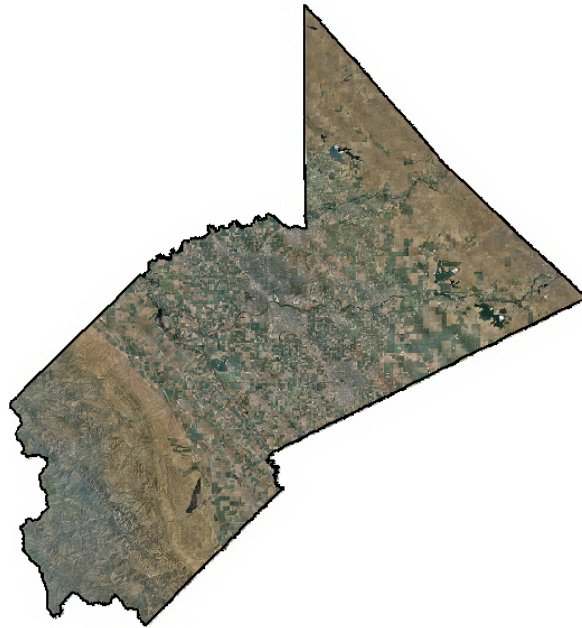

STANISLAUS LAFCO POLICIES AND PROCEDURES



Adopted: December 5, 2001

Amended: April 23, 2003
August 27, 2003
October 25, 2006
March 28, 2007
January 23, 2008
June 23, 2010

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EXECUTIVE OFFICER'S STATEMENT

The purpose of this document is to establish clear PROCEDURES and POLICIES by which the Stanislaus Local Agency Formation Commission (LAFCO) conducts business. Furthermore, it also serves as a general guide for the public and the various governmental agencies. While it is also intended to comply with state law, this document does not supersede the Cortese-Knox-Hertzberg Reorganization Act, the California Environmental Quality Act (CEQA), or any other law.

The summaries of applicable statutes set forth in this guide are intended to serve as general information only. For exact citations, please refer to the referenced sections of the applicable State of California Government Code Section(s). Definition of terms used may be found in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, commencing with Government Code Section 56010 et seq. These documents may be reviewed at the Stanislaus LAFCO Office, most local public libraries, and on the internet (www.leginfo.ca.gov/calaw.html).

Each Local Agency Formation Commission (LAFCO) has its own adopted procedures and requirements for processing specific applications. The policies and procedures have been prepared and adopted to reflect changes in the law and local conditions. Therefore, it is highly recommended that the Stanislaus LAFCO's Executive Officer be consulted prior to filing any proposal/application.

If the reader does have specific questions pertaining to this document, LAFCO procedures, LAFCO laws or project specific question(s), he/she is encouraged to contact the Executive Officer at (209) 525-7660.

MARJORIE BLOM
LAFCO Executive Officer

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PREFACE

Since the establishment of Local Agency Formation Commissions in 1963, various acts of the State Legislature have defined, amended, and expanded the role of LAFCO's in the State of California. This manual is, therefore, a dynamic document, which must change as state directions, state mandates, and local needs change.

The Executive Officer and staff are responsible for reviewing and processing all changes to this manual. Policy amendments, which are approved by the Commission, will be distributed to all manual holders. Public entities and interested persons are invited to submit proposed changes to the manual. The Stanislaus LAFCO Policies and Procedures manual is divided into the following five sections:

I. BACKGROUND

This section provides an informational and historical discussion of the statewide problems which led to the creation of a LAFCO in every county in the state. In addition, this provides an outline of the current structure and organization of the Stanislaus LAFCO and our processing procedures.

II. OVERVIEW OF THE STATUTES GOVERNING LAFCO

This section provides an overview of the statutes that govern and provide direction to LAFCO's. The highlights provided reflect the overall scope of LAFCO responsibilities and elements used in the decision-making process.

III. COMMISSION RULES OF ORDER

This section puts forth the Rules of Order for the conduct of Commission business.

IV. GENERAL POWERS AND POLICY GUIDELINES

Section four lists the adopted policies of the Stanislaus LAFCO. Recognizing that the needs of one county may be substantially different from another county, the state allows significant flexibility to each Commission, authorizing the LAFCO in many cases to apply the statutes "based on local conditions and circumstances". These local policies are therefore the catalyst for implementation of state laws designed to "discourage urban sprawl and encourage the logical and orderly formation and development of local agencies".

V. SPECIAL DISTRICT REPRESENTATION

Section five puts forth the adopted rules and regulations pertaining to the functions and classes of services provided by special districts.

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I. BACKGROUND

During the postwar 1940's and 1950's, California experienced a tremendous population increase. Along with this came land speculation and a development boom never before witnessed any place in the Nation. Prime agricultural, ranch, and orchard lands were converted into sprawling residential tracts almost overnight.

As a result of this era of growth, the traditional purpose and structure of local government in California also underwent significant change. The demand for housing and municipal services mushroomed and the speculative nature of the development caused developers to seek the most expeditious and economical means of providing basic services such as water, roads, fire protection, and sewers.

During this period numerous special districts were formed - many of them overlapping each other and providing like services to whoever asked for them without consideration of future development, land use, and long-range service financing.

Special districts became the local government of suburbia and municipalities suffered. With development moving away, cities experienced a deteriorating revenue base and a residual population of lower income residents. To counteract this, cities began annexing whatever territory they could. Because, however, of existing annexation statutes, cities were able to annex only the undeveloped land beyond or around developing suburbia. This type of annexation led to premature, unplanned development, and irregular city boundaries.

By the late 1950's, California agricultural industry dwindled and cities began seeking state assistance to correct their blighted conditions. In 1958, Governor Edmund G. Brown, Sr., appointed a blue-ribbon commission to look into the cause and effect of these related happenings and to formulate solutions for restraining and correcting the situation.

As a result of these studies, the Legislature formed the California Boundary Commission organized at the State level and given review and comment authority over the boundaries of city annexations and incorporations.

The function of the California Boundary Commission proved unsatisfactory from the beginning: it could offer no controlling solution to the creation of multiple special districts, and it did not have the authority to change the trend.

During 1961 and 1962, the Assembly Committee on Municipal and County Government held several lengthy hearings. All elements of local government participated. It was decided that the problems facing the areas had to be dealt with on a local county level; that whatever institution was formed had to have decisive regulatory power; and, local answers to problems of urban sprawl and growth of local agencies required equal participation by the county and the cities to arrive at practical, workable solutions.

These principals became the cornerstone of the Knox-Nisbet Act, enacted in 1963, which created a local agency formation commission in each county in the state and charged them with the responsibility to discourage urban sprawl and encourage orderly growth and development of cities, districts, and communities. It is the regulatory body, which sits between the citizens and various governmental agencies that provide municipal services.

LAFCO STRUCTURE AND ORGANIZATION

The Stanislaus Local Agency Formation Commission consists of the following members, as per *Government Code Section 56325*:

- Two members of the County Board of Supervisors and one alternate, appointed by the Board from its own members;
- Two City Council members and one alternate, appointed by the City Selection Committee composed of the mayors of each of Stanislaus County's nine (9) cities;
- One Public Member and one alternate, appointed by the other four Commission members after review of applications.

The Stanislaus LAFCO is an independent body responsible for making its own provisions for necessary quarters, equipment, and supplies, as well as personnel. In Stanislaus LAFCO, the staff consists of:

- An EXECUTIVE OFFICER, who is required by State law to administer the day-by-day activities of the Commission and the staff, prepare and/or approve the "staff reports" which are circulated in advance for all items being considered by the Commission, and represent LAFCO in most matters in relationship with the public and other governmental bodies;
- An ASSISTANT EXECUTIVE OFFICER, who assists in conducting the research and writing of staff reports for proposals submitted to the Commission for consideration, initiates Municipal Service Reviews (MSR's) and Sphere of Influence (SOI) updates for cities and special districts, and provides assistance to the Executive Officer.
- A LEGAL COUNSEL, who interprets the law and gives legal advice to the Commission and staff on matters relating to LAFCO proceedings and decisions; and,
- A CLERK TO THE COMMISSION, who keeps the records of proposals submitted, maintains the record of the official proceedings of the Commission, files official reports to the many elements of state and local government who depend on LAFCO for changes in official records, publishes the required legal notices, sends information and notices to people and agencies who should have these, and performs the clerical and secretarial duties for the office.

In addition, the County Assessor, Registrar of Voters, Surveyor, Planning staff, other County staff members, and many cities and districts contribute to make up the background information contained in LAFCO staff reports.

The Commission holds a regular monthly public hearing with special meetings called and advertised as necessary. The public is invited to attend and give testimony. The LAFCO staff is available to meet with individuals and groups wishing to obtain or change necessary municipals services.

BUDGET REQUIREMENTS AND PROCEDURES

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 establishes the funding relationships between the County, the cities, the independent special districts, and LAFCO. The specific provisions for LAFCO funding are found in Government Code Section 56381, and can be generally summarized as follows:

Annually in the month of April, the Commission will adopt a “preliminary” budget and will forward that document to the County, to each city and independent special district in the county, and to “selection committees” for the cities and the special districts.

Throughout the latter part of April and through most of May, the County, the cities, and the independent districts have an opportunity to review and comment on the preliminary budget, and they may present their recommendation to the Commission at its public hearing scheduled for the fourth Wednesday in May. At the conclusion of this public hearing process, the Commission will adopt a budget, but it must adhere to language in Section 56831 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”.

By law, the Commission is required to adopt its final budget annually by June 15th, and the budget is forwarded to the County Auditor/Controller. The County Auditor/Controller determines the total projected net operating costs for LAFCO by deducting projected filing fee and interest revenues, and divides that net cost into one-half shares. The County is responsible to fund one-half of the net operating cost for LAFCO.

The cities in the County are also responsible for funding one-half of the net operating cost through the formula outlined in Section 56381. In general terms, the Auditor/Controller determines the percentage that each city’s total revenues bear to all of the revenues collected by all of the cities in the County. Each city would then be assigned that percentage as its share of the LAFCO cost.

Presently, the independent special districts are not represented on the Commission. Upon being seated on LAFCO, they must fund one-third of LAFCO’s net operating cost. The City’s and County’s share would then be reduced from one-half to one-third. The cost for each district is determined by the percentage that each district’s revenues “available for general purposes” bears to the combined districts’ revenues available for general purposes.

State law also gives to the cities and the independent special districts the ability to develop an alternative funding method, if the alternative is supported by a majority of the agencies, which represent a majority of the population in the cities or districts.

GENERAL PROCEDURES FOR CHANGES IN BOUNDARIES OR ORGANIZATION TO BE PROCESSED BY THE LOCAL AGENCY FORMATION COMMISSION

The procedures for proposals considered by the Local Agency Formation Commission (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:

1. INITIATION:

Generally, proposals for changes in boundaries, formations, or changes of organization can be submitted for the consideration by 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). (*Government Code Section 56700.4*)

The proposal must be submitted on forms available from the LAFCO office, or on the LAFCO website along with the applicable number of maps, legal descriptions, and filing fees to cover the proposal submitted.

2. LAFCO REVIEW PROCESS:

Upon receipt of a complete application, LAFCO does several things concurrently:

- It prepares a "Certificate of Filing" and mails this to all affected and interested local agencies, including school districts, and sends a copy to the County Assessor and County Auditor/Controller, and;
- It refers the item for environmental review.

a. Certificate of Filing:

This notice alerts the affected agencies of the item proposed, and requests from the Assessor and Auditor/Controller the ad valorem tax information pertinent to the proposal. (*Government Code Section 56658.*)

When the LAFCO office receives the tax information related to the proposal, it mails this information to the County Chief Executive Office and each affected city and/or special district.

NOTE: The proposal cannot 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.

b. Request for Environmental Review:

The LAFCO review process cannot continue without a determination that the proposal: (1) qualifies for an exemption as defined within the California Environmental Quality Act (CEQA); (2) receives a Negative Declaration which indicates that, if approved, the project will have not adverse effects; or (3) there is completed Environmental Documentation prepared by the Lead Agency submitted for the project.

Environmental determinations are reviewed and considered concurrently with the Commission evaluation of the proposal.

c. Departmental Review Process:

Basic information related to each proposal is mailed to every agency affected by the item and to the County Assessor, Auditor/Controller, Registrar of Voters, Planning, and Surveyor, etc.

Each department or agency is requested to comment on the proposal and submit information relating to it.

3. The LAFCO Executive Officer prepares and distributes a report making a recommendation to the Commission relating to the proposal.
4. The item is considered by the Commission, and it either approves or denies the proposal.
 - If the Commission denies the proposal, then it is legally terminated.
 - If the Commission approves the proposal and protest proceedings are not waived, 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.
5. 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. Based on the amount of written protest received, the Executive Officer shall prepare a Resolution of Conducting Authority to approve, deny, or submit the proposal to an election.

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II. OVERVIEW OF THE STATUTES GOVERNING LAFCO

CORTESE-KNOX-HERTZBERG LOCAL GOVERNMENT REORGANIZATION ACT

The statutes governing the activities of the Local Agency Formation Commission are found under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act). The declared state policy for LAFCO is found in Section 56301 of the Government Code:

“Among the purposes of a Local Agency Formation Commission are the discouragement of urban sprawl and the encouragement of the orderly formation and development of local agencies based upon local conditions and circumstances”.

