A. Prior to Commission adoption of a comprehensive MSR for a city or a district that provides sewer or domestic water service, a community meeting shall be conducted within the jurisdictional boundaries of the subject agency in conjunction with the subject agency's council, planning commission or board meeting (a combined meeting may be held for districts that share a common sewer or water system or that are located in proximity of each other). Said meeting shall be agendized in accordance with the Brown Act (GC §54954.2(a)). Said meeting will consist of a SOI and MSR informational presentation provided by LAFCO Staff and a question and answer session. Any comments provided by those in attendance will be considered in the development of the subject agency's MSR.
- B. Pursuant to GC §56430(a), a written statement of determinations for the following subject areas shall be included:
  - I. Growth and population projections for the affected area.
  - II. The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence.
  - III. 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.

- IV. Financial ability of agencies to provide services.
- V. Status of, and opportunities for, shared facilities.
- VI. Accountability for community service needs, including governmental structure and operation efficiencies.
- VII. Any other matter related to effective or efficient service delivery, as required by commission policy.

(a) The Written Statement of Determinations prepared in regard to disadvantaged unincorporated and other developed communities shall be based on a comprehensive review of area service providers conducted in accordance with GC §56430 (b) and shall include, but is not limited to: estimate of existing population, identification of existing service providers, identification of services provided within the community, service costs and identification of surrounding land use designations, both existing and planned, contained in a city's General Plan or County's Community Plan. (Developed communities should be addressed on a systemic basis in subsections I through V above.)

Note: A reasonable effort shall be made to conduct a thorough review; however, the level of detail is subject to the extent data is readily available and relevant to the overall MSR analysis.

(b) Recommendations shall be made regarding possible ways to address needs and discrepancies through a collaborative effort between the subject agency, principle county, existing service providers, citizens groups, LAFCO and any other entity/organization the Commission deems appropriate.

(c) For the purpose of executing subsection 5.2 (Conflicting Boundaries), the MSR shall also identify the location of existing city and county growth boundaries and determinations shall be made with regard to their continuity/discontinuity to the existing SOI.

- C. For the purpose of identification in MSRs and filing fees for annexation (Policy B-2.5), a disadvantaged community is an area that has a median household income 80% or less of the statewide average pursuant to PRC §75005(g) and contains at least 20 dwelling units at a density not less than one unit per acre.
- D. The adoption of a Municipal Service Review is not subject to a public hearing (GC §56430). However, to allow for public participation in addition to section 5.11(A), the Draft MSR shall be posted on the Commission's website with a minimum 21 day public review period and notice of the public review period will be posted at the Clerk of the Board of Supervisors Office and will be mailed or e-mailed to the subject agency for requested posting in their jurisdiction.

## APPENDIX A

### AGENCIES AFFECTED BY POLICY C.5 LAFCO SPHERE OF INFLUENCE DETERMINATION CRITERIA

#### INCORPORATED CITIES

City of Dinuba  
City of Exeter  
City of Farmersville  
City of Lindsay  
City of Porterville  
City of Tulare  
City of Visalia  
City of Woodlake

#### SPECIAL DISTRICTS

Cutler Public Utility District  
Ducor Community Services District  
Earlimart Public Utility District  
East Orosi Community Services District  
Goshen Community Services District  
Ivanhoe Public Utility District  
Lemon Cove Sanitary District  
London Community Services District  
Patterson Tract Community Services District  
Pixley Public Utility District  
Poplar Community Services District  
Porter Vista Public Utility District  
Richgrove Community Services District  
Springville Public Utility District  
Strathmore Public Utility District  
Three Rivers Community Services District  
Terra Bella Sewer Maintenance District  
Tipton Community Services District  
Tulare County Water Works District No. 1  
Woodville Public Utility District



## APPENDIX B

### MUNICIPAL SERVICE REVIEW (MSR) EXEMPTION POLICY

#### Review Parameters

Neither the LAFCO statute nor the OPR Guidelines specifically prescribe which agencies and what services are subject to municipal service reviews. Therefore, it is left to each LAFCO to establish review parameters.

In determining the parameters for their reviews, Tulare County LAFCO considered a number of factors, among them the prevailing definitions of municipal services, the agencies that are subject to sphere of influence determinations, and certain characteristics of local governments and the services they provide which would support their inclusion or exclusion from the service review schedule. The following section presents Tulare County LAFCO's position with respect to services and agencies to be reviewed and the extent of review to be conducted.

#### Service Subjects to Review

The legislatively established Commission on Local Governance for the 21st Century (a.k.a. the Hertzberg Commission) recommended that LAFCO's prepare reviews of municipal services provided by local governmental agencies. In their final report, entitled "Growth Within Bounds", the Hertzberg Commission identifies the following as the principal "municipal services": Police and fire protection, streets and traffic circulation, water and sewer, power generation and distribution, storm water drainage, solid waste collection, and land use planning.

Further, the Hertzberg Commission identified water, sewer, power, and streets and roads as the major "backbone" infrastructure and services necessary to accommodate growth and development that is expected to occur.

While other "miscellaneous" governmental services - such as pest control, flood control, resource conservation, water conservation, and public cemetery services - are necessary services in a community, and may enhance the standard of living and "attractiveness" of an area, these are neither mandated services, nor, from the LAFCO perspective, would the presence or absence of these services necessarily be the determining factor in a sphere of influence and/or annexation decision. Therefore, Tulare County LAFCO has determined that the services subject to municipal service review shall be:

- Police Protection
- Fire Protection
- Water and Wastewater
- Solid Waste Collection and Disposal
- Streets and Traffic Circulation
- Power Generation and Distribution

Health Care  
Mosquito and Vector Abatement

In addition to the eight incorporated cities, Tulare County LAFCO has determined that the following district types provide those municipal services described above, and, as such are subject to the municipal service review requirement:

Community Service Districts  
County Water Works Districts  
Fire Protection Districts  
Public Utility Districts  
Sanitary Districts  
Sewer Maintenance Districts  
Irrigation Districts that provide municipal water service (3)

Also, due to the recent closures of public hospitals and health care facilities, Hospital and Health Care districts should also be reviewed. In addition, mosquito abatement and vector control districts are to be reviewed due to the absence of complete district coverage in the County.

**Extent of Review**

In addition to determining the agencies subject to the MSR process, Tulare County LAFCO has determined that only those agencies providing multiple municipal services or community sewer or water services shall be required to undergo a comprehensive study. Single service providers would be required to respond to a questionnaire. The responses to the questionnaire would satisfy the municipal service review requirement.

**Agencies subject to a full comprehensive study**

City of Dinuba  
City of Exeter  
City of Farmersville  
City of Lindsay  
City of Porterville  
City of Tulare  
City of Visalia  
City of Woodlake  
Goshen Community Service District  
London Community Service District  
Poplar Community Service District  
Richgrove Community Service District  
Teviston Community Service District  
Tipton Community Services District  
Alpaugh Irrigation District/County Water Works District No. 1  
Lindsay-Strathmore Irrigation District  
Terra Bella Irrigation District

Cutler Public Utility District  
Earlimart Public Utility District  
Ivanhoe Public Utility District  
Orosi Public Utility District  
Pixley Public Utility District  
Springville Public Utility District  
Strathmore Public Utility District  
Woodville Public Utility District  
Lemon Cove Sanitary District  
Terra Bella Sewer Maintenance District  
Delta Vector Control District  
Tulare Mosquito Abatement District

Agencies subject to questionnaire study

Allensworth Community Service District  
Alpine Village-Sequoia Crest Community Service District  
Ducor Community Service District  
East Orosi Community Service District  
Patterson Tract Community Service District  
Ponderosa Community Service District  
Three Rivers Community Service District  
County Service Area #1 and #2  
Strathmore Fire Protection District  
Woodlake Fire Protection District  
Alta Hospital District  
Exeter District Ambulance  
Kaweah Delta Healthcare District  
Kingsburg District Hospital  
Lindsay Local Hospital District  
North Kern-South Tulare Hospital District  
Sierra View Local Hospital District  
Sultana Community Service District  
Tulare Local Hospital District  
Porter Vista Public Utility District  
Tract 92 Community Service District

District types exempt from municipal service review study (number of districts in parenthesis)

California Water Districts (7)	Memorial Districts (14)
Citrus Pest Control Districts (2)	Public Cemetery Districts (13)
Conservation Districts (1)	Resource Conservation Districts (5)
Drainage Districts (1)	Storm Water Districts (1)
Flood Control Districts (1)	Water Conservation Districts (1)
Irrigation Districts (16)	Water Storage Districts (1)
Levee Districts (2)	

## APPENDIX C

### Disadvantage Unincorporated Communities

El Monte Mobile Village – Dinuba	Tracts 24, 41 – Porterville
Cameron Creek Colony – Farmersville	*Tracts 66, 90, 127 – Porterville
Linnell Camp – Farmersville	Tract 77 – Porterville
El Rancho – Lindsay	East Tulare Villa – Tulare
Page-Moore Tract – Lindsay	Lone Oak Tract – Tulare
A&A Mobile Home Park – Porterville	Matheny Tract – Tulare
*Beverly Grand – Porterville	Soults Tract – Tulare
East Porterville – Porterville	Goshen – Visalia
*Grandview Gardens – Porterville	K Street Island – Visalia
*Mulberry Island – Porterville	Patterson Tract – Visalia
*Porterville Trailer Park – Porterville	Tract 92 – Visalia
*Roby Island – Porterville	Tract 359 – Visalia
*Shady Grove MHP – Porterville	Wells Tract – Woodlake
*South Porterville – Porterville	

*\*Annexed after adoption of policy (5/2/12)*

# ***Policies and Procedures***

## ***Tulare County Local Agency Formation Commission***

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**Policy Number:** C-6

**Effective Date:** February 6, 2002

**Authority:** Government Code §56133, LAFCO Resolutions 94-007, 01-006, 02-006, 14-017

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**Title:** Extraterritorial Service Agreements

**Policy:** The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 authorizes LAFCO approve proposals to extend services beyond the jurisdictional boundary of a local agency, where the territory subject to receiving such services is within the affected agency's sphere of influence in anticipation of a later change of organization.

**Purpose:** To set clear standards for applying state and local laws governing the extension of services beyond the jurisdictional boundaries of the provider agency.

**Scope:** This procedure applies to proposals LAFCO receives seeking the extension of services beyond the jurisdictional boundaries of the provider agency.

**History:** This policy was a pre-existing policy that was adopted as part of the original Manual on 2/6/02. This procedure was amended on 10/1/14 to expedite review of ESA requests.