“One of the objectives of the Local Agency Formation Commission is to make studies and to obtain and furnish information which will contribute to the logical and reasonable development of local governments in each county and to shape the development of local governmental agencies so as to advantageously provide for present and future needs of each county and its communities.”

The Cortese-Knox-Hertzberg Act gives LAFCO the authority to “approve or disapprove, with or without amendment, wholly, partially, or conditionally” a wide variety of proposals for jurisdictional change (*Government Code Section 56375*). These include, but are not limited to, proposals for:

- Annexation of territory to cities or special districts.
- Exclusion of land from cities or special districts.
- The consolidation of two or more cities, or two or more special districts formed under the same principal act.
- The formation of new special districts and the incorporation of new cities.
- The dissolution of special districts and disincorporation of cities.
- The merger of cities and special districts.
- Reorganizations which involve boundary changes to two or more cities or special districts as part of one proceeding.
- Review and approval or denial of city or special district contracts for service outside their boundaries.

In addition to these review powers, the Commission has the authority to initiate and make studies of existing governmental agencies, which may include inventorying such agencies. As of July 1, 1994, based upon the findings of its special studies, the Commission has the authority to initiate proposals for consolidation of special districts, the merger of a special district with a city, the dissolution of a special district, the establishment of a subsidiary

special district, or a reorganization, which includes any of these outlined changes. (*Government Code Section 56378*)

The Act provides the following powers and duties, among others, to LAFCO:

1. To review and approve or disapprove with or without amendment, wholly, partially, or conditionally, proposals for changes of organization or reorganization, consistent with written policies, procedures, and guidelines adopted by the Commission. A Commission shall have the authority to initiate only any of the following proposals: (1) consolidation of districts, as defined in Government Code Section 56036, (2) dissolution, (3) merger, (4) establishment of a subsidiary district, (5) formation of a new district or districts, or (6) a reorganization that includes any of these changes of organization, if that change of organization or reorganization is consistent with a recommendation or conclusion of a study prepared pursuant to state law (Government Code Sections 56378, 56425 or 56430, and 56881). (Amended January 23, 2008.)
2. To determine whether territory proposed for annexation or detachment, or municipal reorganization is inhabited or uninhabited. (“Inhabited” means an area contains twelve (12) or more registered voters.)
3. With regard to a proposal for consolidation of two or more cities or special districts, to determine which city or district shall be the consolidated, successor city or district.
4. To waive the statutory restrictions against creation of islands (unincorporated areas totally or substantially surrounded by city boundaries) if the Commission finds that the application of the restrictions would be detrimental to the orderly development of the community and that the area would be enclosed as a result of incorporation or annexation and is so located that it cannot reasonably be annexed to another city or incorporated as a new city.
5. To approve the annexation of unincorporated, noncontiguous territory not exceeding 300 acres in area, located in the same county as that in which the city is located, and which is owned by a city and used for municipal purposes; and to authorize the annexation of such territory without notice or hearing. In addition, the Commission has the authority to approve the annexation of noncontiguous territory that is used as a state correctional facility, with no acreage limitation.
6. To establish spheres of influence for all cities and special districts within the county, and to review those spheres of influence at least once every five years.
7. To conduct “service reviews” on a regional or subregional basis, evaluating infrastructure needs or deficiencies, growth and population projections, financing constraints and opportunities, and other issues. These reviews can occur in conjunction with sphere of influence studies, and must be conducted as least once every five years.

FACTORS LAFCO MUST CONSIDER

State law provides a wide variety of factors that the Commission must consider in the review of a proposal. These are specified in Government Code Section 56668, and include, but are not limited to the following:

- (a) Population and population density; land area and land use; per capita assessed valuation; topography, natural boundaries, and 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 area 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 Section 56377 (open space land conservation).
- (e) The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Section 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 Section 65080, and consistency with city or county general and specific plans.
- (h) The sphere 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 Section 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 Section 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 the existing land use designations.
- (o) The extent to which the proposal will promote environmental justice. As used in this subdivision, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services. (Amended January 23, 2008.)

CONDITIONS WHICH MAY BE IMPOSED

In the approval of boundary change proposals, LAFCO's have strong powers to attach conditions. Government Code Section 56885.5 through Section 56890 provides a broad range of conditions that the Commission may impose in approving an application. Those conditions range from the authority to impose special assessments to the transfer of employees among districts in a consolidation. The reader is referred to the specific Code Sections for the complete conditions authorized by statute.

The following are a few examples of how our authorized conditions may be applied:

- LAFCO can require as a condition of approval, that the territory being annexed shall be responsible for payment of existing fees, charges, or assessments currently in place by the annexing agency.
- LAFCO can require as a condition of its approval that another change of organization for a related or overlapping agency be initiated, conducted, and completed. For example, if a proposal is for annexation of territory to a city, LAFCO can require that the territory also be annexed to or detached from special districts.
- LAFCO can require establishment of special assessments or improvement districts to finance capital facilities or improvements needed in affected territory.
- LAFCO can impose conditions related to the distribution of assets, financial contracts or obligations among affected agencies.
- LAFCO may impose conditions related to a local agency's employee salaries, benefits, and other personnel rights.
- LAFCO can impose a condition designating the method for selection of the Board of Directors and the number of Directors for a consolidated district.
- LAFCO can impose a condition that establishes the effective date for a change of organization.

- LAFCO can impose a condition that designates the agency to succeed to the rights, duties, and obligations of an agency that is dissolved.

ENVIRONMENTAL REVIEW REQUIREMENTS

LAFCO is subject to and under the jurisdiction of the California Environmental Quality Act (CEQA), as are most public agencies. The statute requires certain procedures to be followed in terms of environmental review and the opportunity for public participation in the decision-making process.

POWERS AND DUTIES OF THE COMMISSION IN CONDUCTING PROTEST PROCEEDINGS

Government Code Section 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, on February 28, 2001, the Commission delegated all the responsibility for conducting the protest proceedings to the Executive Officer.

The purpose of the protest proceeding 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:

1. 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. (*Government Code Section 57002*)

The Commission may waive protest proceedings if the proposal contains 100% landowner consent, is uninhabited, and the subject agencies have not submitted written opposition to the waiver of these proceedings, as authorized by Government Code Section 56663. That section also authorizes the Commission to waive protest proceedings for inhabited areas if none of the registered voters and none of the landowners have indicated opposition to the proposed annexation after the Commission has provided written notice and the affected agencies have commented in writing to a waiver of protest proceedings.

2. NOTICE:

The LAFCO Executive Officer must publish the notice of hearing to be held on the proposal in a newspaper of general circulation, send notices to all landowners owning land within the affected territory and/or registered voters; send individual

notices to everyone who has formally requested such notice; and to other local agencies as outlined by statute. (*Government Code Sections 57025 and 57026*)

3. **FINAL HEARING:**

The LAFCO Executive Officer shall conduct the final hearing and make findings related to the level of written protest received. The Executive Officer shall prepare a Resolution of Conducting Authority taking 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 owners of land who own less than 50% of the assessed land value 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% of the number of landowners who also own at least 25% of the assessed land value 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 terminated.

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. **COMPLETION:**

If the proposal is approved, the Executive Officer issues a Certificate of Completion and notifies the state and other agencies of the successful jurisdiction 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.

VALUE OF WRITTEN PROTEST

Briefly outlined below are the levels of hearing which require the Commission (or the Executive Officer, through delegation of responsibility) to call an election or terminate proceedings. (*Government Code Sections 57075-57090*)

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

- A. In the case inhabited territory, (defined in Government Code Section 56046 as those annexation which contain more than 12 registered voters) take one of the following actions:

- (1) Terminate the proceedings if a majority protest exists from landowners who represent 50% or more of the assessed value of land (improvement values are not counted) within the affected territory (Government Code Section 57078).
- (2) Order the change of organization or reorganization subject to confirmation by the registered voters residing within the affected territory if written protests have been filed and not withdrawn by either of the following:
 - (a) At least 25 percent, but less than 50 percent, of the registered voters residing in the affected territory.
 - (b) At least 25 percent of the number of owners of land who also own at least 25 percent of the assessed value of land within the affected territory.
- (3) Order the change of organization or reorganization without an election of written protests have been filed and not withdrawn by less than 25 percent of the registered voters or less than 25 percent of the number of owners of land owning less than 25 percent of the assessed value of land within the affected territory.

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

B. In the case of uninhabited annexations (those annexations which contain less than 12 registered voters):

- (1) Terminate the proceedings if protest is received from 50% or more of the landowners within the affected area (majority protest).
- (2) Order the change of organization or reorganization if written protests have been filed and not withdrawn by owners of land who own less than 50 percent of the total assessed value of land within the affected territory.

NOTE: In an uninhabited annexation, the issue is decided solely on the basis of landowner protest.

Protest proceedings for the consolidation or reorganization of districts into a single agency initiated by similar resolutions are subject to the requirements of Government Code Section 56853, 57078, and 57081. For further information regarding these special circumstances, contact the Executive Officer or review these code sections.

Further information concerning the annexation protest procedures can be obtained through review of the Cortese-Knox-Hertzberg Local Government Reorganization Act (Government Code Section 57000 et seq.). Specifically, Sections 57025, 57051, and 57075 will be most relevant to your review.

III. COMMISSION RULES OF ORDER

The following Rules of Order are for the conduct of business by the Stanislaus Local Agency Formation Commission and the holding of regular meetings by such Commission. (Government Code Section 56300)

COMMISSION AND OFFICERS

RULE 1: COMMISSION. "Commission" shall mean the Stanislaus Local Agency Formation Commission created pursuant to California Government Code Section 56325.

RULE 2: ROLE OF A COMMISSIONER. While serving on the Commission, all Commission members shall exercise their independent judgment on behalf of the interests of residents, property owners, and the public as a whole in furthering the purposes of this division. Any member appointed on behalf of local governments shall represent the interests of the public as a whole and not solely the interests of the appointing authority. This section does not require the abstention of any member on any matter, nor does it create a right of action in any person. (Government Code Section 56325.1)

RULE 3: DISQUALIFICATIONS OF MEMBERS FROM VOTING. No member of the Commission is disqualified from voting on any item being considered by the Commission, except in those instances in which the member has a financial or other legal conflict of interest, or in those instances when the appointing body has provided that the member or alternate member is disqualified from voting on proposals affecting the city or supervisorial district which the member or alternate member represents. A member or alternate member subject to such disqualification shall notify the Commission at the beginning of each meeting if the disqualification will apply to an item on the agenda. (Government Code Section 56336)

In any situation in which the member disqualifies himself (or herself) for whatever reason or is absent, the Alternate member will vote.

RULE 4: CHAIRPERSON. The members of the Commission shall elect a chairperson at the first meeting in January of each year. The chairpersonship shall be rotated among the members according to the following sequence:

- | | |
|----------------------|--------------------|
| A. A city member | D. A city member |
| B. A county member | E. A county member |
| C. The public member | |

RULE 5: TERM OF OFFICE - CHAIRPERSON. The term of office shall be from February 1 to January 31. (Government Code Section 56334)

RULE 6: VICE-CHAIRPERSON. The members of the Commission shall elect a vice-chairperson at the first meeting in January of each year. The vice-chairperson shall be the

chairperson-elect of the Commission. The vice-chairperson shall, in the absence or unavailability of the chairperson, exercise all of the chairperson powers and duties.

RULE 7: TERM OF OFFICE - VICE CHAIRPERSON. The term of office shall be from February 1 to January 31.

RULE 8: ROTATION OF CHAIRPERSON AND VICE CHAIRPERSON. The Chairperson and Vice Chairperson positions shall be rotated annually and limited to a one-year term.

RULE 9: TERMS OF OFFICE - PUBLIC MEMBER. The public member shall be limited to one full four-year term of office. An appointment to fill an unexpired term of office may not be applied to the one full term of office.

RULE 10: TERMS OF OFFICE - ALTERNATE PUBLIC MEMBER. The alternate public member shall be limited to one full four-year term of office. An appointment to fill an unexpired term of office may not be applied to the one full term of office.

RULE 11: EXECUTIVE OFFICER. The Commission shall appoint an executive officer who shall conduct and perform the day-to-day business of the Commission. If the executive officer is subject to a conflict of interest on a matter before the Commission, the Commission shall appoint an alternate executive officer. The Commission may recover its costs by charging fees pursuant to Government Code Section 56383. (Government Code Section 56384.)

RULE 12: LEGAL COUNSEL. The Commission shall appoint its own legal counsel to advise it. If the Commissioner's counsel is subject to a conflict of interest on a matter before the Commission, the Commission shall appoint alternate legal counsel to advise it and may recover costs by charging fees pursuant to Government Code Section 56383. (Government Code Section 56384)

RULE 13: OPERATIONAL PROVISIONS. The Commission shall make its own provision for necessary quarters, equipment, and supplies, as well as personnel. The Commission may choose to contract with any public agency or private party for personnel and facilities. (*Government Code Section 56380*)

RULE 14: REGULAR MEETING DATE. To encourage public participation, the Commission will hold evening meetings. Regular meetings of the Stanislaus Local Agency Formation Commission shall be held on the fourth Wednesday of each month. Whenever a legal holiday falls on a regular meeting date, an alternate meeting date will be selected. All regular meetings of the Local Agency Formation Commission shall be called to order at 6:00 p.m., unless advertised differently. The meetings shall be held in the Chambers, Basement Level, Tenth Street Place, 1010 10th Street, Modesto.

RULE 15: ORDER OF BUSINESS. Unless otherwise directed by the chairperson, the regular order of business of the Local Agency Formation Commission shall be:

- Call to Order by the Chairperson
- Pledge of Allegiance
- Introductions of Commissioners and Staff
- Public Comment

- Approval of Minutes
- Correspondence
- Declaration of Conflicts and Disqualifications
- Consent Items
- Public Hearing on Continued Items
- Public Hearing on New Items
- Other Business
- Other Matters at the Discretion of the Chairperson
- Executive Officer's Report
- Adjournment

RULE 16: GENERAL CONDUCT. Except as herein or otherwise provided by State law, ROBERT'S RULES OF ORDER shall govern the proceedings of the Commission.

RULE 17: ORDER OF PROCEDURE. The order of procedure in conducting a hearing shall be as follows:

- A. The Chairman shall request the Executive Officer to inform the Commission of the nature of the matter pending, a summary of the report and recommendation, any new information or correspondence not in the staff report, and other pertinent matters.
- B. All proponents shall be heard.
- C. All opponents shall be heard.
- D. Proponents shall be afforded an opportunity to a rebuttal. New information may not be introduced except by specific permission of the Chairperson in which event opponents shall, again, be given an opportunity to rebut.
- E. The Chairperson shall ask for any additional information of the Executive Officer.
- F. The hearing shall be closed and the matter referred to the Commission for discussion.

RULE 18: ADDRESSING THE COMMISSION. The following provides the procedure for addressing the Commission:

- A. General. Any person desiring to address the Commission shall first secure the permission of the Chairperson to do so. They shall step up to the microphone and give their name and address in an audible tone of voice.
- B. Time. Unless further time is granted by a majority of the Commission, each person addressing the Commission shall limit their address to a reasonable time as may be limited by the Chairperson.
- C. Spokesperson for Groups. Whenever any group of persons wishes to address the Commission on the same subject matter, it shall be proper for the Chairperson to request that a spokesperson be chosen by the group to address the Commission. In the event additional matters are to be presented by other persons in the group, the

number of persons addressing the Commission shall be limited to avoid unnecessary repetitions.

- D. Discussions. No person, other than a member and the person addressing the Commission shall be permitted to enter into any discussion with the person addressing the Commission without the permission of the Chairperson.
- E. New Documentation. No documents will be accepted at a public hearing unless such document contains new information which was not known or could not have been known at the time the proposal was reviewed by the agency responsible for environmental review.

If the Commission accepts new documentation, the Commission may continue the hearing for at least 30 days to allow the Commission and the public to review such new information. At least one copy of such new documentation shall be provided to each Commissioner, staff and the public by the party submitting such documentation.

- F. Correspondence. No correspondence addressed to the Commission or staff will be accepted and/or considered unless it has been signed by the author, or sufficiently identifies the person or persons responsible for its creation.
- G. Withdrawal of Applications. Applications which are submitted to the Commission and set for public hearing by the Executive Officer may not be withdrawn by the proponent without the approval of the Commission.

RULE 19: RETENTION OF MATERIALS UTILIZED DURING COMMISSION HEARINGS.

Any person utilizing or presenting any audio, visual, or written materials at the LAFCO public hearing must be prepared to provide a copy of every item to the Clerk of the Commission at the time the presentation is made. Sufficient copies of written materials must be available for each Commissioner, the Executive Officer, Legal Counsel and the Clerk of the Commission in order to be accepted and made a part of the record.

RULE 20: PUBLIC COMMENT PORTION OF THE COMMISSION'S AGENDA.

The Commission encourages the public to attend its hearings and address the Commission during the "public comment" item on the agenda. Comments must be limited to issues not on the agenda, which are under the jurisdiction of the Commission. Oral and written comments may be presented; however, the length of oral comments may be limited by the Chair.

Note: The Commission cannot take any action on the public comments except to direct staff to review the issue and submit a report at a future public hearing.

RULE 21: CHAIRPERSON'S ROLE.

The Chairperson of the Commission shall preserve order and decorum and shall decide questions of order subject to appeal by the Commission. In the Chairperson's absence, the Vice Chairperson shall act as Chair.

RULE 22: QUESTIONS OF LAW. Questions of law may be referred to Commission's Counsel for opinion.

RULE 23: AGENDAS. An agenda shall be prepared by the Executive Officer for each meeting of the Commission and shall be distributed in accordance with the Government Code.

RULE 24: SPEAKER'S PRESENTATION. The Chair may establish a time limit at the beginning of the public hearing. All members of the public should be encouraged to speak and provide new and relevant information into the discussion.

RULE 25: CONTINUATION OF PROPOSALS. Actions pending before the Commission may not be continued beyond seventy (70) days from the date specified in the original Notice of Hearing except under special circumstances as determined by the Commission.

RULE 26: REFERRAL TO COMMITTEES. Any matter coming before the Commission may, if deemed necessary, be referred to staff or a committee of the Commission for additional information.

RULE 27: APPOINTMENT OF STANDING AND SPECIAL COMMITTEES. The Commission shall appoint such standing and special committees as it may deem necessary.

RULE 28: PUBLIC MEETINGS. All meetings of the Local Agency Formation Commission shall be open to the public, and all persons shall be permitted to attend any meeting of the Commission, except as otherwise provided herein.

RULE 29: CLOSED SESSIONS OF COMMISSION. The Commission may hold Closed Sessions during a regular or special meeting to consider pending or potential litigation; the appointment, employment, or dismissal of an employee, or Public Member, or to hear complaints or charges brought against an employee, unless an employee requests a public hearing. The Commission may exclude from any such meeting, during the examination of a witness, all other witnesses in the matter being investigated by the Commission.

RULE 30: PARTICIPATION OF ALTERNATE COMMISSION MEMBERS IN OPEN AND CLOSED SESSIONS OF THE COMMISSION. Alternate members of the Stanislaus LAFCO are encouraged to attend and participate in discussion in all open meetings of the Commission. Alternate members may not vote, however, unless a regular member, from the same representation category as the alternate, is absent or disqualifies himself or herself from participating in an open meeting of the Commission.

An alternate member, when not serving in place of a regular member, may not attend a closed session of the Commission. (*Amended April 23, 2003*)

RULE 31: ADJOURNMENT OF COMMISSION HEARING. The Commission may adjourn to a time and place specified in the order of adjournment. An insufficient number of Commissioners present to constitute a quorum shall be cause for adjournment. A majority of the members of the Commission (three) constitutes a quorum. If all members are absent from any regular or adjourned regular meeting, the Clerk to the Commission may declare the meeting adjourned to a stated time and place, and shall cause a written notice of the adjournment to be given in the same manner as provided by law for special meetings.

RULE 32: TIE VOTES OF COMMISSION. Three votes are necessary to approve a proposal or a motion. A proposal which receives a tie vote shall automatically be continued

to the next Commission hearing. A subsequent tie vote at the next hearing of the proposal indicates automatic denial without prejudice.

RULE 33: CALLING OF EMERGENCY OR SPECIAL MEETINGS. An emergency or special meeting may be called at any time by the Chairperson of the Commission, or by a majority of the members of the Commission. Notice of such meeting must be delivered personally or by mail at least twenty-four (24) hours before the time of such meeting. The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such special meeting.

RULE 34: CHAIRPERSON'S VOTING PRIVILEGES. The Chairperson of the Commission shall, in voting procedures, have all the rights and obligations of other members.

RULE 35: PARTICIPATION OF ALTERNATE MEMBERS IN DISCUSSION OF PROPOSALS. All members of the Commission, both regular or alternate are encouraged to participate in the discussions of a proposal before the Commission; however, only regular members may vote on the action. Alternates may vote only when sitting in the place of regular member who is absent or is disqualified on a particular action.

RULE 36: ABSTENTION OF VOTING. The determination by a Commissioner to abstain from voting on any action before the Commission does not indicate, and shall not be counted as, either an "aye" or "no" vote on that count. (*Government Code Section 56336*)

RULE 37: SUSPENSION OR CHANGE TO RULES OF ORDER. Any of the within rules not required by law may be suspended or changed by a majority of the members of the Commission.

ADMINISTRATION

RULE 38: PROCEDURES. The Commission shall adopt, and update as necessary, procedures for administering the applications and proposals which are submitted to it.

AMENDMENTS

RULE 39: AMENDING THE RULES OF ORDER. These Rules of Order may be amended at any regular meeting of the Commission with the consent of a majority of the members.

PERFORMANCE OF DUTIES

RULE 40: VACANCY DUE TO NONPERFORMANCE OF DUTIES. The office of any regular or alternate member of the Commission shall become vacant if the commissioner ceases to discharge the duties of the office. (*Government Code Section 56336*)

RULE 41: STANDARD FOR NONPERFORMANCE OF DUTIES. A regular or alternate member of the Commission shall be deemed to have ceased discharging the duties of the office if absent, without the consent of the chairperson, from three consecutive regular meetings of the Commission. (*Government Code Section 56336*)

RULE 42: EXCUSED ABSENCES. The chairperson may excuse the absence of any regular or alternate commissioner if it is determined that the absence is due to sickness, a

personal emergency, or attendance at another governmental function. All excused absences, and the reason for, shall be announced by the chairperson at a regular meeting of the Commission. (*Government Code Section 56336*)

RULE 43: REPLACEMENT OF VACATED POSITION. Upon the vacancy of an office pursuant to Rule 40, the chairperson shall, in writing, request that the appropriate appointing authority appoint a new commissioner to the vacant position. (*Government Code Section 56336*)

- A. Appointing authority for county members is the Stanislaus County Board of Supervisors.
- B. Appointing authority for the city members is the City Selection Committee.
- C. Appointing authority for the public members is the Commission. The Commission shall, pursuant to Section 56325 of the California Government Code, appoint a public member. An alternate public member shall also be appointed to be eligible to vote on any proposal or matter before the Commission in the absence or disqualification of the public member. Selection of the public and alternate public members shall be subject to the affirmative vote of at least one of the members selected by each of the other appointing authorities.

RULE 44: NOTICE OF VACANCY FOR PUBLIC MEMBER. Upon announcement that a vacancy for the public member or alternate public member will exist, the Executive Officer shall:

- A. Post a vacancy notice inviting all interested citizens of Stanislaus County to apply within thirty (30) days of posting. The Notice shall be posted at the following locations:
 - 1. LAFCO staff office;
 - 2. LAFCO official bulletin board for posting notices and/or LAFCO website;
 - 3. Any other location directed by the Commission;
 - 4. Provide a Notice of Vacancy to the clerk or secretary of the legislative body of each local agency within the County;
 - 5. Issue a press release for the purpose of further advertising the vacancy.
- B. The Executive Officer shall forward all applications to the members of the Commission. Only applications received by the Executive Officer may be considered for appointment. Final appointment to fill the vacancy may not be made for at least 21 days after the posting of the notice.
- C. The Commission may select a personnel committee from among its membership for the purpose of reviewing applications and bringing its recommendation to the full Commission.

- D. The Commission may interview the recommended candidates, either privately or in public. Upon conclusion of the interviews, the Commission shall publicly make the selection by appointing a candidate as the Public or Alternate Public Member.
- E. The nominee receiving a majority of the votes cast by eligible Commission members will be appointed to the vacant position for either the unexpired or full term and/or until appointment and qualification of a successor.
- F. Effective January 1, 2001, Government Code Section 56325 requires that the Public and Alternate Public Member candidate must receive an affirmative vote from at least one County Member and one City Member for appointment to that position.

RULE 45: PROCEDURES TO IMPLEMENT THE REQUIREMENTS OF THE POLITICAL REFORM ACT, 1974. The Commission has directed staff to proceed in the following ways to implement the requirements of the Political Reform Act. (*Government Code Sections 56300, 56700.1, and 57009.*)

- A. Informing the public who may apply for or participate in a proceeding, by inserting a notice of the general requirements of the Political Reform Act on the application, consent form, certificate of filing, mailed notice, newspaper notice, staff report, and agenda. The notice requests consultation with staff as to specific requirements of the Act.
- B. Informing the Commissions of the general requirements of the Act as it applies to the Commission, and then informing them of who the applicants or participants may be in advance. This advance notice will be accomplished by listing all landowners in a proposal. This notice is usually sent out approximately one week prior to the actual hearing.
- C. For each of the landowner lists received, the Commission will be responsible to comply with the law by:
 - 1. Refusing a contribution of \$250 or more from an applicant or participant from the date of filing (certificate) until three (3) months after the hearing; and,
 - 2. Disclosure, nonparticipation, and disqualification from the proceeding if a contribution of \$250 or more has been received from an applicant or participant up to twelve (12) months prior to the LAFCO hearing.
- D. Pursuant to Government Code Sections 56700.1 and 81000 et seq., any person or combination of persons who directly or indirectly contribute \$1,000 or more in support of or in opposition to a change of organization or reorganization that has been submitted to Stanislaus LAFCO and will require an election must comply with the disclosure requirements of the Political Reform Act of 1974 which apply to local initiative measures. These requirements contain provisions for making disclosures of contributions and expenditures at specified intervals. Additional information about the requirements pertaining to the local initiative measure(s) to be presented to the electorate can be obtained by calling the Fair Political Practices Commission at (916) 322-5660.