**Procedure:**

**6.1. The commission has determined that those proposals which meet the following criteria may be approved by the Commission**

- A. The affected territory is within the subject agency's sphere of influence.
- B. The affected territory is ineligible for near-term annexation for reasons outside the control of the provider-agency or deteriorated public health or safety conditions within the affected territory justify an emergency extension of services.
- C. The provider-agency has completed a California Environmental Quality Act review for the proposed extension of services.
- D. The provider-agency has submitted a complete application and processing fees to LAFCO. A complete application includes the following:

- i) A letter from the applying agency listing the service(s) to be provided, the location and reason for the extension of the service(s) and why annexation isn't feasible.
    - ii) The agreement between the agency and the affected parties to be served.
    - iii) CEQA documentation.
  - E. There is a demand or need for the extension of such services at the time at which the extension is brought to the Commission for review.
- 6.2.** The LAFCO Executive Officer is authorized to review and approve or deny, on behalf of the Commission, proposals by cities and special districts to extend services beyond their jurisdictional boundaries for services which are already provided by the local agency within the agency's adopted boundary and which provide services to existing development.
  - A. In cases where the Executive Officer recommends denial of a proposed service extension, that proposal shall be placed on the agenda of the next Commission meeting for which adequate notice can be given.
- 6.3.** The LAFCO Executive Officer is authorized and required, upon a complete application, to place the request for the consideration by the Commission on the agenda of the next Commission meeting for which adequate notice can be given, of any proposal by a city or district to extend service to facilitate new development, or to extend to territory outside the agency's boundary a service which is not already provided by the local agency within the agency's jurisdictional boundary.
  - A. Districts must first activate a new service pursuant to GC §56824.10, et al, before extending a new service outside its jurisdictional boundary.
- 6.4.** For Commission review of ESAs, noticing requirements are followed pursuant to the Brown Act (GC §54954.2(a)).
- 6.5.** Fees- refer to policy B-2

# ***Policies and Procedures***

## ***Tulare County Local Agency Formation Commission***

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**Policy Number:** C-7

**Effective Date:** October 6, 2004

**Authority:** Government Code §56000 et seq., LAFCO Resolutions 96-005, 04-036

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**Title:** Incorporations

**Policy:** It is the intent of Tulare County LAFCO that all proposals for incorporation be processed, reviewed and finalized according the requirements of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, the State Incorporation Guidelines and Tulare County LAFCO policy and procedures.

**Purpose:** To provide the guidelines necessary for the processing, review and finalization of incorporation proposals submitted to Tulare County LAFCO.

**Scope:** This policy applies to all incorporation proposals processed by Tulare County LAFCO.

**Procedure:**

### **7.1. Definition**

- A. "Incorporation" means the incorporation, formation, creation, and establishment of a city with corporate powers. Any area proposed for incorporation as a new city shall have at least 500 registered voters residing within the affected area at the time commission proceedings are initiated (GC §56043).

### **7.2. Initiation of Proceedings**

- A. Incorporation proceedings may be initiated either by a resolution of an affected local agency or by petition. A petition must be signed by not less than 25% of the registered voters residing in the area to be incorporated, or by not less than 25% of the land owners who also own not less than 25% of the assessed value of land within the territory to be incorporated (GC §56764).

### **7.3. Application**

- A. An application for incorporation must be accompanied by a feasibility study. This study is to be provided in addition to all other information listed in the "Application Checklist." An incorporation feasibility study should include the following information:

- I. A brief discussion of the relevant history and characteristics of the study area;
  - II. A description of the local agencies which presently serve the community, with discussions of the range and level of services currently provides;
  - III. A rationale for the boundaries proposed for incorporation, and a description of possible boundary alternatives;
  - IV. At a minimum a forecast of revenues including estimate of property tax distribution and expenditures for the new city during the three fiscal years following incorporation;
  - V. The effects on the costs and revenues of any affected local agency during the first three fiscal years of incorporation;
  - VI. A discussion of the negative fiscal impacts of the incorporation on affected local agencies and measures proposed to mitigate the negative impacts;
  - VII. A discussion of the range and level of services potentially available to the community after incorporation; and
  - VIII. A discussion of the effects of the incorporation upon adjacent communities, special districts, and the county.
- B. Other elements may be necessary (for example, a discussion of commercial/industrial land use potential), based on the circumstances of the community in question.
- C. Five copies of the draft version of the feasibility study should be submitted to the LAFCO office as soon as they are available. Upon formal initiation of the proposal, additional copies of the final version of the report will be required.

#### **7.4. Comprehensive Fiscal Analysis**

- A. For any proposal, which includes incorporation, the executive officer shall prepare, or cause to be prepared by contract, a comprehensive fiscal analysis. This analysis shall become part of the report required pursuant to GC §56665. Data used for the analysis shall be from the most recent fiscal year for which data are available, provided that the data are not more than one fiscal year old. When data from the most recent fiscal year are unavailable, the executive officer may request supplemental data. The analysis shall review and document each of the following:
- I. The costs to the proposed city of providing public services and facilities during the three fiscal years following incorporation.



- II. The revenues of the proposed city during the three fiscal years following incorporation.
  - III. The effects on the costs and revenues of any affected local agency during the three fiscal years of incorporation.
  - IV. Any other information and analysis needed to make the findings required by GC §56720. (GC §56800)
- B. A Certificate of Filing shall not be issued until a Comprehensive Fiscal Analysis acceptable to the Executive Officer has been completed and an environmental finding pursuant to CEQA has been prepared.

**7.5. Review of Comprehensive Fiscal Analysis**

- A. Upon completion of the Comprehensive Fiscal Analysis for any incorporation or reorganization including an incorporation, the Executive Officer shall publish a notice in a newspaper of general circulation in accordance with GC §56133. The notice shall include a description of the proposal and shall include the date of the time period for submitting a request for review by the State Controller. That time period shall be no less than thirty (30) days and no more than sixty (60) days following the date of publication. The request for review by the State Controller must be in writing and must be accompanied by a deposit of the estimated cost of the State Controller's review as may be required by LAFCO policy (Adopted by Resolution 96-05 effective April 3, 1996). (GC §56801)

**7.6. Revenue Neutrality**

- A. It is the intent of the Legislature that any proposal that includes an incorporation should result in a similar exchange of both revenue and responsibility for service delivery among the county, the proposed city, and other subject agencies. It is the further intent of the Legislature that an incorporation should not occur primarily for financial reasons.
- B. The commission shall not approve a proposal that includes an incorporation unless it finds that the following two quantities are substantially equal:
- I. Revenues currently received by the local agency transferring the affected territory which, but for the operation of this section, would accrue to the local agency receiving the affected territory.
  - II. Expenditures currently made by the local agency transferring the affected territory for those services that will be assumed by the local agency receiving the affected territory.
- C. However, the commission may approve a proposal that includes an incorporation if it finds either of the following:

- I. The county and all of the subject agencies agree to the proposed transfer.
  - II. The negative fiscal effect has been adequately mitigated by tax sharing agreements, lump-sum payments, payments over a fixed period of time, or any other terms and conditions pursuant to GC §56886. (GC §56815)
- D. Any terms and conditions that mitigate the negative fiscal effect of a proposal that contains an incorporation shall be included in the commission resolution making determinations.

**7.7. Commission Proceedings**

- A. Upon receiving a complete application, the following actions will be taken:
- I. LAFCo staff conducts an analysis of the proposal.
  - II. Any interested party may request the State Controller’s Office to review LAFCo’s fiscal analysis prior to issuance of the executive officer’s report and recommendation. (GC §56833.3) The party requesting the review will be required to pay for all costs associated with the review.
  - III. The Commission conducts a public hearing to review the LAFCo staff analysis and receive oral or written testimony. (GC §56666)
  - IV. The Commission then adopts a resolution making determinations approving or disapproving the proposal, with or without conditions. (GC §56880)
  - V. If the incorporation is approved, the Commission determines the final boundaries, the effective date, government structure, the base property tax, and the provisional appropriations limit for the proposed city (GC §56810), and any terms and conditions of approval.
  - VI. At the time the Tulare County LAFCO approves an incorporation, or a reorganization that includes an incorporation, it may also determine the sphere of influence for the proposed new city. The Commission shall, in any event, determine the sphere of influence for any newly incorporated city within one year of the effective date of incorporation. (GC §56426.5)
- B. If the Commission disapproves a proposal, no new proposal involving the same or substantially the same territory shall be initiated for one year after the date of the Commission’s resolution unless this provision is waived by the Commission. (GC §56884)

## **7.8. Conducting Authority Proceedings**

- A. The Tulare County Local Agency Formation Commission is designated as the conducting authority. Not more than 30 days after the conclusion of the hearing, the Commission shall make a finding regarding the value of written protest filed and not withdrawn, and take one of the following actions:
  - I. Terminate the proceedings if more than 50% of the registered voters residing in the incorporation area submit written protest; or
  - II. Call an election on the question of incorporation if written protest is submitted by less than 50% of registered voters residing in the incorporation area.

## **7.9. Election**

- A. An election is held, usually at the next general election. If the majority of votes is cast for incorporation, the Commission as the conducting authority shall pass a resolution confirming the order of incorporation. An incorporation election also provides for the election of city council members and other officers; whether the city council in future elections shall be elected by district or at large; if the petition so requests, the question as to whether or not the city shall operate under the city manager form of government; and, if the petition so requests, state that the voters may express their preference between names for the new city.

## **7.10. Completion**

- A. Following a successful incorporation election, the County Board of Supervisors will certify the election results by adoption of a resolution and forward a copy to LAFCo. LAFCo staff will prepare a "Certificate of Completion" (the document which signals the end of the incorporation process) and a "Statement of Boundary Change." The effective date of the new city will be clearly shown on these documents. LAFCo staff will assemble documents to accompany the Certificate of Completion for recordation by the County Recorder's office.

LAFCO staff is also responsible for filing incorporation completion documents with a variety of State agencies and affected departments of the county government.

# ***Policies and Procedures***

## ***Tulare County Local Agency Formation Commission***

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**Policy Number:** C-9

**Effective Date:** *Adopted February 2, 2005*

**Authority:** *Government Code §56000 et seq., LAFCO Resolutions: 05-006, 05-062, 13-003, 15-002*

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**Title:** ***Island Annexation Policy***

**History:** This policy was added to the Manual on 2/2/05. The policy was amended on 11/9/05 to add section 9.4 regarding tax sharing agreements and amended on 3/6/13 to remove a subsection (9.3(B)) regarding splitting islands over the 150ac threshold. Definition of substantially surrounded was changed from 65% to 51% on 2/4/15.

**Procedure:**

### **9.1. General Considerations**

Assembly Bill (AB) 1555 (Longville) took effect on January 1, 2000. It contains amendments to GC §§56113, 56375, 57080 and 57087.3 located within the Cortese-Knox Government Reorganization Act of 1985 (“Cortese-Knox Act”). In 2000, the Act was comprehensively revised to incorporate these and other changes, and re-titled the Cortese-Knox-Hertzberg Act. Further amendments were made to the law in 2003, and in July 2004, SB 1266 (Torlakson) was signed into law. These amendments are addressed herein.

According to the Legislative Counsel’s Digest of AB 1555, this bill would authorize LAFCo’s to approve without an election the annexation or reorganization of an unincorporated island or unincorporated islands within city limits under specified conditions depending on whether the proceeding is initiated on or after January 1, 2000 and before January 1, 2007. However, after reviewing AB 1555, there are several ambiguous provisions which can cause uncertainty in the application of these new requirements to annexations of county islands.

When applying the Cortese-Knox Act in general, GC §56300 provides that it is the intent of the Legislature that each commission establish policies and exercise its powers in a manner that encourages and provides planned, well-ordered, efficient urban development patterns with appropriate consideration of preserving open-space lands within those patterns. Similarly, GC §56375, subdivision (i), empowers a commission to adopt written procedures for the evaluation of proposals.

Against this background, this policy initially addresses the Basic Requirements of AB 1555 and then provides an interpretation of how AB 1555 will be applied as matter of policy by the Tulare County Local Agency Formation Commission unless other required by law.

## **9.2. Basic Requirements of AB 1555**

Pursuant to GC §56375, subdivision (a), the commission shall not have the power to disapprove a city annexation (initiated by resolution of the city) of contiguous territory if the commission finds that any of the following requirements are met:

- A. The contiguous territory is surrounded or substantially surrounded by the city to which the annexation is proposed, or by that city and a county boundary, or by the Pacific Ocean, if the contiguous territory:
  - I. is substantially developed or developing,
  - II. is not prime agricultural land as defined in GC §56064,
  - III. is designated for urban growth by the general plan of the annexing city, and
  - IV. is not within the sphere of influence of another city; or
- B. The contiguous territory is located with an urban service area which has been delineated by the commission and which is not designated prime agricultural land as defined in GC §56064, and is designated for urban growth by the general plan of the annexing city; or
- C. The contiguous territory is an annexation or reorganization of unincorporated islands meeting the following requirements:
  - I. The annexation is initiated by resolution of the affected city on or after January 1, 2000, and before January 1, 2007.
  - II. The commission shall approve an annexation after notice and hearing, and waive protest proceedings if the commission finds that the territory contained in the annexation proposal meets all of the following requirements:
    - (a) The contiguous territory does not exceed 150 acres in area and that area constitutes the entire island.
    - (b) The contiguous territory constitutes an entire unincorporated island located within the limits of a city, or constitutes a reorganization containing a number of individual unincorporated islands.
  - III. The contiguous territory is surrounded in either of the following ways:

- (a) Surrounded, or substantially surrounded, by the city to which the annexation is proposed, or by the city and a county boundary, or
  - (b) Surrounded by the city to which the annexation is proposed and adjacent cities.
  - (c) GC §56375.3 shall not be construed to apply to any unincorporated island within a city that is a gated community where services are currently provided by a community services district
  - (d) Notwithstanding any other provision of law, at the option of either the city or the county, a separate property tax transfer agreement may be agreed to between a city and a county pursuant to Revenue and Taxation Code Section 99 without affecting any existing master tax sharing agreement between the city and the county.
- IV. The contiguous territory is substantially developed or developing. This finding shall be based on one or more factors, including, but not limited to, any of the following factors:
- (a) The availability of public utility services,
  - (b) The presence of public improvements, or
  - (c) The presence of physical improvements upon the parcel or parcels within the area.
- V. The territory is not prime agricultural land as defined by GC §56064.
- VI. The contiguous territory will benefit from the annexation or is receiving benefits from the annexing city.
- VII. Notwithstanding any other provision of subdivision (d) of GC §56375.3 subdivision (d) shall not apply to all or any part of that portion of a redevelopment project area referenced in Health and Safety Code §33494.41, which as of January 1, 2000, meets all of the following requirements:
- (a) is unincorporated territory,
  - (b) contains at least 100 acres,
  - (c) is surrounded or substantially by unincorporated territory, and
  - (d) contains at least 100 acres zoned for commercial or industrial uses, or is designated on the applicable county general plan for commercial or industrial uses.

**9.3. Interpretation of AB 1555**

- A. Unless otherwise required by law, the following policies shall apply to the provisions of AB 1555:
  - I. “Substantially surrounded” shall mean that the contiguous territory subject to an AB 1555 annexation must be surrounded by at least fifty one percent (51%) by that city and a county boundary.

**9.4. City-County Tax Sharing Agreement for Island Annexations**

The City and County may negotiate a special tax sharing agreement to replace the existing Master Tax Agreement to mitigate any adverse service effects from an island annexation proposal. The tax sharing agreement should address the island annexation(s) consistent with Revenue and Taxation Code Section 99.

- A. If a separate tax sharing agreement has been proposed but hasn't been ratified by the City and County before the island annexation proposal is heard by the Commission then the following applies:
  - I. The approval of the annexation may be conditioned to require the ratification of a tax sharing agreement by the City and County before the Certificate of Completion is recorded, and
  - II. If a separate tax sharing agreement can not be reached then the following applies:
    - a) The City or County shall notify LAFCo that the agreement can not be reached, and
    - b) The Master Tax Agreement shall apply to the annexation, or
    - c) If the City or County does not accept the Master Tax Agreement, the approval of the annexation shall be voided.

# ***Policies and Procedures***

## ***Tulare County Local Agency Formation Commission***

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**Policy Number:** C-10

**Effective Date:** *Adopted February 2, 2005*

**Authority:** *Government Code §56744 and §56375, LAFCO Resolutions: 2005-007, 2007-014*

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**Title:** **Creation or Further Envelopment of County Islands**

**Purpose:** To encourage orderly growth and development by discouraging creation of new county islands and further envelopment of existing county islands; and to promote the efficient extension and delivery of government services.

**Scope:** This policy and procedure applies to all municipal annexation proposals submitted to Tulare County LAFCo.

**Procedure:**

### **10.1. Proposed Creation or Further Envelopment of County Islands**

- A. When LAFCo approval of an annexation would result in the creation of a new 'surrounded' or 'substantially surrounded' county island, or further envelop an existing 'substantially surrounded' county island, the annexing agency shall conduct an 'interest in annexation' survey of the registered voters (if inhabited pursuant to GC §56046) and/or property owners within the island and submit the results of that survey as part of the annexation application. During development of the application package, LAFCo staff shall, upon request of the annexing municipality, assist with the coordination and conduct of a neighborhood outreach meeting held in conjunction with the County of Tulare, as the governing agency of the county island. Upon review of an annexation application submitted, where such a meeting has not been held, on a case by case basis, the Commission may continue the hearing and request that such a meeting be conducted to present information to, and verify the positions of island property owners, prior to approval of the application.

If barriers to annexation of the subject island are evident, the application package shall also include a description of these barriers and outline the municipalities' strategy for future annexation of the island.

- B. Pursuant to GC §56375 (a), Tulare County LAFCo may, on a case by case basis, require as a condition of approval that:
- I. The annexation be amended to include roads serving the island that are contiguous to the annexed parcels;



- II. The annexing municipality enter into an extraterritorial service agreement in good faith and using best efforts with Tulare County to provide specified municipal services to the newly created or enlarged island effective upon filing of the annexation with the Recorder's Office. To facilitate the consummation of the extraterritorial service agreement, the parties may enter into a separate property tax transfer agreement without affecting any existing master tax sharing agreement between the annexing municipality and the county;
  - III. The annexing municipality adopt and submit a resolution to annex the whole or part of the county island, if the island qualifies under GC §56375.3 (see Policy C-9).
- C. Consistent with Tulare County LAFCo Policy C-9, the term 'substantially surrounded' shall mean that the contiguous territory subject to annexation must be surrounded by at least fifty-one percent (51%) of that city and a county boundary.

# ***Policies and Procedures***

## ***Tulare County Local Agency Formation Commission***

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**Policy Number:** C-11

**Effective Date:** *Adopted June 3, 2009*

**Authority:** *Government Code §56425, LAFCO Resolution 09-012*

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**Title:** **Secondary Sphere of Influence for Special Districts**

**Policy:** In instances where a special district that provides urban services to unincorporated communities is located near a rural area that contains facilities that necessitate domestic water service a secondary SOI may be established. Service provision between the district's primary SOI and its secondary SOI will be subject to the criteria set forth in this policy.

**Purpose:** To provide an efficient method to review extensions of service by an urban district to adjacent rural areas.

**Scope:** This policy affects all special districts that provide urban services within Tulare County LAFCO's jurisdiction.

**History:** This policy was added to the Manual on 6/3/09.

**Procedure:**

### **11.1. Secondary SOI**

A secondary SOI may be established outside a special district's urban core and primary SOI for the sole purpose of providing domestic water services. Establishment of the secondary SOI will be determined by a district municipal service review report and/or a thorough plan for services. If the Commission determines that a secondary SOI is appropriate the following criteria will be applicable when considering approval of extension of water service between the district's primary and secondary SOI's:

- A. Extension of district boundaries into the secondary SOI shall not be permitted unless there is an agreement between LAFCO and the district as to the services to be provided to that area.
- B. Unless there is an agreement with the district as provided herein, the Executive Officer is authorized to grant approval of water service provision to the area and all proposed extensions of water service would be subject to provisions of GC §56133 and Policy C-6.

- C. The district may only provide a rural level of service within its secondary SOI. No services shall be provided unless the service benefits land uses that are allowed by the applicable zoning of the territory.
- D. For the purposes of this policy “rural level of service” is defined as service to a facility or dwelling that is accessory to on-going agricultural or open space activity on the property on which it is located.
- E. If water services are extended to a site that is under Williamson Act Contract only those services that benefit uses that are allowed under the contract shall be permitted.
- F. A proposal for extension of service must demonstrate a need for the service proposed to be provided.

**11.2** The boundaries of a special district shall conform to its primary SOI in accordance with GC §56375.5. The existence of a secondary SOI shall not be used as a basis for expanding the boundaries of a special district beyond its primary SOI unless there is an agreement between LAFCO and the district as herein provided. Otherwise the primary SOI may only be amended as provided in Policy C-5.

# Policies and Procedures

## Tulare County Local Agency Formation Commission

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**Policy Number:** C-12

**Effective Date:** November 4, 2009

**Authority:** Government Code §56375(g) and §56895, LAFCO Resolutions 09-017, 11-014, 24-014

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**Title:** Reconsideration

**Policy:** The Cortese-Knox Hertzberg Local Government Reorganization Act of 2000 (CKH) authorizes any person or affected agency to file a written request with the Executive Officer requesting amendments to or reconsideration of a resolution making determinations.

**Purpose:** To set forth the process by which requests for amendment or reconsideration are processed by LAFCO in accordance with GC §56895 et al.

**Scope:** This procedure applies to all requests for amendment or reconsideration of LAFCO resolutions making determinations on changes of organization, reorganizations, spheres of influence and extensions of service agreements.

**History:** This policy was added to the Manual on 11/4/09. The procedure was amended on 9/7/11 to align with existing state statutes.

**Procedure:**

### 12.1. General

This procedure is intended to implement the reconsideration provisions contained in Government Code. In the event of any conflicts between this procedure and the provisions of Government Code shall control.

### 12.3 Timing of Requests for Reconsideration

A timely request for amendment or reconsideration is defined as the following:

- A. Requests to amend or reconsider an adopted resolution making determinations must be received by the LAFCO Executive Officer no later than the end of regular business hours on the thirtieth (30th) day following the meeting date at which the Commission adopted the resolution. (Regular business hours for LAFCO are from 8 a.m. to 5 p.m. Monday-Thursday and 8 a.m. to 12 p.m. on Friday.)

- B. The request must be accompanied with the filing fee as listed in the LAFCO fee schedule then in effect.
- C. Pursuant to Government Code, failure to comply with the deadline and submission of the filing fee shall cause rejection of the request.

### **12.3. Information for Requests for Reconsideration**

Requests to amend or reconsider an adopted resolution making determinations must be in writing and should contain the following information:

- A. Contact information for Party Requesting Reconsideration
  - I. Name, address and telephone number of requesting party and/or organization.
  - II. Name of lead contact person (and alternate) authorized to discuss the request with LAFCO staff.
- B. Identification of LAFCO Resolution Making Determinations
  - I. Indicate the specific resolution that is requested to be amended by title and date of adoption.
- C. Identification of Specific Modifications to be Considered. Each proposed modification should be separately identified in writing and include:
  - I. The identifying number or letter of the finding, condition or paragraph of the resolution and the page on which it is located in the resolution.
  - II. The exact language to be considered for deletion from the resolution, if any, and its location in the text of the resolution.
  - III. The exact language to be considered for insertion in the resolution, if any, and its proposed location in the text of the resolution.
  - IV. Identification of any facts upon which the modification is based.
  - V. A statement of what new or different facts that could not have been presented previously, are claimed to warrant the reconsideration.
  - VI. A brief statement explaining whether or not the subject matter of the modification and any facts in support of the modification were raised before LAFCO during the proceedings leading up to the adoption of the resolution and when.
  - VII. If the subject matter of the modification or any facts in support of the modification were not raised before LAFCO during its proceedings, an explanation of why this matter or these facts could not have been presented to LAFCO previously.
  - VIII. Identification of any law (constitutional provision, State statute or regulation, case law, etc) upon which the modification is based.
  - IX. Any supplemental data in support of the modification (all referenced data should be submitted with the request unless it is contained elsewhere in the record before LAFCO and then it should be reasonably identified or described).