- E. Pursuant to Government Code Section 57009, expenditures for political purposes related to proceedings for a change of organization or reorganization that will be conducted pursuant to this part, and contributions in support of, or in opposition to those proceedings, shall be disclosed and reported to the commission to the same extent and subject to same requirements as the Political Reform Act, Title 9 (commencing with Section 81000) as provided for local initiative measures. (Amended January 23, 2008. Refer to Appendix C for Stanislaus LAFCO's reporting and disclosure requirements pursuant to AB 745.)

FISCAL MATTERS

RULE 46: BUDGET PREPARATION. The Commission shall annually adopt a "preliminary" budget and a "final" budget at noticed public hearings in accordance with the requirements outlined in Government Code Section 56381.

RULE 47: REVIEW OF FEE SCHEDULES. The Commission shall establish fees and a schedule of service charges to offset the costs of processing applications and providing monthly agenda materials to parties requesting them. The Commission shall review and adjust, if necessary, its fee schedule concurrently with its preparation of the budget. (*Government Code Section 56383*)

- A. The fees shall not exceed the estimated reasonable cost of providing the service for which the fee is charged and shall be imposed pursuant to Section 66016. The service charges shall not exceed the cost of providing service for which the service charge is charged and shall be imposed pursuant to Section 60016.
- B. The Commission may require that an applicant deposit some or all of the required amount that will be owed with the Executive Officer before any further action is taken. The deposit shall be made within the time period specified by the Commission.
- C. No application shall be deemed filed until the applicant deposits the required amount with the Executive Officer. The Executive Officer shall provide the applicant with an accounting of all costs charged against the deposited amount. If the costs are less than the deposited amount, the Executive Officer shall refund the balance to the applicant after the Executive Officer verifies the completion of all proceedings. If the costs exceed the deposited amount, the applicant shall pay the difference prior to the completion of all proceedings.
- D. The Commission may reduce or waive a fee, service charge or deposit if it finds that the payment would be detrimental to the public interest. The reduction or waiver of any fee, service charge, or deposit is limited to the costs incurred by the Commission in the proceedings of an application. (See also Commission Policy 12 – Waiver of Filing Fees.)
- E. Any mandatory time limits for Commission action may be deferred until the applicant pays the required fee, service charge, or deposit.

RULE 48: COMPENSATION FOR MEETING ATTENDANCE BY COMMISSIONERS.

The Commission may establish a rate of compensation for meetings attended. The Commission shall establish, review, and adjust if necessary, the rate of compensation concurrently with its preparation of the budget. (*Government Code Section 56344*)

RULE 49: RULES AND REGULATIONS FOR TRAVEL RELATED EXPENDITURES.

The purpose of this section is to provide guidance on the use and expenditure of LAFCO resources and to establish a written policy for reimbursement of necessary travel expenses by Commissioners and Staff.

A. GENERAL POLICIES

LAFCO employees and Commissioners compelled to travel in the performance of their duties and in the service of the Commission shall be reimbursed for their actual and necessary expenses, including transportation expense, lodging, and meals and other reasonable incidental costs.

LAFCO employees and Commissioners should not suffer any undue loss when required to travel on official LAFCO business, nor should said individuals gain any undue benefit from such travel.

All travel arrangements are coordinated through the Executive Officer and should be as economical as possible considering the travel purpose, traveler, and timeframe available to accomplish the travel mission, available transportation and facilities, and time away from other duties.

Requests for travel authorization and reimbursement are processed using the LAFCO Travel Authorization Form to facilitate reimbursement. Receipts are required for reimbursement of lodging costs, registration fees, public transportation and other expenses as may be necessary to facilitate reimbursement.

B. TRAVEL AUTHORIZATION AND APPROVAL

Authorization and approval by the Executive Officer or the Commission is required for all travel. LAFCO employees and Commissioners must obtain authorization for travel before incurring costs and before commencing travel (e.g. completion of a "Travel Authorization" form).

C. REIMBURSEMENT PROCEDURES

1. Mileage: The Stanislaus County Mileage Chart shall be used to obtain appropriate mileage. When it is not reasonably possible to capture accurate costs for mileage using the County Mileage Chart, claimant's odometer reading may be used, rounded to the nearest mile, or through the submittal of written documentation from online sources such as Expedia Maps, or Map Quest.
2. Travel: Travel to meetings, conferences, workshops, training seminars and other Commission or CALAFCO related business shall be coordinated with the Clerk to the Commission or the Executive Officer. A Travel Authorization form must be completed detailing anticipated expenses. The form shall be

signed by the Chair of the Commission or the Executive Officer. The Executive Officer shall sign employees' travel authorization forms.

3. Meals: The cost of meals will be reimbursed consistent with the current Stanislaus County Travel Policy.
4. Lodging: Lodging arrangements should be made, whenever possible and practicable, at hotels/motels which offer a government discount or conference rate and also offer a Transient Occupancy Tax waiver, if available. When staying at such a facility, the name of the Staff/Commissioner and the Agency must appear on the receipt of the hotel/motel bill. Single rates will be paid, except when the room is occupied by more than one LAFCO employee or Commissioner. This policy shall not be construed to require shared sleeping accommodations while traveling on LAFCO business.

RULE 50: RESOLUTIONS OF APPRECIATION. The Commission authorizes expenditure for mounting and framing of resolutions **(or plaques)** of appreciation for retiring LAFCO Commissioners and LAFCO staff personnel who have rendered outstanding service.

In respect to retiring Commissioners, the public purpose being served by such expenditure is that through publicly adopted resolutions of appreciation, appropriately framed, other members of the public will also be encouraged to render public service by becoming members of various public agencies and commissions.

The public purpose of the framed resolutions of appreciation for the LAFCO staff is to give recognition for outstanding services rendered, with the purpose of maintaining high moral while at the same time providing further incentive or efficiency and productivity.

COMMISSION ACTIONS

RULE 51: REQUEST FOR REVISION OF PROPOSAL BOUNDARIES. Any request by an agency, landowner, or interested party to revise the boundaries of any proposal to add adjacent territory must be received by the Executive Officer at least 30 days prior to the hearing and shall clearly justify and give reasons for the requested revision and include a map of the revision. Affected agencies and landowners shall be mailed a notice by LAFCO of the revision at least twenty-one (21) days prior to the hearing, unless their consent is provided.

Requests or revisions shall be reviewed in the same manner as the original proposal by the Executive Officer and the Commission and may be continued by the Commission if information or adequate notice has not been provided.

RULE 52: RESOLUTIONS. A resolution shall be prepared for each proposal indicating the action and determination of the Commission as required by law. The resolution shall be signed and certified by the Executive Officer.

IV. GENERAL POWERS AND POLICY GUIDELINES

The Local Agency Formation Commission is a state-mandated entity, established for each county in the State and is independent of local county, city, or district governmental jurisdiction. (*Government Code Section 56001 and 56300*)

The Cortese-Knox-Hertzberg (CKH) Act requires that each LAFCO establish policies and procedures. The CKH Act also states that LAFCO's are to exercise their powers consistent with those policies and procedures.

The policies and procedures in this document are intended to reflect the legislative intent of the CKH Act and provide for the consistent implementation based upon local conditions and circumstances and are intended to supplement state law. To the extent that any portion of this document conflicts with any provisions of state law, the applicable state law always takes precedence. (*Amended August 27, 2003*)

POLICY 1 - PURPOSE.

The purposes of the Local Agency Formation Commission are provided by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, and include the following:

- Discourage urban sprawl;
- Encourage orderly formation and development of local governmental agencies, based on local conditions and circumstances;
- Initiate and make studies of governmental agencies;
- Adopt spheres of influence for each local governmental agency.

The following Goals will guide the Commission in implementing the purposes of LAFCO (amended April 23, 2003):

1. To encourage planned, well-ordered, efficient development patterns.
2. To encourage efficient and effective delivery of governmental services by the agencies who provide those services.
3. To encourage urban land use patterns which balance urban growth with the conservation of open space and prime agricultural lands.
4. To encourage the cities and the County to plan urban land use patterns, which include a harmony between housing for residents and jobs provided by commercial and industrial development.

POLICY 2 - POWERS.

The powers of LAFCO include the following:

- A. **Review And Approve or Disapprove Proposals** with or without amendment, wholly, partially, or conditionally (*Government Code Section 56375*):

- Annexation of territory to cities or special districts.
- Exclusion of land from cities or special districts.
- The consolidation of two or more cities, or two or more special districts formed under the same principal act.
- The formation of new special districts and the incorporation of new cities.
- The dissolution of special districts and disincorporation of cities.
- The merger of cities and special districts.
- Reorganizations which involve boundary changes to two or more cities or special districts as part of one proceeding.
- Review of city or special district contracts for service outside of their boundaries.
- Review and approve proposals that would extend services into previously unserved territory within unincorporated areas.
- Conduct service reviews of the municipal services provided in the county on a regional or subregional basis, and provide written statements with respect to infrastructure needs, growth and population projections, financing constraints, cost avoidance opportunities, opportunities for shared facilities, and other factors in Government Code Section 56430.
- Initiate and make studies of existing governmental agencies, which may include inventorying such agencies. (*Government Code Section 56378*)
- Initiate proposals for consolidation of special districts, the merger of a special district with a city, the dissolution of a special district, the establishment of a subsidiary special district, or a reorganization, which includes any of these outlined changes. [*Government Code Section 56375 (a)*]

B. **Adopt Evaluation Standards** and procedures for the evaluation of proposals which shall include, but are not limited to, the following factors identified in Government Code Section 56668:

- a) Population and population density; land area and land use; per capita assessed valuation; topography, natural boundaries, and 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 subdivision, 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, 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 priorities set forth in Section 56377 (e.g., open-space land conversion).
- e) The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Section 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, or other similar matters affecting the proposed boundaries.
- g) A regional transportation plan adopted pursuant to Section 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 Section 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 Section 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 to which the proposal will promote environmental justice. As used in this subdivision, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services. (Amended January 23, 2008.)

- C. **Plan for Service.** The plan for service shall be prepared and submitted by each local agency affected by a proposed change of organization, regardless of whether that proposal is initiated by resolution or petition. In the case of a proposed annexation, the plan for service must include information that the range and level of services currently available within the study area will, at least, be maintained by the annexing agency. Services include all the municipal services provided by the agency. For those proposals involving a reorganization consisting of annexations to multiple agencies, the plan for service shall also be required for each affected agency. (*Government Code Section 56653*)

LAFCO will consider the ability of an agency to deliver adequate, reliable and sustainable services and will not approve a proposal that has potential to significantly diminish the level of service in the agency's current jurisdiction. The agency will be required to provide satisfactory documentation of capacity to provide the service within a reasonable period of time. (*Amended April 23, 2003.*)

- D. **Spheres of Influence:** Government Code Section 56425 requires that LAFCO establish spheres of influence for each city and special district in the county, and may establish spheres for unincorporated communities, open space use, or agricultural preserves.
- E. **Two or More Proposals For The Same Area.** If two or more proposals pending before the Commission shall conflict or be inconsistent with each other, the Commission may determine the relative priority for conducting further proceedings on these proposals. In the absence of any such determination, priority shall be given to that action which was first filed with the Executive Officer. (*Government Code Sections 56655, 56657 and 57003*)
- F. **Reorganization Committee:** The Commission may require the establishment of a reorganization committee for reorganization proposals and to adopt standards and procedures for the evaluation of any plan of reorganization or alternate plan reported on by such committee. (*Government Code Section 56826*)
- G. **Conduct Special Studies.** The Commission may initiate and make studies of existing governmental agencies including, but not limited to, inventorying such agencies and determining their maximum service area and service capacities.
- H. **Open Space.** It is the intent of the Legislature that Commissions establish policies and exercise their powers so as to encourage and provide planned, well ordered, efficient urban development patterns with appropriate consideration of preserving open space lands within such patterns. (*Government Code Section 56001*)
- I. **Conducting Authority.** The Cortese-Knox-Hertzberg Local Government Reorganization Act, taking effect on January 1, 2001, assigned the responsibility of conducting protest proceedings to the Commission itself. The Commission has determined to delegate this authority to the Executive Officer. (*Government Code Section 56029*)
- J. **Noncontiguous Territory Annexation.** The Commission has the authority to approve the annexation of unincorporated noncontiguous territory, not exceeding 300 acres in area, located in the same County, and which is owned by the annexing

city and used for municipal purposes and to authorize this annexation without notice of hearing. (*Government Code Section 56741 and 56742*)

- K. **Inhabited Annexation.** In an inhabited annexation to a city, where the area to be annexed equals 50% or more of the assessed value of the city, or the number of registered voters in the area to be annexed is 50% or more than the number of registered voters in the city, the reorganization (annexation) shall be subject to the confirmation of the voters in the area to be annexed and the voters of the city. (*Government Code Section 56046*)
- L. **Distribution of Assets And Liabilities.** The Commission may determine the distribution of all assets and liabilities, including recommendations for retaining employees, for all consolidations, mergers, dissolutions, and creations of subsidiary districts, or any other proposal, and shall note such distribution in its resolutions. (*Government Code Section 56886*)
- M. **Consolidation of Cities.** After approval for the consolidation of two or more cities, the Commission will determine which shall be the consolidated successor city.
- N. **Financial Assistance.** The Commission, or the Board of Supervisors on behalf of the Commission, is authorized to apply for or accept, or both, any financial assistance and grants-in-aid from public or private agencies or from the state and federal governments or from a local government. (*Government Code Section 56378*)

POLICY 3 - ENVIRONMENTAL ASSESSMENT.

The Commission will insure that all proposals are reviewed in compliance with the California Environmental Quality Act (CEQA) and Commission adopted CEQA procedures.

POLICY 4 - PRIORITIES FOR ANNEXATION AND FORMATION.

The Commission will consider the following priorities or guidelines for annexation and formation with the provision that overriding circumstances must be stated in exceptions (*Government Code Section 56001*):

- A. Annexation to an existing city or district instead of formation of a new agency.
- B. Annexation to a city rather than a district if both can provide comparable services.
- C. Annexation to a multi-purpose district in preference to annexation to a single purpose district.
- D. Formation of a new political entity as the last and least desirable alternative.

POLICY 5 - PREZONING FOR CITY ANNEXATION.

Effective January 1, 2001, prezoning is mandated by Government Code Section 56375. No city annexation application will be deemed complete unless the prezoning process has been completed. The decision of the Commission with regard to a proposal to annex territory to a city shall be based upon the general plan and prezoning of the city.

In addition, pursuant to Government Code Section 56375(e), all rezoning designations shall remain in effect for at least two years unless the City Council makes specified findings relating to changed conditions and circumstances.

The adopted procedure for rezoning is as follows:

- A. Such rezoning shall also require that the city become the lead agency for environmental review for the proposed change and shall prepare and submit to LAFCO the environmental assessment forms in sufficient time for LAFCO's Executive Officer to comment before a determination of environmental effects is made.

POLICY 6 - CONCURRENT CITY- DISTRICT ANNEXATION.

For any annexation within a community served by a variety of community-based local agencies, the Commission shall require concurrent annexation to all of the local agencies serving the community (concurrent city/district annexations).

POLICY 7 - SPECIAL DISTRICT REPRESENTATION.

The Commission has adopted "Rules and Regulations" pursuant to Government Code Section 56332 which permits Special District Representation on the Commission. The Rules and Regulations are included in Section Five of this manual.

POLICY 8 - SUFFICIENCY OF SIGNATURES ON PETITIONS AND NUMBER OF REGISTERED VOTERS.

The Commission recognizes that the review and approval process for many proposals may be changed, and the number of registered voters affected (*Government Code Section 56706*):

- A. For proposals which require petitions to be circulated, after LAFCO approval, the number of registered voters residing in an area on the date of LAFCO approval is the number of registered voters on which the sufficiency of any petition is based. If the proposal was initiated by Resolution of Application, the number of registered voters shall be based on the date the Notice of Filing is issued.
- B. For proposals in which petitions are circulated prior to LAFCO approval and for the determination of inhabited or uninhabited actions, the date of the Notice of Filing issued by LAFCO shall be the determining date for the number of registered voters residing within the affected area.

POLICY 9 - EFFECTIVE DATE OF THE CERTIFICATE OF COMPLETION.

Unless otherwise specified by the Commission, the effective date for all actions shall be the date of issuance of the Certificate of Completion. (*Government Code Section 57202*)

POLICY 10 - REQUESTS FOR RECONSIDERATION.

Requests for reconsideration will be granted only when the petitioner can present some compelling new evidence which shall show what new or different facts exists that could not

have been previously presented or the existence of an applicable new law which shows that significant factors relative to the situation were overlooked or have changed. The request shall be submitted in writing to the Executive Officer within (30) days of the Commission's decision. (*Government Code Section 56895) (Amended April 23, 2003)*

No request shall be deemed filed unless appropriate filing fees are submitted. In the event multiple requests for reconsideration are filed, the Executive Officer will divide a single reconsideration fee among the various petitioners for reconsideration.

The adopted procedure for reconsideration requests is as follows:

- A. Upon receipt of a legally filed request for reconsideration, the Executive Officer shall place the request on the agenda of the next Commission meeting for which notice can be provided. At the hearing, the Executive Officer will present the staff report and recommendations to the Commission and respond to questions. The Commission will then allow submission of any oral or written testimony on the issue; however, at the Chair's discretion, time limits may be placed on those wishing to provide an oral presentation. At the close of the hearing, the Commission may take one of the following actions:
 - 1. The Commission may approve the request, and adopt a resolution superseding the resolution previously issued;
 - 2. The Commission may deny the request; or,
 - 3. The Commission may continue the hearing for a maximum of seventy (70) days.

POLICY 11 - REVIEW OF ENVIRONMENTAL APPEALS.

Where the published notice of the LAFCO agenda items includes notice of a hearing on any possible appeal from an environmental review determination, the LAFCO may hear the appeal on the same date it hears the agenda item, if:

- A. The appeal was timely filed;
- B. The time for filing an appeal has run;
- C. The appellant and/or applicant have received personal notice of the hearing;
- D. Any party who has requested in writing to be notified has received personal notice of the hearing; and,
- E. The appeal is heard in advance of the agenda item.

POLICY 12 - WAIVER OF FILING FEES.

Pursuant to Government Code Section 56383, the Commission may reduce or waive a fee, service charge, or deposit if it finds that payment would be detrimental to the public interest. The reduction or waiver of any fee, service charge or deposit is limited to the costs incurred by the Commission in the proceedings of an application.

A request for waiver or reduction of LAFCO filing fees must be submitted in writing to the Executive Officer and contain specific reasons for the request along with the submission of the application.

The Executive Officer shall present the waiver/reduction request at the next regular hearing for Commission consideration. Processing of an application for a jurisdictional change shall be held in abeyance until a decision is rendered by the Commission regarding the appeal of fees.

Circumstances that may support the granting of a deposit fee waiver or reduction in processing fees and/or service charges are as follows:

- A. Correction of a technical boundary alignment problem (split parcel, boundary overlap, etc.).
- B. Proposals seeking to accomplish a defined Commission goal or policy. This includes petition-initiated proposals to annex unincorporated territory that is totally or substantially surrounded by city boundaries.
- C. Proposals initiated by the Stanislaus County Board of Supervisors, City Council, or Special District for public facilities owned by that agency.
- D. Proposals initiated by Resolution of Application of a city seeking to annex unincorporated territory that is totally or substantially surrounded by city boundaries.
- E. Proposals initiated by individuals which were modified by the Commission and subsequently terminated through no fault of the proponents by majority protest or an election.

POLICY 13 - LEGAL DEFENSE FEE RESPONSIBILITY.

It is the policy of this Commission that the costs for legal defense of an issue, which has been approved by the Commission, should be the primary responsibility of the agency or person seeking that approval.

Therefore, as a condition of approval of any action taken by the Local Agency Formation Commission, the Commission may impose a condition within its resolution of approval that requires the applicant to defend, indemnify, hold harmless, and provide for reimbursement or assumption of all legal costs in connection with that approval. The adopted procedure for the Legal Defense Policy is as follows (*amended April 23, 2003*):

- A. The Commission will impose a condition of approval which requires the applicant to defend, indemnify, and hold harmless the Commission, its agents, and its employees from any claim, action or proceedings against them to attack, set aside, void, or annul such approval.

- B. The Executive Officer shall promptly notify the applicant of any legal action brought challenging the Commission's action, and the Commission, its agents, and employees shall cooperate fully in the defense of that action.

POLICY 14 - INCORPORATION POLICIES.

The following are the policy statements that the Commission has adopted to assist in the guidance of unincorporated communities in their review of governmental options:

- A. Incorporation proposals involving land within an existing city sphere of influence will not be accepted for filing. If a cityhood proposal would conflict with an established city's sphere of influence, the incorporation proponents must first initiate, and the Commission must approve, a sphere of influence amendment to exclude the study area from that sphere prior to circulation of formal incorporation petitions.
- B. The Commission defines "financial feasibility" to mean the ability of a new city to maintain pre-incorporation service levels, with sufficient resources to provide a municipal-level law enforcement service consistent with the recommendations of the County Sheriff.
- C. In determining feasibility, the Commission will consider only those revenues that are currently available to all general law cities. It will not consider revenues derived through special taxes or assessments, nor will it consider hypothetical revenues available through possible actions of a future city council (e.g., utility user's taxes) in the determination of financial feasibility.
- D. In determining feasibility, the Commission requires that proposed staff salary costs shall be based on an average of similar-sized cities or those cities which have the most comparable population within Stanislaus and San Joaquin Counties.
- E. In determining compliance with Government Code Section 56720, the Commission finds that a "reasonable reserve" is a contingency fund equal to 10% of the projected general and special funds of the new city.
- F. The Commission requires that a new city shall assume jurisdiction over all community-based special districts serving the incorporation area. A clear and compelling rationale must be provided if the continued overlay of a community-based district is proposed.
- G. In order to qualify for incorporation, the community in question must contain a minimum of 10,000 people as determined by available census data or other reliable means (e.g. utility connections), and the sales tax revenues attributable to the study area must at least cover the expected administrative and legislative costs of the new city.

POLICY 15 - OUT-OF-BOUNDARY SERVICE CONTRACTS OR AGREEMENTS.

Government Code Section 56133 specifies that a city or special district must apply for and obtain LAFCO approval before providing new or extended services outside its jurisdictional boundaries.

- A. The Commission has determined that the Executive Officer shall have the authority to approve, or conditionally approve, proposals to extend services outside jurisdictional boundaries in cases where the service extension is proposed to remedy a clear health and safety concern, is within the agencies primary area of the sphere of influence and anticipates a later change of organization, or is the result of a city or district action which serves to accommodate relocation of existing development.

In addition, the Executive Officer shall have the authority to approve or conditionally approve service extensions where the services in question will not facilitate development (for example, an inter-agency contract for fire protection services). In cases where the Executive Officer recommends denial of a proposed service extension, that proposal shall be placed on the next agenda for which notice can be provided. After the public hearing, the Commission may approve, conditionally approve, or deny the contract.

- B. The Commission has determined that the Executive Officer shall have the authority to approve or conditionally approve out-of-boundary service extensions to accommodate new development for the following specific unincorporated areas: Bret Harte Neighborhood, Robertson Road Neighborhood and Shackelford Road Neighborhood. These already developed neighborhood areas have received complete sewer infrastructure installed by Stanislaus County to remedy documented health and safety concerns; are within the sphere of influence of the City of Modesto; and the City has the capacity to provide domestic sewer service to the area. *(Amended October 25, 2006.)*

- C. In the case where a city or district has acquired the system of a private or mutual water company prior to the enactment of this legislation, those agencies shall be authorized to continue such service and provide additional connections within the certificated service area of the private or mutual water company defined by the Public Utilities Commission or other appropriate agency, at the time of acquisition without LAFCO review or approval as outlined in Government Code Section 56133. The continuation of service connections under this policy shall not be constrained by the sphere of influence of that local agency at that time.

Proposals to extend service outside this previously defined certificated area would come under the provisions of Government Code Section 56133 for the review and approval by the Commission prior to the signing of a contract/agreement for the provision of the service.

- D. Exemptions: This section does not apply to contracts for the transfer of nonpotable or nontreated water; contracts or agreements solely involving the provision of surplus water to agricultural lands and facilities, including but not limited to, incidental residential structures, for projects that serve conservation purposes or that directly support agricultural industries.

However, prior to extending surplus water service to any project that will support or induce development, the city or district shall first request and receive written approval from the commission in the affected county. This section does not apply to an extended service that a city or district was providing on or before January 1, 2001. *(Amended January 23, 2008.)*

- E. These requirements do not apply to a local publicly owned electrical utility, as defined by Section 9604 of the Public Utilities Code, providing electrical services that do not involve the acquisition, construction, or installation of electrical distribution facilities by the local publicly owned electric utility, outside of the utility's jurisdictional boundaries.
- F. Health or Safety Concerns: The requirements contained in Section 56133(c) of the Government Code (Cortese-Knox-Hertzberg Act) will be followed in the review of proposals to serve territory with municipal services outside the local agency's sphere of influence. Service extensions outside a local agency's sphere of influence will not be approved unless there is documented existing or impending threat to public health and safety, and the request meets one or more of the following criteria as outlined below:
1. The lack of the service being requested constitutes an existing or impending health and safety concern.
 2. The property is currently developed.
 3. No future expansion of service will be permitted without approval from the LAFCO.
- G. Considerations for Approving Agreements: Annexations to cities and special districts are generally preferred for providing public services; however, out-of-agency service agreements can be an appropriate alternative. While each proposal must be decided on its own merits, the Commission may favorably consider such agreements in the following situations:
1. Services will be provided to a small portion of a larger parcel and annexation of the entire parcel would be inappropriate in terms of orderly boundaries, adopted land use plans, open space/greenbelt agreements or other relevant factors.
 2. Lack of contiguity makes annexation infeasible given current boundaries and the requested public service is justified based on adopted land use plans or other entitlements for use.
 3. Where public agencies have a formal agreement defining service areas provided LAFCO has formally recognized the boundaries of the agreement area.
 4. Emergency or health related conditions mitigate against waiting for annexation.
 5. Other circumstances which are consistent with the statutory purposes and the policies and standards of the Stanislaus LAFCO.
- H. Agreements Consenting to Annex: Whenever the affected property may ultimately be annexed to the service agency, a standard condition for approval of an out-of-agency service agreement is recordation of an agreement by the landowner

consenting to annex the territory, which agreement shall inure to future owners of the property.