- X. The term "Modification" as used in these procedures shall mean a specific alteration to any portion of the commission decision or conditions thereto as described in the request for reconsideration.
  
- D. This information will assist LAFCO in its evaluation and consideration of a request for amendment or reconsideration. LAFCO will not consider any requests for amendment or reconsideration that are not in writing and LAFCO reserves the right to reject any requests not in conformance with these guidelines.

#### **12.4. Process**

- A. Once a timely request for amendment or reconsideration is filed and accepted, the Executive Officer shall place the request on the agenda for the next regular meeting for which the notice required in this policy can be given. The notice shall be given in the same manner as for the original proposal.
  
- B. Upon receipt of a timely request, the Executive Officer shall not take any further action regarding the Commission's original determinations until the Commission acts on the request.
  
- C. At the meeting, the Commission shall consider the request and receive any oral or written testimony. The consideration may be continued but not to exceed 35 days from the date specified in the notice.
  
- D. The Executive Officer's report shall address the requirements as listed in section 12.3 above with particular attention to whether the facts cited in the request are new or had been previously considered by the commission and whether substantial evidence exists to support the facts claimed. Argument, speculation, conjecture, unsubstantiated opinion or narrative does not constitute substantial evidence.
  
- E. At the conclusion of the hearing, the Commission may take one of the following actions:
  - I. Approve (or partially approve) the request and adopt a resolution superseding the resolution previously issued;
  - II. Deny the request;
  - III. Continue the hearing for a maximum of 35 days.

# ***Section D***

# ***LAFCO ADMINISTRATION***

# ***Policies and Procedures***

## ***Tulare County Local Agency Formation Commission***

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**Policy Number:** *D-1*

**Effective Date:** *October 19, 1977*

**Authority:** *GC §81000 et seq., LAFCO Resolutions 77-94, 02-006, 10-030, 18-010*

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**Title:** **Conflict of Interest and Disclosure Requirements**

**Policy:** This Conflict of Interest Code (hereinafter referred to as the “Code”) is adopted pursuant to the provisions of the Political Reform Act of 1974, set forth in California Government Code §81000 et seq. (hereinafter referred to as the “Act”), for the purpose of requiring designated employees to file statements disclosing financial interests that may be materially affected by their official actions and for the purpose of providing that designated employees must disqualify themselves from acting in their official capacity in order to avoid a conflict of interest.

**Purpose:** The purpose of this policy is to outline the procedure by which designated employees of Tulare County LAFCO are to file statements disclosing their financial interests that may be materially affected by their official actions and for the purpose of providing that designated employees must disqualify themselves from acting in their official capacity in order to avoid a conflict of interest.

**Scope:** This policy applies to all designated employees of Tulare County LAFCO. For the purposes of this policy, designated employees shall be defined as “a member of the Commission.”

**History:** This was a pre-existing policy that was adopted into the original Manual on 2/6/02. Exhibits A and B were updated to match TCAG disclosure requirements on 12/8/10. Form 700 filing deadline updated 6/10/15. Citation language updated 12/5/18.

**Procedure:**

### **1.1. Definitions**

The Fair Political Practices Commission has adopted a regulation that contains the terms of a model conflict-of-interest code. Therefore, the terms of 2 Cal. Code of Regs., Section 18730, and any amendments to it duly adopted by the Fair Political Practices Commission, are hereby incorporated by this reference and, together with the attached **APPENDIX A (DESIGNATED POSITIONS)**, and **APPENDIX B (DISCLOSURE CATEGORIES)**, constitutes the conflict-of-interest code of this agency.

Unless otherwise provided, the definitions of words and phrases used in this Code shall be consistent with the definitions of the same words and phrases



contained in the Act and contained in the Regulations of the Fair Political Practices Commission set forth in Title 2 of the California Administrative Code.

**1.2. Application: Designated Employees**

The provisions of this Code are applicable to the designated employees of this local government agency. Designated employees are those persons who are deemed to make or to participate in the making of decisions which may foreseeably have a material effect on a financial interest. Designated employees are those persons who hold the positions (referred to hereinafter as “designated position”) that are enumerated in Exhibit “A” attached hereto.

**1.3. Disclosure Statements: Designated Employees**

Each designated employee shall file statements, in accordance with the provisions of this Code, disclosing such employee’s interest in investments, real property and income. The types of financial interest subject to disclosure are set forth in Exhibit “B” attached hereto; and the specific types which are applicable to a designated employee are expressed by number opposite the designated positions enumerated in Exhibit “A.”

**1.4. Place of Filing**

Each designated employee shall file one original statement disclosing financial interests with the Executive Officer of this agency. If the designated employee is the head of this agency, or a member of a board or commission not under a department of state government or not under the jurisdiction of a local legislative body, the agency shall make and retain a copy of such person’s statement and forward the original to the code reviewing body. The originals of all other statements shall be retained by the agency.

**1.5. Time of Filing**

- A. All designated employees shall submit an initial statement within thirty (30) days after the effective date of this Code.
- B. Merit system employees appointed, promoted or transferred to designated employee positions shall file initial statements within thirty (30) days after the date of assuming such position.
- C. All other persons assuming designated employee positions shall file initial statements not less than ten (10) days before assuming such position or, if subject to confirmation, not less than ten (10) days before being confirmed, unless an earlier assumption of the position is required by emergency circumstances, in which case said statement shall be filed within thirty (30) days after the date of assuming such position.
- D. All designated employees shall file annual statements by the date determined by the California Fair Political Practices Commission. Such annual statements shall cover the period of the preceding calendar year.

- E. Each person who leaves a designated employee position shall file a leaving office statement within thirty (30) days after leaving such position.
- F. When a designated employee is required to file with another agency a statement disclosing financial interests, and such statement contains, at a minimum, all of the items required to be reported by this Code, and such other agency has at least the same territorial jurisdiction as this agency, then such designated employee may comply with the filing provisions of this Code by filing with this agency a duplicate copy of the statement filed with the other agency, in lieu of an entirely separate statement.

#### **1.6. Contents**

- A. The initial statement required to be filed by a designated employee shall contain only such person's investments and interests in real property.
- B. Statements required to be filed by designated employees subsequent to the initial statement shall contain such person's investments, interest in real property, and income.
- C. Statements required to be filed by designated employees leaving office shall contain such person's investments, interests in real property, and income during the period since the closing date of the previous statement filed pursuant to this code.
- D. When an investment or an interest in real property is required to be reported under this Code, the statement shall contain:
  - I. A statement of the nature of the investment or interest;
  - II. The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;
  - III. The address or other precise location of the real property;
  - IV. A statement whether the fair market value of the investment or interest in real property exceeds \$10,000, and whether it exceeds \$100,000. This information need not be provided with respect to an interest in real property which is used principally as the residence of the filer;
  - V. In the case of an investment which constitutes fifty (50) percent or more of the ownership interest in a business entity, disclosure of the investments and interests in real property of the business entity;
  - VI. In the case of a statement filed under subsections (b) or (c) of this section, if the investment or interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the date of acquisition or disposal.
- E. When income is required to be reported under this Code, the statement shall contain, except as provided in subsection (e) of this section:

- I. The name and address of each source of income aggregating two hundred fifty dollars (\$250) or more in value, or twenty-five dollars (\$25) or more in value if the income was a gift, and a general description of the business activity, if any, of each source;
  - II. A statement whether the aggregate value of income from each source was greater than one thousand dollars (\$1000), and whether it was greater than ten thousand dollars (\$10,000);
  - III. A description of the consideration, if any, for which the income was received;
  - IV. In the case of a gift, the amount and the date on which the gift was received.
- F. When income of a business entity, including income of a sole proprietorship, is required to be reported under this Code, the statement shall contain:
- I. The name, address, and a general description of the business activity of the business entity;
  - II. In the case of a business entity which provides legal or brokerage services, the name of every person who paid fees to the business entity if the filer's pro rata share of fees from such person was equal to or greater than one thousand dollars (\$1,000);
  - III. In the case of a business entity not covered by paragraph (2) the name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than ten thousand dollars (\$10,000) during a calendar year.

### **1.7. Disqualification**

A designated employee must disqualify himself or herself from making or participating in the making of any governmental decision when it is reasonably foreseeable that such decision may have a material financial effect, distinguishable from its effect on the public generally, upon any business entity in which such designated employee holds a position of management or is a director, officer, partner, trustee or employee, or upon any financial interest required to be reported by such designated employee, except sources of gifts less than two hundred fifty dollars (\$250).

### **1.8. Disqualification Exception**

No designated employee shall be required to disqualify himself or herself with respect to any matter which could not legally be acted upon or decided without his or her participation. The fact that such person's vote is needed to break a tie does not make the participation legally required for purposes of this section.

### **1.9. Manner of Disqualification**

If a designated employee is to disqualify himself or herself from acting, the following is recommended:

- A. If a member of a board or commission, announce the existence of a conflict to such board or commission.
- B. If a consultant, report the existence of a conflict to the chief executive officer of this agency.
- C. Any other designated employee, report the existence of a conflict to such person's immediate supervisor.

**1.10. Effective Date of Code**

This code shall become effective thirty (30) days after the same has been approved by the Board of Supervisors of the County of Tulare.

**1.11. Penalties**

California GC §87300 provides, in part: "A Conflict of Interest Code shall have the force of law and any violation of a Conflict of Interest Code by a designated employee shall be deemed a violation of this chapter." Your attention is directed to the civil and criminal penalties set forth in the Act that may be imposed for a violation of this Code.

**1.12. Statute of Limitations**

No action based on a disqualification provision of this Code shall be brought pursuant to Government Code Section 91009(b) to restrain the execution of or to set aside official action of the agency unless commenced within 90 days following the official action.

**1.13. Opinions of the Commission and Counsel**

- A. Opinion Requests: Any designated employee who is unsure of any right or obligation arising under this code may request a formal opinion or letter of advice from the FPPC or an opinion from the attorney of this agency.
- B. Evidence of Good Faith: If an opinion is rendered by the attorney of this agency stating in full the facts and the law upon which the opinion is based, compliance by the designated employee with such opinion may be evidence of good faith in any civil or criminal proceeding brought pursuant to the Act or this Code. The designated employee's good faith compliance with the opinion of this agency's attorney shall also act as a complete defense to any disciplinary action that this agency may bring under Section 91003.5 of the Act or this Code.

**Exhibit "A"**

## DESIGNATED EMPLOYEES

<u>Designated Positions</u>	<u>Types of Interests required To be disclosed</u>
Members of the Commission	1, 2, 3
Alternate Members of the Commission	1, 2, 3
Executive Officer	1, 2, 3
Consultants*	1

\*Consultants are included as designated employees and shall disclose pursuant to the broadest disclosure category, subject to the following limitation:

The Executive Officer of this local agency may determine in writing whether a particular consultant is a "designated employee" or whether the consultant is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements required by this Code. 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 determination of the Executive Officer is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

### **Exhibit "B"**

#### TYPES OF FINANCIAL INTERESTS

##### REQUIRED TO BE DISCLOSED

###### Disclosure Category: 1

All investments, business positions and sources of income located in or doing business in the jurisdiction of the local agency.

All interests in real property located in the jurisdiction, including property located within a two mile radius of any property owned or used by the local agency

(Intended for officials and employees whose duties are broad and indefinable.)

###### Disclosure Category: 2

All investments, business positions and sources of income of the type which provide services, supplies, materials, machinery or equipment utilized by the local agency.

(Intended for employees whose duties and decisions involve contracting and purchasing.)