POLICY 16 - INDIVIDUAL NOTICE OF COMMISSION HEARINGS TO LANDOWNERS AND REGISTERED VOTERS.

In implementing the provisions of Government Code Section 56157, the Commission determines that LAFCO staff shall provide individual notice of Commission hearings to all landowners and registered voters within a proposal's boundaries. In addition, the distance requirements for providing notice to landowners and registered voters surrounding the exterior boundaries of the area proposed for change, as required by Section 56157, will be 300 feet.

For an incorporation, formation, consolidation or dissolution proposal which requires the mailing of at least 1,000 notices, the individual notice requirement will be waived and a 1/8th page legal ad will be placed in a newspaper of general circulation and a courtesy notice shall be placed in the local newspaper for the area, if applicable.

The proponent(s) of the action shall reimburse the Commission's costs associated with providing the notice described by this policy. (*Government Code Section 56150 et. Seq.*)

POLICY 17 - ISLAND ANNEXATIONS. (*Amended December 2, 2009.*)

- A. The Commission will not permit a city to reduce the size of an existing island through normal change of organization or reorganization proceedings for the purpose of allowing the remaining island to be processed pursuant to Government Code Section 56375.3.
- B. For change of organization or reorganization proposals initiated on or after January 1, 2000, and before January 1, 2014, the Commission shall approve, after notice and hearing, the annexation to a city and waive protest proceedings entirely, if all of the following are true:
 - 1. The change of organization or reorganization is proposed by resolution adopted by the affected city; and
 - 2. The Commission finds that the territory contained in the change of organization or reorganization proposal meets all the requirements set forth in Government Code Section 56375.3(b).
- C. For change of organization or reorganization proposals initiated after January 1, 2014, the Commission shall approve, after notice and hearing, the change of organization or reorganization to a city, subject to subdivision (a) of Section 57080, if all of the following are true:
 - 1. The change of organization or reorganization is proposed by resolution adopted by the affected city; and
 - 2. The Commission finds that the territory contained in the change of organization or reorganization proposal meets all of the requirements set forth in Government Code Section 56375.3(b).

The above wavier applies to territory that meets all of the following requirements:

1. The territory does not exceed 150 acres in area, and that area constitutes the entire island; and
 2. The territory constitutes an entire unincorporated island located within the limits of a city, or constitutes a reorganization containing a number of individual unincorporated islands; and
 3. The territory is surrounded in either of the following ways:
 - (a) Surrounded, or substantially surrounded, by the city to which annexation is proposed or by the city and a county boundary or the Pacific Ocean.
 - (b) Surrounded by the city to which annexation is proposed and adjacent cities.
 - (c) This subdivision 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.
- C. The Commission will define the term “substantially surrounded” on a case-by-case basis, through review of land uses, infrastructure, and patterns of service delivery within the island area and surrounding lands. No specific percentage of boundary contiguity will be applied across the board for all proposals purporting to be “substantially surrounded”.
- D. For island annexation proposals initiated by a city meeting the requirements of Government Code Section 56375.3, the Commission shall require either the city prezone the territory to be annexed or present evidence satisfactory to the Commission that the existing development entitlements on the territory are vested on are already at build out and are consistent with the City’s general plan.

POLICY 18 - CONDUCT OF PROTEST HEARINGS.

The Commission determines that the responsibility for the conduct of protest hearings, including notice, solicitation of protest, and evaluation of protest levels, is delegated to the Executive Officer.

The Executive Officer shall prepare the final resolution of conducting authority proceedings that completes the action based upon the level of protest submitted and report the conclusion of these actions to the Commission at the next scheduled Commission meeting. *Note: Please refer to Appendix A – for Procedural Provisions for Conducting Protest Hearings (adopted February 28, 2001).*

POLICY 19 - STREETS AND CANALS.

The following shall be used in determining the appropriate territory to be included in the boundaries of a proposal:

A. Annexation to Cities.

1. Areas surrounded or substantially surrounded by a city may include all contiguous public rights of way that can reasonably be included without fragmenting governmental responsibility by alternating city and county jurisdiction over short sections of the same right of way.
2. Contiguous areas located substantially within a sphere of influence may provide for the continuation of established street annexation patterns when appropriate.
3. When a boundary street is coterminous with the sphere of influence boundary of a city, the entire right of way of the boundary street may be included.
4. When a street is a boundary line between two cities the centerline of the street may be used as the boundary or whatever agreement is reached by the affected cities.

B. Annexations to Special Districts.

1. Areas located within a sphere of influence shall include all contiguous public rights of ways that can reasonably be included.
2. When a street is the boundary line between two similar types of special districts the centerline of the right of way shall be the boundary or whatever agreement is reached by the districts involved.

C. Canals.

When an annexation proposal is adjacent to an irrigation canal or lateral, the entire right of way of the lateral or canal shall be included in the proposal, unless the annexing agency presents compelling evidence to support its exclusion.

POLICY 20 – LOGICAL BOUNDARIES.

The following shall be considered as favorable factors in determining logical boundaries for a proposal (*amended April 23, 2003*):

- A. The Commission encourages the creation of logical boundaries and proposals which do not create islands and would eliminate existing islands, corridors, or other distortion of existing boundaries.
- B. Proposals which are orderly and will either improve or maintain the agency's logical boundary are encouraged.

POLICY 21 – DEVELOPMENT OF VACANT OR UNDERUTILIZED LAND PRIOR TO ANNEXATION OF ADDITIONAL TERRITORY.

The following shall be considered with regards to development of vacant or underutilized land prior to annexation of additional territory:

- A. Development of existing vacant non-open space, and non-prime agricultural land within an agency's boundaries is encouraged prior to further annexation and development.
- B. Annexation proposals to cities or districts providing urban services of undeveloped or agricultural parcels shall show: that urban development is imminent for all or a substantial portion of the proposal area; that urban development will be contiguous with existing or proposed development; and that a planned, orderly, and compact urban development pattern will result. Proposals resulting in leapfrog, non-contiguous urban development patterns shall not be approved.

SPHERE OF INFLUENCE

PURPOSE

Government Code Section 56076 defines a sphere of influence as “a plan for the probable physical boundaries and service area of a local agency, as determined by the commission.” It is an area within which a city or district may expand, over an undefined period of time, through the annexation process. In simple terms, a sphere of influence is a planning boundary within which a city or district is expected to grow into overtime.

The purpose of a sphere of influence is to encourage the “logical and orderly development and coordination of local government agencies so as to advantageously provide for the present and future needs of the county and its communities”. A sphere of influence serves a similar function in LAFCO determinations as general plans do for cities and counties. Consistency with the adopted sphere of influence is critical, and changes to the sphere requires careful review.

The following enumerated items comprise the statement of purpose adopted by Stanislaus LAFCO for spheres of influence:

1. To promote orderly growth of communities, whether or not services are provided by a city or district (board governed or independently governed);
2. To promote coordination of cooperative planning efforts among the county, cities, special districts, and identifiable communities by encouraging compatibility in their respective general plans;
3. To guide timely changes in jurisdiction by approving annexations, reorganizations etc., within a sphere of influence only when reasonable and feasible provision of adequate services is assured;
4. To encourage economical use and extension of facilities by assisting governmental agencies in planning the logical and economical extension of governmental facilities and services, thereby avoiding duplication of services;
5. To provide assistance to property owners in relating to the proper agency to comprehensively plan for the use of their property;
6. To review, update, and/or change existing spheres of influence periodically to reflect planned, coordinated changes in factors which impact spheres of influence; and,
7. To encourage the establishment of urban-type services only within an adopted sphere of influence.

The Commission emphasizes that a sphere of influence is a planning tool and the establishment of a sphere of influence, or the inclusion of territory within a sphere of influence of an existing governmental entity, does not automatically mean that the area is being proposed for annexation or development.

Establishment of a Sphere:

As outlined under state law, the Commission is designated as the public body responsible for determining spheres of influence for each city and district within its jurisdiction.

As a function of incorporation and as outlined in Government Code Section 56426.5, the Commission must establish a sphere of influence for a newly-incorporated city within one year of its incorporation effective date. Usually within six months of a city's effective date, the LAFCO staff notifies the city of the requirement pursuant to state law. The sphere proposal may be initiated by the Commission, the city council, or the County Board of Supervisors, through adoption of a resolution of the governing body.

State law also stipulates that a sphere of influence will not be established or changed without specific review and study independent of any action before the Commission at the time. Public hearings are held to review sphere of influence proposals such as establishment, amendment, or in connection with any proposed annexation, which may or may not involve another agency's sphere of influence.

Factors for Consideration:

As a part of a sphere of influence review and as outlined in Government Code Section 56425, LAFCO is required to review four "factors of consideration" in connection with any sphere of influence proposal. The factors of consideration are as follows:

1. The present and probable land uses within the area, including agricultural and open space lands;
2. The present and probable need for public facilities and services in the study area;
3. The present capacity of public facilities and the adequacy of public services that the agency provides or is authorized to provide; and,
4. The existence of any social or economic communities of interest in the study area.

In these categories of review, a city or district must show that its planning activities can be beneficial to the area, and that the initiation of those activities is appropriate. None of the above factors by themselves shall be deemed to be a determining factor in the establishment or revision of a sphere of influence for a city, district, or community area, but shall be reviewed as part of the total project.

The factors of consideration noted above are addressed individually within the staff's report for each sphere of influence proposal.

MUNICIPAL SERVICE REVIEW

In order to prepare and to update spheres of influence in accordance with Government Code Section 56425, the Commission shall conduct a service review of the municipal services provided in the county or other appropriate area designated by the Commission.

The Commission shall include in the area designated for service review the county, the region, the sub-region, or such other geographic area as is appropriate for an analysis of the service or services to be reviewed, and shall prepare a written statement of its determinations with respect to each of the following:

- (1) Growth and population projections for the affected area.
- (2) Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies.
- (3) Financial ability of agencies to provide services.
- (4) Status of, and opportunities for, shared facilities.
- (5) Accountability for community service needs, including governmental structure and operational efficiencies.
- (6) Any other matter related to effective or efficient service delivery, as required by commission policy.

The Municipal Service Review (MSR) Guidelines, shown in Appendix B, will be utilized in the conduct of a MSR (as amended January 23, 2008).

COMMISSION OVERALL POLICY GUIDELINES FOR SPHERES OF INFLUENCE

The approaches and/or methods listed below are policies adopted by Stanislaus LAFCO. The policies guide the Commission's review in its determination of spheres of influence, periodic reviews and/or updates, and any amendments of those sphere boundaries.

Concurrent Sphere Reviews:

The Commission may include additional agencies as part of its review of a sphere of influence proposal. In considering the sphere of influence of a community, the Commission will concurrently evaluate all agencies serving that community, and as a policy guideline, it will need to establish a sphere for all such agencies.

Community-by-Community Approach:

The community-by-community approach is a guide used to establish spheres of influence. The concept is put forth in the mandate for spheres of influence, and includes the practice of looking at a total area, which could be considered a community, and defining its boundaries. This approach also considers the existence of inter-related economic, environmental, geographic, and social interests, and attempts to harmonize the conflicting plans and services of the various service entities. Under this approach, an attempt is made to keep the spheres of influence of the various service agencies as nearly the same as possible.

Coterminous Boundaries:

The Commission may establish a sphere of influence which is coterminous with existing city/district boundaries when it is not feasible for the public agency to expand beyond its present boundaries. However, as outlined in state law, a sphere of influence must be established for each city and district, regardless whether the sphere boundary is the same as the city or district boundary.

Nearby Communities:

Communities in close proximity to each other, are encouraged to adopt policies and agreements which recognize and protect the integrity of each community. LAFCO shall give great weight to these agreements and policies when establishing a sphere of influence.

Environmental Review for a Sphere:

A sphere of influence proposal requires review of the environmental aspects of the proposed sphere. The environmental review process is a requirement outlined in the California Environmental Quality Act (CEQA) that applies to the review of sphere of influence proposals. The general provisions of CEQA applies to LAFCO's specific functions as either a "Responsible" or a "Lead" agency.

Exclusion of Territory:

Under certain circumstances, a sphere of influence may exclude portions of the existing boundaries of a city or district. The Commission encourages reorganization and special

studies in this situation to make final determination of which city or district should serve.

Modification of a Sphere Review Area:

During the review of a sphere of influence proposal, the Commission may modify the area of review by expanding or reducing the area of review. The expansion or reduction of a sphere can be for several reasons, such as to include areas that may be better served by a public agency, or exclude areas that may be better served by another public agency.

Periodic Review/Update of a Sphere:

As a function of its duties and responsibilities, LAFCO is required to periodically review and/or update spheres of influence. Government Code Section 56425 requires the Commission to review and update, as necessary, all spheres of influence for cities and special districts at least once every five years. The initial review, and subsequent five-year sphere of influence review shall be conducted in accordance with the requirements of the Cortese-Knox-Hertzberg Act, these adopted policies and procedures and the service review guidelines prepared by the Office of Planning and Research pursuant to Government Code Section 56430.

The periodic sphere review does not preclude a public agency (city or district), or an individual from initiating a sphere proposal. The purpose of the periodic sphere review plan is to keep abreast of changes occurring within the public agencies under the jurisdiction of LAFCO.