Disclosure Category: 3

All investments, business positions and sources of income of the type which engage in land development, construction or the acquisition or sale of real property.

All interests in real property located in the jurisdiction, including property located within a two mile radius of any property owned or used by the local agency.

(Intended for employees whose duties and decisions may affect real property interests.)

# ***Policies and Procedures***

## ***Tulare County Local Agency Formation Commission***

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**Policy Number:** *D-2*

**Effective Date:** *February 6, 2002*

**Authority:** *Government Code §56381*

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**Title:** **LAFCO Budget**

**Policy:** The Commission shall adopt annually, following noticed public hearings, a proposed budget by May 1<sup>st</sup> and a final budget by June 15<sup>th</sup> of each year.

**Purpose:** To outline the annual process of preparing and submitting the Tulare County LAFCO budget as mandated by law.

**Scope:** This procedure applies to the annual LAFCO budget prepared and submitted by Tulare County LAFCO.

**History:** This policy was adopted with the original Manual on 2/6/02.

**Procedure:**

### **Budget Process**

- 2.1. The Commission is required to adopt a “preliminary budget” by May 1<sup>st</sup> of each year and transmit it to the Board of Supervisors, each city, and to the clerk and chair of the city selection committee.
- 2.2. Throughout the latter part of April and through most of May, the County, cities, and the clerk and chair of the city selection committee will have an opportunity to review and comment on the preliminary budget, and they may present their recommendations to the Commission at its public hearing scheduled for the first Wednesday in June. At the conclusion of this public hearing process, the Commission will adopt a budget, but it must adhere to language in GC §56381 that indicates:

“At a minimum, the proposed and final budget shall be equal to the budget adopted for the previous fiscal year unless the Commission finds that reduced staffing or program costs will nevertheless allow the Commission to fulfill the purposes and programs of this chapter.”
- 2.3. On or before the 15<sup>th</sup> of June, the Commission must prepare and transmit to the Board of Supervisors, each city, and to the clerk and chair of the city selection committee, if any, it’s “final budget” for the following fiscal year.

## **Funding Formula**

- 2.4. Pursuant to GC §56381(b)(4), an alternative method of apportionment of the net operating expenses of the Commission may be used if approved by a majority vote of the Board of Supervisors and a majority of the Cities representing a majority of the total population of Cities in the County. In this regard, the Cities and the County have agreed that the Tulare County Association of Governments formula for distributing the apportionment share of cost (based on population distribution) be used to determine each agency's share of cost for the funding of LAFCO.
- 2.5. The following is the percentage distribution of costs derived from the TCAG formula and used to determine the share of cost to the Cities and County for funding of LAFCO for the 2024-25 Budget.

<u>Agency</u>	<u>Percentage</u>	<u>Agency</u>	<u>Percentage</u>
City of Dinuba	5.4%	City of Porterville	13.2%
City of Exeter	2.1%	City of Tulare	14.7%
City of Farmersville	2.1%	City of Visalia	30.1%
City of Lindsay	2.6%	County of Tulare	28.2%
City of Woodlake	1.6%		

## **Payment Collection**

- 2.6. After apportioning the costs as agreed upon, the auditor shall request payment from the Board of Supervisors and from each city no later than July 1<sup>st</sup> of each year for the amount that entity owns and the actual administrative costs incurred by the auditor in apportioning costs and requesting payment from each entity.
- 2.7. If the county or city does not remit its required payment within 60 days, the Commission may determine an appropriate method of collecting the required payment, including a request to the auditor to collect an equivalent amount from the property tax, or any fee or eligible revenue owed to the county or city. The auditor shall provide written notice to the county or city prior to appropriating a share of the property tax or other revenue to the Commission for the payment due the Commission pursuant to this section. Any expenses incurred by the Commission or the auditor in collecting late payments or successfully challenging nonpayment shall be added to the payment owed to the Commission.



# ***Policies and Procedures***

## ***Tulare County Local Agency Formation Commission***

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**Policy Number:** D-3

**Effective Date:** April 3, 2001

**Authority:** Government Code §56380, County Agreement No. 20608, TCAG/LAFCO Staff Services Agreement, LAFCO Resolution 10-002, 10-030

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**Title:** **Staff Services Agreement**

**Policy:** The Tulare County Local Agency Formation Commission (LAFCO) does not have professional staff to perform the planning and administrative functions which are required by statute. As such, the Commission utilizes County staff services and County Counsel services to perform the duties required.

**Purpose:** The purpose of this policy is to outline the agreement between the County of Tulare, Tulare County Association of Governments (TCAG) and Tulare County LAFCO to provide County staff and County Counsel to perform the duties of LAFCO as required by law.

**Scope:** This procedure applies to all employees working for and services rendered to Tulare County LAFCO pursuant to the agreement between the County of Tulare, TCAG and LAFCO.

**History:** This was a pre-existing policy that was included in the adoption of the Manual on 2/6/02. The policy was amended on 12/8/10 to reflect changes as a result of the TCAG/LAFCO Staff Services Agreement.

**Procedure:**

### **3.1 County/LAFCO Staff Services Agreement**

Pursuant to County Agreement No. 20608, effective on 4/3/01, the County of Tulare agreed to provide Tulare County LAFCO with legal, planning and administrative services necessary to fulfill the Commission's duties and responsibilities under section 56000 et seq. of the Government Code. The various County departments providing these services included: County Counsel, County Resource Management Agency (RMA), the County Auditor, and other appropriate County departments. This Agreement also constituted an appointment by the Commission of Tulare County Counsel as legal counsel for the Commission, and ratification of the previous appointment by the Commission of the Planning and Development Director as Executive Officer of the Commission for the purposes of compliance with GC §56384.

### **3.2 TCAG/LAFCO Staff Services Agreement**

Pursuant to the staff services agreement between TCAG and LAFCO, effective on 7/1/10, TCAG agreed to provide Tulare County LAFCO with planning and administrative services necessary to fulfill the Commission's duties and

responsibilities under section 56000 et seq. of the Government Code. TCAG is an independent agency that is staffed by County personnel. This agreement transferred the Executive Officer and Staff Analyst positions from RMA to TCAG. County Agreement No. 20608 still applies to services performed by County Counsel, County Auditor, County Surveyor and potential services such as environmental review by RMA planning.

### **3.3 Personnel Services Provided**

Under the agreements, the County/TCAG are to provide all personnel, material, supplies and transportation required to perform all necessary legal, office and field work, and to prepare and submit necessary reports, maps, and recommendations to the Commission with regard to the legal, planning and administrative matters. The County/TCAG shall provide the Commission with assistance in preparing budget drafts, and all necessary correspondence and resolutions. If the Commission should decide to acquire any equipment, materials, supplies or transportation, and make such property of the Commission available to the County/TCAG for use by the County/TCAG in performing services under the Agreement, the Commission may do so.

### **3.4 Payment for Services**

- A. Starting with fiscal year 2001-2002, LAFCO shall prepare a budget and work program for each fiscal year indicating the reimbursement to be paid to the County/TCAG during the next fiscal year for services to be furnished during that fiscal year. Such budgeted amount shall take into account the time and salaries of the County/TCAG employees who will be performing work for the commission, all incidental costs pertaining to such County/ TCAG employees such as, but not limited to, retirement and insurance contributions by the County, transportation expenses, costs of equipment and supplies to be acquired by the County/TCAG to perform the services, costs of supervision, and all other incidental costs which will be incurred by the County/TCAG, so that the amount budgeted by the Commission for payment to the County/TCAG will reasonably approximate the actual cost to the County/TCAG of providing such services during the fiscal year.
- B. Commencing September 30, 2001, LAFCO shall make quarterly payments to the County/TCAG of one-fourth (1/4) of said budgeted amount no later than September 30, December 31, March 31 and June 30 of each fiscal year.
- C. If the amount budgeted and paid by the Commission to the County/TCAG for services by the County/TCAG during any fiscal year does not reasonably approximate the actual costs incurred by the County/TCAG during such fiscal year, then the budget for the next fiscal year shall be increased or decreased by an amount sufficient to correct the underpayment or overpayment to the County/TCAG for the prior fiscal year.

### **3.5 Office Space and Equipment**

- A. Office space shall be provided by the County in the offices of TCAG, the County Resources Management Agency, the County Auditor and County Counsel for the personnel designated by the County/TCAG to carry out the duties for the Commission under the agreements. During the 2000-2001 fiscal year, LAFCO shall make no payment to the County for the use of said office space or the costs of maintaining and repairing said office space, nor for utility services provided. In subsequent fiscal years, the Commission is to include in its budget for the next fiscal year reimbursement to the County for all of the aforementioned items.
- B. All furniture, equipment, office supplies, vehicles and other personal property that is purchased or otherwise acquired by the County/TCAG shall be the sole property of the County/TCAG and shall remain County/TCAG property unless the parties agree otherwise upon the termination of the agreement(s) between the County/TCAG and LAFCO. If the Commission decides to purchase or otherwise acquire any such personal property for use by the County/TCAG in carrying out the duties of the County/TCAG under the agreement(s), such property shall remain the sole property of the Commission at all times and shall be promptly returned to the Commission by the County/TCAG upon termination of the agreement(s).

### **3.6. Personnel Performance**

In rendering such services to the Commission, the standards of performance, the assignment and discipline of employees, and other matters incident to the performance of such services and the control of personnel so employed, shall remain in the County/TCAG.

- A. For services subject to the TCAG/LAFCO Staff Services Agreement, where there is an unresolved difference of opinion as to LAFCO objectives and relative priorities, the dispute will be resolved by the LAFCO Chair. If the dispute is related to priorities that involve TCAG then both the LAFCO and TCAG Chairs will jointly resolve the dispute.
- B. In the event of a dispute between the parties concerning the extent of the duties and functions to be rendered under the County/LAFCO Staff Services Agreement (Agreement No. 20608), or the level or manner of performance of such services, the determination of the appropriate department head shall be final with regard to the services performed by employees in their respective departments under this Agreement.

### **3.7 Miscellaneous Provisions**

- A. To facilitate the performance of services under the agreements, it is agreed that the County/TCAG shall have full cooperation and assistance from the Commission.
- B. All persons employed in the performance of services for the Commission under the agreements shall be County employees. However, the County/TCAG may from time to time subcontract portions of the required work, with the prior approval of the Commission.

- C. The Commission shall have no responsibility for the payment of any salaries, wages, or other compensation to any County personnel performing services for the Commission pursuant to the agreements, or any liability other than that provided for in the agreements. The Commission shall not be liable for compensation or indemnity to any County employee for injury or sickness arising out of his or her employment.
- D. Pursuant to Sections 895-895.8 of the Government Code, the County/TCAG agrees to indemnify and hold harmless the Commission from any loss, damage or liability arising out of the performance of the duties of County employees for the Commission pursuant to the agreements. However, the County/TCAG, its officers and employees, do not assume any liability for intentional or negligent acts of the Commission or its officers and employees.
- E. The County/LAFCO Staff Services Agreement (County Agreement No. 20608) shall become retroactively effective as of January 1, 2001, when it has been executed by both parties, and shall continue in effect, as amended from time-to-time, until terminated. This Agreement may be terminated by either party on the 30<sup>th</sup> of June of any year by giving notice of such termination to the other party no later than May 1.
- F. The TCAG/LAFCO Staff Services Agreement shall become effective as of July 1, 2010, when it has been executed by both parties, and shall continue in effect, as amended from time-to-time, until terminated. This Agreement may be terminated by either party by giving one hundred eighty (180) days prior written notice of intention to terminate pursuant to this provision, specifying the date of termination. The required notice of termination may be waived by mutual agreement of the parties. LAFCO will reimburse TCAG for any compensation earned for actual work performed and not previously paid for prior to the date of termination.