Requirement for a Sphere Review in Relationship to Annexation:

State law precludes the Commission from approving annexation proposals lying outside of current sphere of influence boundaries for the affected city or district. If an annexation proposal lies outside the sphere of influence of a city or district, the annexation proposal must also include a sphere review. The joint sphere and annexation review is to maintain consistency in city or district boundaries and their sphere boundaries, for the extension and provision of services as it relates to proposed annexation sites.

Limited Service Sphere of Influence (*amended April 23, 2003*):

Territory proposed for inclusion within the Sphere of Influence (SOI) of a multi-service provider agency, which may be contained within the boundary of another limited purpose district, may be included within the SOI of the multi-service agency and designated as a Limited Service Sphere of Influence area. Territory designated as Limited Service Sphere of Influence shall not be considered for annexation to the multi-service agency. Territory may be included in a Limited Service Sphere of Influence upon completion of a service review, when any of the following determinations are made by the Commission:

- A. The existing multi-service agency is the most orderly and logical provider of the service(s).
- B. Existing or future services authorized to be provided by the limited purpose district are determined to be inadequate, not cost effective or inefficient.

- C. Inclusion of the territory in the Limited Service SOI is in the best interests of the residents, the local government organization and structure in the area.
- D. An agreement between the agencies exists for the provision of the limited service by the multi-service agency.

Responsibility/Obligation for a Sphere Area:

When a sphere of influence is assigned, a city or district is required to commence long range land use and service planning activities, thereby enabling it to respond to any annexation requests it might receive from landowners or residents within the sphere. By accepting a sphere of influence, a city or district agrees to plan for the provisions of services.

Urban Development within a City Sphere:

LAFCO takes the position that any new urban development which occurs within a city sphere of influence should take place as close to the city's urban area as possible. This position is emphasized for two reasons: First, so that contiguous areas may easily be annexed to the city; and secondly, so that the new urban area can be served by reasonable extension of the city's already developed municipal services.

Areas of Concern:

LAFCO may, at its discretion, designate a geographic area beyond the Sphere of Influence as an Area of Concern to any local agency.

- A. An Area of Concern is a geographic area beyond the Sphere of Influence in which land use decisions or other governmental actions of one local agency (the "Acting Agency") impact directly or indirectly upon another local agency ("the Concerned Agency"). For example, approval of a housing project developed to urban densities on septic tanks outside the city limits of a city and its sphere of influence may result in the city being forced subsequently to extend sewer services to the area to deal with septic failures and improve city roads that provide access to the development. The city in such situation would be the Concerned Agency with appropriate reason to request special consideration from the Acting Agency in considering projects adjacent to the City.
- B. LAFCO will notice any Concerned Agency when LAFCO receives notice of a proposal of another agency in the Area of Concern.
- C. LAFCO will seek to obtain a Joint Powers Agreement or other commitment between the agencies so that the Acting Agency provides advance notice to the Concerned Agency of any actions, or projects being considered within the Area of Concern, and commits to considering any comments made by the Concerned Agency.

STATEMENT OF INTENT FOR SPHERES OF INFLUENCE

1. LAFCO intends that its Sphere of Influence and Primary Area determinations will serve as a master plan for the future organization of local government within the county. The spheres shall be used to discourage urban sprawl and the proliferation of local governmental agencies, and to encourage efficiency, economy, and orderly changes in local government.
 - A. Sphere of Influence: A plan for the probable physical boundaries and service area of a local agency as determined by the Commission. The area around a local agency within which territory is eligible for annexation and the extension of urban services within a twenty year period.
 - B. Primary Area of Influence: The area around a local agency within which territory is eligible for annexation and the extension of urban services within a 0-10 year period.
2. The Primary Area and Sphere of Influence lines shall be a declaration of policy which shall be a primary guide to LAFCO in the decision on any proposal under its jurisdiction. Every determination made by the Commission shall be consistent with the spheres of influence of the agencies affected by those determinations.
3. LAFCO will approve an application for a change of organization or reorganization only if the proposal is consistent with an approved sphere of influence plan for the affected agency or agencies. No proposal which is inconsistent with an agency's adopted Sphere of Influence and/or Primary Area shall be approved until the Commission, at a noticed public hearing, has considered and approved an amendment or revision to that agency's Primary Area of its Sphere of Influence.
4. The adopted Primary Area and Sphere of Influence shall reflect city and county general plans, growth management policies, the County-wide Visioning Plan, annexation policies, resource management policies, and any other policies related to the ultimate boundary and service area of an affected agency unless those plans or policies conflict with the legislative intent of the Cortese-Knox-Hertzberg Reorganization Act (Government Code Section 56000 et. seq.).

Where inconsistencies between plans exist, LAFCO shall rely upon that plan which most closely follows the legislature's directive to discourage urban sprawl, direct development away from prime agricultural land and open-space lands, and encourage the orderly formation and development of local governmental agencies based upon local conditions and circumstances.
5. Sphere of Influence boundaries shall, to the extent possible, maintain a separation between existing communities to protect open space and agricultural lands and the identity of an individual community.
6. LAFCO supports and encourages the cities and Stanislaus County to adopt general plans, policies, and agreements which reflect adopted countywide populations, fair-share housing and employment projections, and will promote the Visioning Plan to

grow and evolve in a compact, efficient fashion, protect farmland outside urban boundaries, and avoid unnecessary conversion of farmlands.

6. City-County Meeting and Agreement: Prior to a city submitting an application to the commission to update its sphere of influence, representatives from the city and representatives from the county shall meet to discuss the proposed new boundaries of the sphere and explore methods to reach agreement on development standards and planning and zoning requirements within the sphere to ensure that development within the sphere occurs in a manner that reflects the concerns of the affected city and is accomplished in a manner that promotes the logical and orderly development of areas within the sphere.

If an agreement is reached between the city and county, the city shall forward the agreement in writing to the commission, along with the application to update the sphere of influence. The commission shall consider and adopt a sphere of influence for the city consistent with the policies adopted by the commission pursuant to this section, and the commission shall give great weight to the agreement to the extent that it is consistent with commission policies in its final determination of the city sphere. (Amended January 23, 2008.)

If the Commission's final determination is consistent with the agreement reached between the city and county, the agreement shall be adopted by both the city and county after a noticed public hearing. Once the agreement has been adopted by the affected local agencies and their respective general plans reflect that agreement, then any development approved by the county within the sphere shall be consistent with the terms of that agreement.

If no agreement is reached, the application may be submitted to the Commission and the Commission shall consider a sphere of influence for the city consistent with the policies adopted by the Commission.

8. For any sphere of influence or a sphere of influence that includes a special district, the Commission shall do all of the following:
 - A. Require existing districts to file written statements with the Commission specifying the functions or classes of services provided by those districts.
 - B. Establish the nature, location, and extent of any functions or classes of services provided by existing districts.
 - C. Determine that, except as otherwise authorized by the regulations, no new or different function or class of service shall be provided by an existing district, except upon approval by the Commission.
9. It is the policy of the Commission to review and render a decision on all proposals which would ultimately extend services into previously unserved territory within unincorporated areas.
10. Proposals which would extend services to existing development will be reviewed in accordance with Government Code 56133 and other adopted Commission policies.

11. A proposal which would extend services into undeveloped areas to accommodate development will not be approved, unless the extension of services are provided by existing districts, a city or cities, or County Service Areas (CSA) under the review of LAFCO or submitted as part of a request to form a new district or CSA to provide the service.

SPHERE OF INFLUENCE POLICIES

1. LAFCO will designate a Sphere of Influence line for each local agency that represents the agency's probable physical boundary and includes territory eligible for annexation and the extension of that agency's services within a zero to twenty-year period. LAFCO shall also designate a Primary Area line for a local agency which represents the agency's short-term growth area. Areas within an adopted Primary Area shall be eligible for annexation and extension of urban services within a zero to ten year period.
2. Territory between an adopted Primary Area line and Sphere of Influence of an agency shall be considered a transition area, anticipated to need and receive the agency's services within ten to twenty years. To preclude urban sprawl within an adopted sphere of influence, transition areas shall not be considered eligible for annexation and urban services.
3. LAFCO may adopt a zero sphere of influence encompassing no territory for an agency. This occurs where LAFCO determines that the public service functions of the agency are either non-existent, no longer needed, or should be reallocated to some other agency of government. The local agency, which has been assigned a zero sphere of influence, should ultimately be dissolved.
4. Territory not in need of urban services, including open space, agriculture, non-protected, or protested and not upheld Williamson Act contracted lands, shall not be assigned to an agency's sphere of influence, unless the area's exclusion would impede the planned, orderly and efficient development of this area.
5. LAFCO may adopt a Primary Area and Sphere of Influence that excludes territory currently within that agency's boundaries. This occurs where LAFCO determines that the territory consists of agricultural lands, open space lands, or agricultural preserves whose preservation would be jeopardized by inclusion within an agency's sphere of influence. Exclusion of these areas from an agency's sphere of influence indicates that detachment is appropriate.
6. Where an area could be assigned to the sphere of influence of more than one agency providing a particular needed service, the following hierarchy shall apply dependent upon ability to service.
 - A. Inclusion within a city sphere of influence.
 - B. Inclusion within a multi-purpose district sphere of influence.
 - C. Inclusion within a single-purpose district sphere of influence.

In deciding which of two or more equally-ranked agencies shall include an area within its sphere of influence, LAFCO shall consider the agencies' service and financial capabilities, social and economic interdependencies, topographic factors, and the effect the eventual service extension will have on adjacent agencies.

7. Sphere of Influence boundaries shall not create islands or corridors unless it can be demonstrated that the irregular boundaries represent the most logical and orderly service area of an agency.
8. Non-adjacent, publicly-owned properties and facilities used for urban purposes may be included within that public agency's sphere of influence if eventual annexation would provide an overall benefit to agency residents.
9. LAFCO shall review the Primary Area and Sphere of Influence determinations at least once every five years. If a local agency or the county desires amendment or revision of an adopted sphere of influence, the local agency by resolution may file such a request with the Executive Officer. Any local agency or county making such a request shall reimburse the Commission for the actual and direct costs incurred by the Commission. The Commission may waive such reimbursement if it finds that the request may be considered as part of its periodic review of spheres of influence.
10. LAFCO shall adopt, amend or revise the Primary Area or Sphere of Influence determinations following the procedural steps set forth in the Cortese-Knox-Hertzberg Act.

SPHERE OF INFLUENCE PLANS

This section of LAFCO Sphere of Influence Policies sets forth the required contents of a Sphere of Influence Plan, the procedures for submittal and approval of Sphere of Influence Plans and amendments thereto, and the use of Sphere of Influence Plans in the Commission determinations.

1. **Definition.** A Sphere of Influence Plan is a plan for the probable physical boundaries and service area of a local agency, as determined by the Commission, delineated in five (5) year increments up to 20 years.
2. **General Requirements.** The Sphere of Influence Plans for all governmental agencies within LAFCO jurisdiction shall contain the following:
 - a. A map defining the probable 20-year boundary of its service area, delineated in five (5) year increments and time-coordinated with the Municipal Service Review.
 - b. Maps and Explanatory Text Delineating:
 - 1) The present land uses in the area, including, without limitation:
 - a) improved and unimproved parcels; b) actual commercial, industrial, residential uses; and c) agricultural and open space lands.

- 2) The proposed future land uses in the area.
 - c. The present and probable need for public facilities and services in the sphere area. The discussion should include consideration of the need for all types of major facilities, not just those provided by the agency.
 - d. The present capacity of public facilities and adequacy of public services which the agency provides or is authorized to provide.
 - e. Identification of any relevant social or economic communities of interest in the area. For example, an area which is completely within one subdivision governed by a single homeowner's association should be noted, in order to assist in avoiding unnecessary division of the territory between services agencies.
 - f. Existing population and projected population at build-out of the 5, 10, 15, and 20 year time increments of the agency.
3. Logical and Consistent Five Year Increments Required. The plan shall depict logical and contiguous boundaries for the 5, 10, 15, and 20 year increments. The plan must be consistent in the justification for including territory within each five year time increment.

AMENDMENT OF SPHERES

The initial municipal service review and sphere of influence plan for each agency under LAFCO's review shall be established in conjunction with the initial periodic five-year review and/or update of the spheres of influence as required under Government Code Section 56425. Upon adoption, amendments shall be required as outlined below:

1. When Required. An amendment to the Sphere of Influence Plan will be required in the either of the following circumstances:
 - a. When LAFCO undertakes its 5-year Sphere of Influence Plan review, as required by Government Code Section 56425(f).
 - b. When an agency seeks to include territory outside its sphere to that sphere or exclude territory from that sphere.
 - c. When an agency seeks to include territory within the Primary Area or exclude territory from the Primary Area.
2. General Requirements. LAFCO will generally treat a proposed amendment to an agency's Sphere of Influence similarly to an application for establishment of a Sphere of Influence.
3. Treatment of Amendment Under Sphere Time Horizons. Any amendment adding territory not presently within the agency's sphere shall normally place the added territory within the Sphere of Influence area. Only where the agency can show a more immediate need for service by clear and convincing evidence, will the added

territory be placed in the Primary Area. In no event will territory be added to the Primary Area, which is not contiguous to the existing boundaries of that agency.