# ***Policies and Procedures***

## ***Tulare County Local Agency Formation Commission***

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**Policy Number:** *D-4*

**Effective Date:** *February 13, 2008*

**Authority:** *Government Code §56700.1 and 57009, LAFCO Resolution: 08-*

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**Title:** **Disclosure of Political Expenditures Regarding LAFCO Proceedings**

**Policy:** Pursuant to GC §§56700.1 and 57009, effective January 1, 2008, expenditures for political purposes related to a proposal for a change of organization or reorganization initiated by petition and contributions in support of or in opposition to any proposal at the conducting authority stage of the LAFCO process are subject to the reporting and disclosure to the same extent as required for local initiative measures under the Political Reform Act, GC §81000 et seq., and the regulation of the Fair Political Practices Commission implementing that law.

**Purpose:** Tulare County LAFCO adopts the following reporting and disclosure requirements to implement amendments to GC §§56700.1 and 57009.

**Scope:** This procedure applies to all proposals submitted to LAFCo.

**History:** This was added to the Manual on 2/13/08 to address changes to Government Code made by AB 745 (Silva).

**Procedure:**

### **4.1. Definitions**

- A. “Contribution” as used herein shall have the same definition as provided in GC §82015, as amended
- B. “Expenditure” as used herein shall have the same definition as provided in GC §82025, as amended.
- C. “Independent Expenditure” as used herein shall have the same definition as provided in GC §82031, as amended, except that the term “measure” as used in Section 82031 shall be replaced with the term “proposal for organization.”
- D. “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 §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 §56800) or documents necessary to comply with the California Environmental Quality Act, Public Resources Code §21000 et seq., such as a mitigated negative declaration or environmental impact report.

4.2. **Disclosure Requirements for Petitions for Organization or Reorganization**

- A. 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 organization or reorganization submitted to the Commission to which GC §56700.1 applies, shall comply with the reporting and disclosure requirements of the Political Reform Act (GC §81000 et seq.), to the same extent and subject to the same requirements as for local initiative measures. Such reporting and disclosure, except as otherwise excluded herein, extends to those required by the Fair Political Practices Commission Regulations regarding such disclosures and shall include disclosure of contributions, expenditures and independent expenditures.
- B. Disclosures made pursuant to this Section shall be filed with the Commission's Executive Officer as designated in Section 4.5. below.
- C. For the 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 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.
- D. 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.

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

- A. 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 §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 §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 disclosures of contributions, expenditures and independent expenditures.
- B. Disclosures made pursuant to this Section shall be filed with the Commission's Executive Officer as designated in section 4.5 below.
- C. For the 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 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 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.
- D. In the event the originally scheduled conducting authority 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.

### **4.4. Certain Reports and Disclosures Excluded**

This policy requires only 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 to the commission for a proposal for an organization or reorganization and does not impose on such persons the regulations regarding the names of campaign committees, disclosures of the sources of mass mailings, and disclosures of the source of automated telephone calls under GC §84501 et seq. and the regulations of the Fair Political Practices Commission implementing those sections.

### **4.5. Where to File**

All reports and disclosures required hereunder shall be filed with the Tulare County Elections official, who the Tulare County LAFCO hereby designates as a deputy Executive Officer of Tulare County LAFCO for purposes of receiving and filing such reports.

**4.6. 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.

**4.7. Sunset Provision**

This policy is intended to implement GC §§56700.1 and 57009 and shall be 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 the Commission to adopt and implement this policy.



# ***Section E***

# ***FORMS***

**TULARE COUNTY LAFCO APPLICATION CHECKLIST – Form E-1**

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CITY/DISTRICT

DATE RECEIVED

CASE NUMBER

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**A COMPLETE PROPOSAL PACKAGE MUST INCLUDE:**

- ( ) 4 copies of the Proposal Questionnaire (*Form E-4*)
  - ( ) 4 copies of the Map (*Refer to Form E-7*)
  - ( ) 4 copies of the Legal Description (*Refer to Form E-6*)
  - ( ) 4 copies of the CEQA Environmental Assessment  
(4 CDs and 1 hard copy may be provided for EIRs)
  - ( ) 4 copies of the CEQA Environmental Finding
  - ( ) 1 copy of the Dept. of Fish and Wildlife NOD receipt
  - ( ) 4 certified copies of the Initiating Resolution/Petition (*Refer to Form E-5*)
  - ( ) 4 copies of the Plan for Services (*Refer to Policy C-1*)
  - ( ) A signed consent form for each assessment parcel providing consent
  - ( ) Non-refundable filing fee payable to Tulare County LAFCo (*Refer to Policy B-2*)
  - ( ) Evidence of completed pre-noticing (if applicable)
  - ( ) For City undeveloped residential annexations, the most recent annual progress report on implementation of its housing element unless it was already submitted with a previous application. (*Refer to GC Section 65400(b)(2)*)
  - ( ) A signed Indemnification Agreement (*Form E-8*)
  - ( ) A completed Financial Disclosure Statement (*Form E-9*)
  - ( ) A digital file of the documents listed above (Zip folder, cloud storage, USB, etc.)
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COMPLETE AS SUBMITTED: YES \_\_\_ NO \_\_\_

**COMMENTS:**

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## LANDOWNER PROTEST

In accordance with Part 3, Division 3, Title 5 of the California Government Code (Section 56000 et seq.), the undersigned hereby protest the following change of organization or reorganization:

LAFCo Proposal or  
Reference Number \_\_\_\_\_

Only signatures dated and submitted between the date of publication of the hearing notice and the conclusion of the protest hearing will be considered in ascertaining the Value of written protests (Government Code § 57051).

**Each of the undersigned states:**

- I personally signed this protest as landowner of affected territory.
- I have provided an address or description sufficient to identify the location of the property.
- I personally affixed hereto the date of my signature.

Name of Landowner and Mailing Address	Address and/or Assessor's Parcel Number	Date Signed	Official Use
Signature _____  Printed Name _____			
Signature _____  Printed Name _____			
Signature _____  Printed Name _____			

**REGISTERED VOTER PROTEST**

In accordance with Part 3, Division 3, Title 5 of the California Government Code (Section 56000 et seq.), the undersigned hereby protest the following change of organization or reorganization:

LAFCo Proposal or  
Reference Number \_\_\_\_\_

Only signatures dated and submitted between the date of publication of the hearing notice and the conclusion of the protest hearing will be considered in ascertaining the Value of written protests (Government Code § 57051).

**Each of the undersigned states:**

- I personally signed this protest as registered voter of affected territory.
- I personally affixed hereto the date of my signing this protest and place of residence, or if no street or number exists, then a designation of my place of residence that will enable the location to be readily ascertainable.
- My residence and address are correctly written after my name.

Name of Landowner and Mailing Address	Residence Address	Date Signed	Official Use
Signature _____ Printed Name _____			
Signature _____ Printed Name _____			
Signature _____ Printed Name _____			

**TULARE COUNTY LOCAL AGENCY FORMATION COMMISSION  
PROPOSAL QUESTIONNAIRE**

**A. GENERAL**    GC §§56652(b)&(d), 56668(i), 56654(b), Policy B-1

1. Type of Proposal: (Annexation, Detachment, Merger, Consolidation, etc.)
2. Title of Proposal:
3. Statutory provisions governing proceedings which will be initiated if application is approved:
4. Describe, generally, the location of the subject territory:
5. Has notice of this proposal been provided to all affected districts/agencies? If so, please attach a copy of the notice, a list of the districts/agencies the notice was provided to and any comments received from those districts/agencies.
6. Has the applicant or applicant’s agent met with LAFCO staff prior to submission of this proposal? *[A pre-consultation meeting is required pursuant to Tulare County LAFCO Policy B-1]*

**B. LAND USE**    GC §§56668(a)(g)(h), Policy C-1

1. Site Information: *(Please include acreages for proposed zoning and General Plan designations and the number and types of existing and proposed structures in the subject territory)*

	<b>Existing</b>	<b>Proposed</b>
<b>Zoning Designation</b>		
<b>General Plan Designation</b>		
<b>Uses</b>		

2. Surrounding Land Uses and Zoning and General Plan Designations:

	Zoning Designation	General Plan Designation	Existing Use
North			
South			
East			
West			

3. Is the project entirely within the City/District Sphere of Influence? If no, a SOI Amendment may be required. Please refer to LAFCO Policy C-5.

**C. PHYSICAL FEATURES** GC §56668(a), Policy C-1

1. Description of General Topography:
2. Describe natural boundaries such as rivers, mountains, etc:
3. Designate and describe, generally, the major highways and streets, the rivers, drainage basins, flood control channels, and similar features within and adjacent to the subject territory:

**D. AGRICULTURE AND OPEN SPACE** GC §§56668(d)&(e), 56377, 56749, 56753.5, 56754, 56856, 56856.5, 51243.5, Policy C-1

1. Is the site under Williamson Act contract? (If yes, please answer 2 to 6. If no, skip to 7.)
2. Please list the following information:  
Preserve Number(s):  
Contract Number(s):
3. Did the City protest the execution of the contract(s)? *If yes, please attach the City Resolution protesting the contract(s).*
4. Does the City intend to succeed or not to succeed to the contract(s)? *The City's intent should also be included in its Resolution of Application.*
5. Has a Notice of Non-Renewal been submitted for the contract(s)? If so, when was the notice filed with the County?

6. Has an application for cancellation been submitted? If so, what is the status of the application?
7. Is the site subject to an open space or agricultural easement? *If yes, please describe:*
8. Please provide the applicable information below or attach in a separate document (note: commercial & industrial acreage information doesn't need to be provided for a fully residential annexation):

	<b>Total amount of land (gross acres) designated within City (in its General Plan)</b>	<b>Developed land (gross acres) in the City within each General Plan category</b>
<b>Residential</b>		
<b>Commercial</b>		
<b>Industrial</b>		

Please note if there are any recently approved annexations that are included or excluded in these figures.

9. Is there any non-residentially zoned land that is inhabited within the City? If yes, please list the acreage, land use designations and estimated number of inhabitants.

**E. POPULATION** GC §§56668(a), 56046, Policy C-1

1. Estimated total population of subject territory: (Indicate source of your information.)
2. Do more than 12 registered voters reside within the subject territory? (Inhabited – 12 or more voters or Uninhabited – less than 12 voters)

**F. GOVERNMENTAL SERVICES AND CONTROLS** GC §§56668(a),(b)&(k), Policy C-1

1. Indicate which of the following governmental services and controls, and any other governmental services and controls which you deem significant, that are now available in the subject territory, which agency now provides such services, and which agency will provide such services after the proposed action:

<b>Agency providing service</b>			
Service	Now	After	Method of finance
Police Protection			

Fire Protection			
Water Supply			
Sewage Disposal			
Street Lighting			
Street Maintenance			
Planning/Zoning			
Garbage Disposal			
Other Services:			

2. Describe the governmental services and controls that are needed and are not provided in the subject territory, or which should be provided at an increased level, indicating which services and controls can be provided as a result of the proposed action, and how the cost of such services and controls will be met (property taxes, connection fees, special assessment districts, or other means):
  
3. What is the present property tax rate in the subject territory?
  
4. What is the likelihood of significant residential, commercial, industrial, and other urban growth in the subject territory and in adjacent incorporated and unincorporated areas during the next ten years? Explain your answer.
  
5. What are the probable future needs for governmental services and controls in the subject territory during the next ten years or the foreseeable future?
  
6. Will the domestic water supplier be a privately owned public utility? If yes, please attach a 'will-serve' letter.

**G. BOUNDARIES OF TERRITORY** GC §§56668(f), 56744, 56375(m), Policies C-1 & C-10

1. Do the boundaries of the territory described in the proposal conform with lines of ownership and assessment? If the answer is "no", indicate the parcel or parcels which are divided by the proposed boundaries and state reasons why the proposed boundaries were not laid out to conform to lines of ownership and assessment.



2. Has any of all of the subject territory been included within a proposal undertaken under the same provisions of law, which was disapproved by the Local Agency Formation Commission within one year preceding the filing of this application? If the answer is "yes", identify the proposal and attach a description of the territory involved in the former proposal.

3. (To be answered only in connection with city annexations.)

Will the annexation of the territory described in the proposal result in the creation of an island, or a strip or corridor of unincorporated territory, completely or substantially surrounded by the annexing city?

If your answer is "yes", provide the following information:

a. Describe, generally, boundaries of island, strip or corridor and designate on map attached to application.

b. Characteristics of island, strip or corridor:

Acres:

Population:

Population density (per acre):

Total Assessed Valuation (land and improvements):

Land Use in Surrounding Territory:

c. Describe present and proposed sewer and water services within the island, strip or corridor:

d. Why was the island, strip or corridor not included within the boundaries of the proposal?

e. Could this island, strip or corridor reasonably be annexed to another city or reasonably be incorporated as a new city? Explain.

f. Explain fully how the application of the restrictions of Government Code Section 56744 would be detrimental to the orderly development of the community.

**H. ASSESSED VALUATION IN SUBJECT TERRITORY** GC§56668(a), Policy C-1

1. Land: \_\_\_\_\_
2. Improvements: \_\_\_\_\_
3. Estimated per capita assessed valuation: \_\_\_\_\_

**I. ENVIRONMENTAL IMPACTS** California Environmental Quality Act of 1970, Policy B-3

1. Who is the lead agency for this proposal?
2. What type of environmental document has been prepared?  
  
None, Categorically Exempt – Class \_\_\_\_\_  
  
\_\_\_\_ Negative Declaration  
\_\_\_\_ Mitigated Negative Declaration  
\_\_\_\_ Environmental Impact Report  
\_\_\_\_ Subsequent use of a previous EIR  
\_\_\_\_ Other, Please specify:
3. If an EIR has been prepared, attach the lead agency’s resolution listing significant impacts anticipated from the project, mitigation measures adopted to reduce or avoid significant impacts and, if adopted, a “Statement of Overriding Considerations”.

**J. LANDOWNER AND AGENCY CONSENT** GC §56663(c), Policy C-4

1. Have all property owners involved with the proposal given their written consent? Please attach consent forms.

**K. HOUSING** GC §56668(l), Policy C-1 (only applicable for residential annexations)

1. Describe how the proposal will assist the County or the City in achieving its fair share of the regional housing needs as determined by the Tulare County Association of Governments (TCAG).
2. Please indicate what income groups the proposal will assist:  
  
\_\_\_\_ Very Low    \_\_\_\_ Low    \_\_\_\_ Moderate    \_\_\_\_ Above Moderate
3. For City residential annexations, please provide the most recent annual progress report sent to the state regarding the meeting of the City’s share of regional housing needs, unless it was already provided for a recent annexation (reference GC §65400(b)(2)).

**L. EFFECT OF PROPOSED ACTION AND ALTERNATE ACTIONS**

*GC §56668(c), Policy C-1*

What will be the probable effects of the proposed action and of alternative actions on the following: (Elaborate. It is not sufficient to merely state "not applicable" or "no effect"):

1. The cost and adequacy of governmental services and controls in the subject territory and adjacent areas:
2. The general social and economic interests of the community. (Explain, generally, how the social and economic interests of the subject territory, the city, and the county will be benefited or adversely affected):
3. The local governmental structure of the county. (Explain, generally, how the proposed action will contribute to the logical and reasonable development of local governmental structures of the County):

**M. SPECIAL REVENUES** *GC §§56668(b)&(j), 56886*

1. Does the city or special district have plans to establish any new assessment districts, service charges, or other means to pay for new or extended services to this area?
2. Will the area assume liability for any existing bonded debt upon annexation? If so, please indicate taxpayer cost:
3. Will the territory be subject to any new or additional special taxes, benefit charges or fees? If so, please explain:

**N. TERMS AND CONDITIONS** *GC §56886*

The proposal is to be subject to the following terms and conditions:

**O. NAME EACH CITY OR DISTRICT LOCATED WHOLLY OR PARTIALLY WITHIN THE BOUNDRIES OF THE SUBJECT TERRITORY:** *GC §56658(b)(1)*

**P. MAILED NOTICE OF HEARING** GC §56652(f)

List names and addresses of the officers or persons, not to exceed three in number, who are to be furnished with copies of the Executive Officer's report and who are to be given mailed notice of hearing:

	NAME	ADDRESS
1.	_____	_____
2.	_____	_____
3.	_____	_____

**Q. APPLICANT**

State name and address of applicant(s).

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

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

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

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

**R. SIGNATURE(S) OF PERSON(S) COMPLETING QUESTIONNAIRE**

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

Signature: \_\_\_\_\_

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

Phone No: \_\_\_\_\_

**S. APPLICATION PACKAGE REQUIREMENTS** GC §§56652, 56653, 56654, 56668, CEQA, Policies C-1 to C-4, Forms E-1 & E-4 to E-9

4 Paper copies and a digital copy of the following:

- Proposal Questionnaire
- Legal Description and Map (Please reference Forms E-6 & E-7)
- CEQA Environmental Assessment

- CEQA Environmental Finding
- Certified Resolution of Application/Petition
- Plan for Services
- Certified General Plan Amendment Resolution (if applicable)

Other requirements:

- A signed (by all owners of record) consent form for each assessment parcel providing consent
- Non-refundable filing fee payable to Tulare County LAFCo (See Fee Schedule)
- Evidence of completed pre-noticing (if applicable)
- For City residential annexations, the most recently available annual progress report on implementation of its housing element (unless already provided in a previous annexation)
- A signed indemnification agreement (Form E-8)
- Disclosure information regarding persons/entities involved in the proposal (Form E-9)
- Department of Fish and Wildlife receipt for the environmental document filing

**RESOLUTION OF APPLICATION**

§ 56654

A proposal for a change of organization or reorganization may be made by the adoption of a resolution of application by the legislative body of an affected local agency.

The following is a sample resolution form acceptable to the Tulare County Local Agency Formation Commission.

**Resolution No. \_\_\_\_\_**

**A RESOLUTION OF APPLICATION  
BY THE CITY OF (OR) THE DISTRICT  
REQUESTING THE LOCAL AGENCY FORMATION COMMISSION  
TO TAKE PROCEEDINGS FOR THE  
(Name of Proposal)**

RESOLVED, by the City Council of the City of \_\_\_\_\_ (or) the Board of Directors of the \_\_\_\_\_ District, that

WHEREAS, the City of \_\_\_\_\_ (or) the Board of Directors of the \_\_\_\_\_ District desires to initiate proceedings pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Division 3, commencing with Section 56000 of the California Government Code, for the (Name of Proposal); and

WHEREAS, the territory proposed to be is inhabited/uninhabited, and a description of the external boundary of the territory is set forth in Exhibit attached hereto and by this reference incorporated herein; and

WHEREAS, this proposal is/is not consistent with the sphere(s) of influence for the affected city and/or district(s); and

WHEREAS, the reasons for this proposed are as follows:

; and

WHEREAS, it is desired to provide that the proposed \_\_\_\_\_ be subject to the following terms and conditions:

NOW, THEREFORE, this Resolution of Application is hereby adopted and approved by the City Council of the City of (or) the Board of Directors of the District. The Local Agency Formation Commission of Tulare County is hereby requested to take proceedings for the of territory as described in Exhibit , according to the terms and

conditions stated above and in the manner provided by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

\*\*\*\*\*

Passed and adopted by the City Council of the City of \_\_\_\_\_ (or) the Board of Directors of the District at a regular/special meeting thereof held on \_\_\_\_\_, 19\_\_\_\_\_, by the following vote:

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## REQUIREMENTS FOR METES AND BOUNDS LEGAL DESCRIPTION

Descriptions of the territory that are filed with the Board's Tax Area Service Section (TASS) are used to establish geodetic position and are not intended to establish property ownership in a court of law. Subdivision maps, tract maps, recorded survey maps, survey monuments, and deeds are not on file with the Board. Boundary descriptions that merely cite recorded documents or refer to assessor's parcel numbers will not be accepted. Any supporting documents may be used as reference only and cannot be used as a substitution. Written geographic descriptions shall conform to the following specifications:

1. Every written description must stand on its own without the necessity of reference to any extraneous document; a description that relies solely on the use of secondary references will not be accepted. The TASS cartographic staff must be able to plot the boundaries from the written description alone.
2. The written description shall be of the project area only. If a complete description of the special district is filed, the project area shall be clearly identified in a separate document.
3. The geographic description shall:
  - a. State the township and range, section number(s) or rancho(s)
  - b. Have a point of beginning (POB) referenced to a known major geographic position (e.g., section corners, intersection of street centerlines, or the intersection of a street centerline and an existing district boundary at the time of filing). A description will be rejected if the POB refers only to a tract map, a subdivision map or recorded survey map. It is preferable that the POB be the point of departure from an existing district boundary (when applicable).
  - c. Be expressed as a specific parcel description in sectionalized land (e.g., The SW 1/4 of Section 22, T1N, R1W) or by bearings and distances. When the description is by bearings and distances, all courses shall be numbered and listed individually in a consistent clockwise direction. The description shall not be written in a narrative format. All courses required to close the traverse of the project area must be stated. All curves must be described by direction of concavity. Delta, arc length, chord, and radius shall be listed, including radial bearings for all points of non-tangency.

Following are examples of unacceptable and acceptable descriptions:

Unacceptable (*This description refers only to extraneous documents and does not stand alone.*)

"From a point of beginning, northerly to the southwest corner of that certain property recorded in Book 12, Page 15 of Recorded Deeds, thence easterly to



the southeast corner of that certain property recorded in Book 12, Page 16 of Recorded Deeds...”

Acceptable (*This is the same description with the courses numbered and the bearings and distances added.*)

“From the point of beginning:

Course 1. North 1 18’56” West a distance of 150’ to the southwest corner of that certain property recorded in Book 12, Page 15 of Recorded Deeds, thence,  
Course 2. North 85 7’56” West a distance of 75’ to the southeast corner of that certain property recorded in Book 12, Page 16 of Recorded Deeds, thence...”

4. The written description shall state the acreage for each separate single area (see Definitions and Special Fee Provisions for the definition of a single area) and a combined total acreage of the project area.

Example: “Area A containing 2.50 acres, Area B containing 1.75 acres: Total computed acreage containing 4.25 acres more or less.”

5. All information stated on the description must match with the map(s), such as the name of the short title, the point of beginning, the course numbers, all the bearings and distances, and the acreage(s).

Further information can be found here:

<http://www.boe.ca.gov.proptaxes/pdf/jurboundaryreq.pdf>

## REQUIREMENTS FOR MAPS

Maps submitted as part of the jurisdictional boundary change filing shall conform to the following specifications:

1. All maps shall be professionally and accurately drawn or copied. Rough sketches or pictorial drawings will not be accepted. Assessor's parcel maps will not be accepted as a substitute for the project map.
2. Original or copies of the same size project map must be submitted. Reduced maps are not acceptable and will be rejected.
3. A vicinity map shall be included. The vicinity map shall show the location of the project area in relationship to a larger geographic area that includes major streets and highways or other physical features.
4. Any portion of an existing district boundary in close proximity to the project area shall be shown and identified.
5. Every map must clearly show all existing streets, roads and highways with their current names that are within and adjacent to the project area. Additionally, every map shall indicate each township and range, section lines and numbers, or ranchos that are in proximity of the project area.
6. Every map shall bear a scale and a north arrow. The point of beginning shall be clearly shown and match the written description.
7. The boundaries of the project area shall be distinctively delineated on each map without masking any essential geographic or political features. The boundaries of the project area must be the most predominant line on the map. Boundary lines that are delineated by a line that exceeds 1.5 millimeter in width shall be rejected. The use of graphic tape or broad tip marking pens to delineate the boundary is not acceptable.
8. All dimensions needed to plot the boundaries must be given on the map of the project area. Each map shall have numbered courses matching the written geographic description. Index tables may be utilized.
9. All parcels within the project area that touch the new boundary shall be clearly labeled with the assessor's parcel number. Interior parcels that do not touch the boundary need not be identified on the map.
10. If the project area has an interior island(s) of exclusion or the boundary has a peninsula of exclusion (or inclusion), that area(s) should be shown in an enlarged drawing. This drawing should be of sufficient size and scale to allow TASS to plot the boundary without difficulty.

11. When it is necessary to use more than one map sheet to show the boundaries of the project area, the sheet size should be uniform,. A small key map giving the relationship of the several sheets shall be furnished. Match lines between adjoining sheets must be used. While the geography on adjoining sheets may overlap, the project boundaries must stop at the match lines. TASS has standardized the D size (24" x 36") map sheet, but will accept larger or smaller map sizes depending on the size and complexity of the individual single area(s).

Further information can be found here:

<http://www.boe.ca.gov.proptaxes/pdf/jurboundaryreq.pdf>

**Application Indemnification Agreement**

Project Title: \_\_\_\_\_

Applicant(s) shall indemnify, defend, and hold harmless the Tulare County Local Agency Formation Commission (“LAFCO” or the “Commission”) from and against any claims, actions, or proceedings for damages, losses, attorneys’ fees, private attorney general fees and/or costs awarded to any party against LAFCO to attack, set aside, void, or annul any findings, resolutions, entitlements, certifications under the California Environmental Quality Act (“CEQA”) or other environmental review, and approvals by LAFCO given in regard to the Project described or identified in this Application and any other related proceedings (hereinafter referred to collectively as “Project” which includes annexations, reorganizations, detachments, dissolutions, formations, mergers, consolidations, sphere of influence amendments and extraterritorial service agreements), or to impose personal liability against such LAFCO commissioners, officers, employees, agents, or attorneys resulting from their official involvement in any Project proceedings, including any claims, actions or proceedings for any damages, losses, attorneys’ fees, private attorney general fees and/or costs awarded to any party and against LAFCO.

For the purposes of this Agreement, the term “Applicant” shall include all parties applying for discretionary approval of the Project, including but not limited to the subject agency or agencies (the district(s) and/or city for which a change of organization or reorganization is proposed), the owner or owners of the property or properties upon which the Project is sited, the developer or developers of the property or properties upon which the Project is sited and the Applicant(s)’ heir(s), assign(s), and successor(s)-in-interest to which this Agreement applies.

The undersigned Applicant(s) expressly warrant his/her/its/their authority to enter into this Agreement and bind all applicants and parties, including but not limited to the subject agency or agencies, owner or owners of any property or properties upon which the project is sited, the developer or developers of the property or properties upon which the Project is sited and the Applicant(s)’s heir(s), assign(s), and successors-in-interest. The Applicant(s) having read and considered the above provisions, indicate his/her/its/their agreement by their authorized signatures below.

Date:

Subject Agency: \_\_\_\_\_

By: \_\_\_\_\_

Attest: \_\_\_\_\_

Printed Name: \_\_\_\_\_  
City or District Manager

Printed Name: \_\_\_\_\_  
City or District Clerk

[If the Applicant is an Individual(s)]

Applicant:

By: \_\_\_\_\_ By: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Printed Name: \_\_\_\_\_  
"Applicant" "Applicant"

[If the Applicant is a general or limited partnership, use the following signature lines:]

Applicant:

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_  
General Partner  
"Applicant"

[If the Applicant is a corporation, use the following signature lines:]

**Note: Pursuant to Corporations Code section 313 a contract with a corporation must be signed by one person from the following corporate officers: chairperson of the board, the president or any vice-president and must also be signed by a second person from the following corporate officers: the secretary, any assistant secretary, the chief financial officer, or any assistant treasurer unless the contract is accompanied by a certified copy of the Board of Directors resolution authorizing the execution of the contract by a single designated officer or person.**

Applicant:

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_  
CEO or President or Vice President

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_  
CFO or Secretary or Treasurer

Tulare County Local Agency Formation Commission

Financial Disclosure Statement

In accordance with the requirements of the State of California Fair Political Practices Commission, this Statement of Disclosure form must be completed by each applicant or their agent for any application which will require discretionary action on the part of the Local Agency Formation Commission (reference Government Code §84308).

Entity is defined as: "Any firm, partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver, syndicate, this and any other county, city and county, city, municipality, district or other political subdivision, or any group or combination acting as a unit."

Person is defined as: "Any individual"

- 1. List the names of all persons and/or entities having ownership interest in the property involved or any financial interest in the application:

Blank lines for listing names of persons and/or entities.

- 2. If any entity identified pursuant to #1 is a corporation or partnership, list the names of all persons owning more than 10% of the shares in the corporation or owning any partnership interest in the partnership:

Blank lines for listing names of persons owning shares or partnership interest.

- 3. If any entity identified pursuant to #1 is a non-profit organization or a trust, list the names of any person serving as director of the non-profit organization or as trustee or beneficiary or trustor of the trust:

Blank lines for listing names of directors, trustees, or beneficiaries.

- 4. Has any person and/or entity identified pursuant to #1 had \$250 or more worth of business transacted with any Commissioner or Alternate or Commission staff person within the past 12 months? Yes/No

If yes, please indicate the name(s) of the person/entity:

Blank line for indicating the name(s) of the person/entity.

- 5. Has any person and/or entity identified pursuant to #1 or their agent, contributed \$250 or more to any Commissioner or Alternate within the past 12 months? Yes/No

If yes, please indicate person(s), entity(s) or agent(s) making contribution:

\_\_\_\_\_

and name of Commissioner(s)/Alternate(s) receiving contribution:

\_\_\_\_\_

**I hereby certify under penalty or perjury that the above information is true and accurate to the best of my knowledge.**

\_\_\_\_\_  
Name/Title of Application

\_\_\_\_\_  
Name of Applicant

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

**Commissioners:**

**Pete Vander Poel, County Member (District 2)**

**Rick Feder, Public Member**

**Dennis Mederos, City Member (Tulare)**

**Dennis Townsend, County Member (District 5)**

**Maribel Reynosa, City Member (Dinuba)**

**Alternates:**

**Larry Micari, County Alternate (District 1)**

**Steve Harrell, City Alternate (Tulare)**

**Fred Sheriff, Public Alternate**

**Staff:**

**Ben Giuliani, Executive Officer**

**Amie Kane, Staff Analyst**

**Matthew Pierce, Counsel**

<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 or own land in what is called unincorporated Tulare County. This means that the County of Tulare 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. 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>

*Cover Letter Notes:*

*-The second sentence in the second paragraph will need to be modified depending on ESAs or if the area is within a District that provides urban services.*

*Map Notes:*

*-The map should show the proposed annexation area and the disadvantaged community in context with the existing City boundaries.*

*City Information Enclosure:*

*-The City information enclosure should review all the types of urban-level services that would be provided including timing and financing. For example, police services would be provided immediately while other services would not (solid waste collection would transition after 5 years). Some services would be provided, like street-sweeping, that the County does not currently provide. Some cities have utility taxes that would need to be explained. Cities may use a variety*



*of ways to finance services, like lighting and maintenance districts or have certain requirements when properties need to be hooked into the sewer system.*

*-Zoning and land use should be discussed. For example, cities typically will grandfather-in existing legal County uses.*

*-Information about City Council elections should be included. For example, while their address may say "City of X" that they are not currently part of the City and do not currently have a voice in City government. Also, one city already elects their council by wards while others are currently moving in that direction.*

<Date>

Estimado <name of registered voter and/or landowner>

Ha recibido esta carta porque su vecindario esta cerca de una anexión propuesta en la Ciudad de <name of City>. La ciudad esta proponiendo anexar <insert description of annexation – size, purpose, etc.>. Un mapa de la anexión propuesta esta adjunto con esta carta. La ciudad también quiere saber su interés en ser anexado.

Actualmente esta viviendo en lo que es llamado la área no incorporada de el Condado de Tulare. Por esta razón el Condado de Tulare es responsable por servicios a su comunidad. Anexión a la ciudad <name of City> resultara en que la ciudad se haga responsable por muchos de los servicios a su comunidad que actualmente pueden ser proveidos por el Condado. Por favor mire la información incluida acerca de los servicios que la ciudad pueda proveer y como estos servicios son pagados y cuando debe de esperar que estos servicios sean proveídos si su vecindario es anexado.

Incluido esta una encuesta de anexión y un sobre pre pagado <or postage paid post card if the survey can fit>. Por favor devuelva antes de el <date>. El regreso de esta encuesta es importante porque las leyes del estado requieren que la ciudad archive una aplicación para anexar su vecindario a menos que la mayoría de los residentes estén contra la anexión. Si tiene preguntas adicionales o quiere mas 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:

Mapa Propuesta de 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 mas sobre la anexión?

\_\_\_\_\_ **Si**

\_\_\_\_\_ **No**

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

\_\_\_\_\_

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

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

Dirección: \_\_\_\_\_

Teléfono o E-mail: \_\_\_\_\_

**CODE OF ETHICS**

The legislative intent for LAFCO is contained in Government Code Section 56001:

*The Legislature finds and declares that it is the policy of the state to encourage orderly growth and development which are essential to the social, fiscal, and economic well-being of the state. The Legislature recognizes that the logical formation and determination of local agency boundaries is an important factor in promoting orderly development and in balancing that development with sometimes competing state interests of discouraging urban sprawl, preserving open-space and prime agricultural lands, and efficiently extending government services. The Legislature also recognizes that providing housing for persons and families of all incomes is an important factor in promoting orderly development. Therefore, the Legislature further finds and declares that this policy should be effected by the logical formation and modification of the boundaries of local agencies, with a preference granted to accommodating additional growth within, or through the expansion of, the boundaries of those local agencies which can best accommodate and provide necessary governmental services and housing for persons and families of all incomes in the most efficient manner feasible.*

LAFCO is an independent commission and is not a part of or subordinate to the County, any city or any special district. Each Commissioner is independent in weighing and reviewing information and making determinations based upon the particular matter under review and in consideration of

LAFCO's underlying purposes, as provided by the law (GC §56331.4). As they carry out their LAFCO responsibilities, Commission members rely on the expertise and experiences they have gained while serving on their appointing agencies. However, members will base their decisions on the policies and requirements of LAFCO law and the best interests of all the citizens.

Rules of conduct have been adopted by the Commission in order to conduct its business in a productive, thoughtful manner. Participants in LAFCO proceedings are encouraged to be courteous and respectful. LAFCO expects to hear differing opinions and points of view during the course of its deliberations. Interruptions and discourteous comments will not be tolerated by the Commission. Additionally, Commissioners agree to actively listen to each other, to voice their opinions, and to be respectful of staff, the public, and fellow commission members. Commissioners further agree to focus discussion on issues and to conclude issues in a timely manner. Each member accepts responsibility to stay focused on issues germane to the topic.

Commissioner (or Alternate) Name

Signature

Date