4. Consistency Required. Amendment proposals must be consistent with an updated Sphere of Influence.
5. Demonstrated Need Required. An Application for amendment to a Sphere of Influence must demonstrate a projected need or (in the case of reduction of the sphere) lack of need for service.
6. Prime Agricultural Land. Amendment proposals involving Sphere expansion which contain prime agricultural land will not be approved by LAFCO if there is sufficient alternative land available for annexation within the existing Sphere of Influence.
7. Annexation Plan. A phased plan for annexation of Sphere of Influence territory should normally be included in the Sphere of Influence proposal.
8. Adverse Impacts On Other Agencies or Service Recipients. LAFCO will deny proposals that would result in significant unmitigable adverse effects upon other service recipients or other agencies servicing the affected area unless the approval is conditioned to avoid such impacts.
9. Requirements for Adoption. LAFCO shall accept and adopt Sphere of Influence Plan revisions if it contains all of the following:
 - a. The Sphere of Influence Plan as amended contains all of the components required by these standards, including an updated Municipal Service Review;
 - b. That the projections of areas and levels of service contain therein are accurate, adequate, and complete; and,
 - c. The Sphere of Influence Plan is accompanied by environmental documentation that complies with the requirements of CEQA.
10. Reasons For Rejection Required. If LAFCO rejects a proposed Sphere of Influence amendment, the Commission shall state the reasons therefore.
11. Spheres of Influence Amendment Procedures. Each request for amendment must be heard in a public hearing. The Executive Officer's report must be publicly available five (5) days prior to the hearing. The Commission may continue the hearing for up to seventy (70) days before making a final determination.

V. SPECIAL DISTRICT REPRESENTATION

The statute establishing the Local Agency Formation Commission provides for its membership to be two Board of Supervisors members, two City Council members, one Public member, and an alternate for each. It further provides for two representatives from Independent Special Districts and one alternate.

Presently, Stanislaus LAFCO does not have Special Districts represented on the Commission. The Commission encourages Special District Representation and supports the efforts of the Independent Special Districts in seeking representation on the Commission.

The following adopted rules and regulations pertain to the functions and classes of services of special districts and may be amended concurrently when an order for representation of special district representation on the Commission is put forth.

POLICY STATEMENT REGARDING LAFCO INDEPENDENT SPECIAL DISTRICT REPRESENTATION

1. **SPECIAL DISTRICT REPRESENTATION.** Pursuant to California Government Code Section 56332, independent special districts shall have two representatives plus one alternate on LAFCO.
2. **METHOD OF SELECTION.** An Independent Special Districts Selection Committee shall be composed of the presiding officers of the legislative body of each independent special district located wholly within the County of Stanislaus and those containing territory within said County representing 50% or more of the assessed value of taxable property of each district. The Selection Committee shall appoint all independent special district representatives and alternates. Each member of the Selection Committee shall be entitled to one vote for each independent special district for which they are the presiding officer. The meetings of the Selection Committee shall be in accordance with the provisions of Government Code Section 56332.
3. **TERM OF OFFICE.** Other than the initial special districts representatives, the terms of office shall be for four years and until the appointment of a successor (Govt. Code Section 56334). Every officer whose term has expired shall continue to discharge his duties until his successor is appointed.
4. **SPECIAL DISTRICT REPRESENTATIVES.** It shall be the policy of LAFCO that special district representatives and alternate members should represent districts located in Stanislaus County. Inasmuch as possible, they should not represent agencies that provide like services. They shall be chosen as provided in Government Code Section 56332.
5. **SPECIAL DISTRICT MEMBER VACANCY.** In accordance with Government Code Section 56332 (c)(1), if the executive officer determines that a meeting of the

special district selection committee, for the purpose of selecting the special district representatives or for filling a vacancy, is not feasible, the executive officer may conduct the business of the committee in writing, as provided in this subdivision. The executive officer may call for nominations to be submitted in writing within 30 days. At the end of the nominating period, the executive officer shall prepare and deliver, or send by certified mail, to each independent special district one ballot and voting instructions. If only one candidate is nominated for a vacant seat, that candidate shall be deemed selected, with no further proceedings.” (Amended January 23, 2008.)

REGULATIONS AFFECTING SPECIAL DISTRICTS

REGULATION 1 - AUTHORIZATION.

These rules and regulations are authorized pursuant to the provisions of Government Code Section 56820.5.

REGULATION 2 - APPLICATION.

These rules and regulations shall apply to and affect all special districts located within Stanislaus County or for which said County is the principal county of the district, as specifically provided hereinafter.

REGULATION 3 - POWERS OF THE COMMISSION.

The Commission shall:

- A. Classify the various types of services, which customarily are or can be provided within a single function of a special district. (Govt. Code Section 56820[a])
- B. Require existing districts to file written statements with the Commission specifying the functions or classes of service provided by such district. (Govt. Code Section 56820.5[b])
- C. Establish the nature, location, and extent of any functions or classes of service provided by existing districts. (Govt. Code Section 56820.5[c])
- D. Determine that, except as otherwise authorized by such rule and regulations, no new or different function or class of service shall be provided by any existing district. (Govt. Code Section 56820.5[d])

These rules and regulations shall not apply to the extension or enlargement, within the boundaries of an existing district, of any function or service which the Commission, pursuant to these rules and regulations, has established as currently being provided by such special district. (Govt. Code Section 56820.5)

REGULATION 4 - DEFINITIONS.

The following definitions shall apply in these rules and regulations:

- A. "Commission" means the Local Agency Formation Commission of Stanislaus County. (Govt. Code Section 56027)
- B. "Executive Officer" means the executive officer appointed by the Commission. (Govt. Code Section 56038)
- C. "Function" means any power granted by law to a special district to provide designated governmental or proprietary services or facilities for the use, benefit, or protection of persons or property. (Govt. Code Section 56040)
- D. "Service" means a class established within, and as a part of, a single function, as provided by these rules and regulations. (Govt. Code Section 56074)
- E. "Special District" means an agency for the state for the local performance of governmental or proprietary functions within limited boundaries. "Special District" does not include the state, a city, a county, or a school district. "Special District" does include a county service area but does not include a special assessment district formed under the Improvement Act of 1911, the Municipal Improvement Act District Law of 1943, the Parking District Law of 1951, the Pedestrian Mall Law of 1960, or any similar assessment law, or any procedural ordinance adopted by a chartered city. "Special District" does not include an improvement district or zone formed for the sole purpose of designating an area, which is to bear a special tax or assessment for an improvement benefiting the area (Govt. Code Section 56036)
- F. "Independent Special District" includes any special district having a legislative body all of whose members are elected by registered voters or landowners within the district or are members appointed to fixed terms of office. "Independent Special District" excludes any special district having a legislative body consisting, in whole or in part, of ex-officio members who are officers of a county or another local agency, or who are appointees of such officers for unspecified terms. "Independent Special District" does not include any district excluded from the provisions of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2001 pursuant to the provisions of Section 56036 of the Government Code. (Govt. Code Section 56044)
- G. "Dependent District" is a district governed, or wholly controlled, by the Board of Supervisors and is also known as a Board governed District.
- H. "Principal County", in the case of a special district whose territory is or will be located in two or more counties, shall have the meaning contained in any definition of "principal county" as set forth in the law pursuant to which said special district was or is proposed to be formed. If the law pursuant to which the special district was or is proposed to be formed, contains no such definition, for purposes of these rules and regulations "principal county" means the county having all or the greater portion of the entire assessed value as shown on the last equalized assessment roll of the counties, or the taxable property in or proposed to be included in the special district (Govt. Code Section 56066).

REGULATION 5 - CLASSIFICATION OF FUNCTIONS AND SERVICES.

The classifications of functions and services are established by the Commission for each Independent Special District.

REGULATION 6 - INVENTORY OF SPECIAL DISTRICTS SERVICES.

Upon approval of the Rules and Regulations, in conjunction with the Sphere of Influence Review pursuant to Government Code Section 56425(f), or at the request of the Executive Officer, each special district shall provide the Commission with the following information and materials:

- A. A report of the functions and services, as classified herein, being provided by the district prior to the date of the adoption of these rules and regulations.
- B. A statement concerning the legal authority for the rendering of such functions and services.
- C. A map or maps showing the boundaries of the district and the location(s) where such functions and services are then being provided.

For the purposes of these rules and regulations, a district shall be deemed to be providing a function or service if the district is actually exercising its powers to provide such function or service for the benefit of land or inhabitants within its boundaries.

Factors to be considered in a determination of whether a district is actually exercising its powers to provide such function or service may include, but not be limited to:

- 1. The existence of authorized but unsold bonds or the existence of actual bonded indebtedness where such bonds were authorized or sold in order to generate funds for the provision of such function or service.
- 2. The expenditure of funds and/or the obligation of funds, previously incurred contractual obligations, or the accumulation of funds for property, facilities, contract rights or equipment where such expenditure, obligation, or accumulation is for a specific objective or goal related to the provision of such function or service.
- 3. The actual provision of such function or service to the public, as, for example, the actual provision of sewer service, fire protection service, etc.

REGULATION 7 - ESTABLISHMENT OF EXISTING FUNCTIONS AND SERVICES.

Following receipt of the reports required by Regulation 6, above, the Commission shall establish by one of the following procedures the nature, location, and extent of all functions and services, as classified herein, then being provided by such special district:

- A. By approving the original report filed by the special district, or as it may be modified by the district.
- B. If the Commission desires any change in the report, it shall be returned to the district with requested modifications, and shall be resubmitted to the Commission within thirty (30) days.
- C. If any special district shall fail or refuse to file any report required herein, or if any modified report is not approved by the Commission, the Commission may make its own study and report on the functions and services being provided by the district,

and shall consider that study at a public hearing before making a final decision thereon. Requests for modifications of a sphere of influence or changes of organization shall not be approved until the report is submitted and approved by the Commission.

LAFCO shall have the final authority to determine whether a special district is presently exercising a function or service, as such exercise is defined in Section 6 of these rules and regulations.

REGULATION 8 - LIMITATIONS UPON EXERCISE OF FUNCTIONS AND SERVICES.

Upon establishment of the functions and services being provided by a special district, the district shall not provide or engage in any new or different function or class of service, except as authorized by these rules and regulations.

The rules and regulations shall not apply to the extension or enlargement, within the boundaries of an existing district, of any function or service, which the Commission, pursuant to these rules and regulations, has established is currently being provided by such special district. (Government Code Section 56820.5)

REGULATION 9 - APPLICATION FOR PROVISION OF NEW OR DIFFERENT FUNCTION OR SERVICE.

Any special district proposing to provide any new or different function or service, in addition to those identified and established by the Commission pursuant to Regulation 7, hereof, shall file with the Executive Officer a resolution of its governing board making application for the provision of such additional function or service. The resolution of application shall be in such form as the Commission may prescribe and shall include or be accompanied by:

- A. A statement of the nature of the proposal and the reasons therefore, and shall include, but not be limited to: general plan, growth rate, topography, and economic feasibility.
- B. A legal description of the territory, which is the subject of the proposal.
- C. A map showing the boundaries of the subject territory.
- D. Names and addresses of other agencies affected by this change.
- E. The names and addresses of the officers or persons not to exceed three, who are to be given mailed notices of the hearing.
- F. Such additional data and information as may be required by the Executive Officer pertaining to any of the matters or factors, which may be considered by the Commission.

REGULATION 10 - HEARING ON APPLICATION FOR PROVISION OF NEW OR DIFFERENT FUNCTION OR SERVICE.

Upon the filing of the resolution of application, the Executive Officer shall, after environmental review, set the matter for hearing by the Commission.

- A. The date of the hearing shall not be more than ninety (90) days after such filing.
- B. The Executive Officer shall cause notice of hearing to be published in a newspaper of general circulation within the area for which the provision of additional function or service is proposed, as specified in Government Code Section 6066.
- C. The Executive Officer shall also cause notice of such hearing to be mailed, at least twenty-one (21) days prior to the date of hearing to: (1) the district adopting the resolution of application; (2) each city or district within three (3) miles of the subject district; (3) each person who is designated in the application to receive notice; and (4) any person who has filed a written request for special notice with the Executive Officer.
- D. Such hearing may be continued from time-to-time for a period not to exceed seventy (70) days from the original date of such hearing. The conduct of such hearing shall be governed by the provisions of Government Code Section 56000 et seq. and by the rules of the Commission. At any time not later than thirty-five (35) days after the conclusion of the hearing, the Commission shall adopt a resolution making determinations, and approving or disapproving the provision of the additional function or service by the district.

REGULATION 11 - REVIEW OF FUNCTIONS AND SERVICES.

The Commission may periodically review and update the inventory of functions and services established for each special district. In conducting such a review, the Commission may require the special districts to provide current information concerning established functions and services, and the special districts shall comply with this request. The Commission may, after public hearing, remove any function or service established for a special district, if the Commission determines that the function or service is not currently being provided by the district.

REGULATION 12 - PROCEEDINGS FOR ADOPTING AMENDMENT OR REPEAL OF RULES AND REGULATIONS.

The Commission may take proceedings pursuant to this article for the adoption, amendment or repeal of rules and regulations affecting the functions and services of special districts within the County and for representation of independent special districts upon the Commission. Such proceedings may be initiated either by the Commission or by independent special districts within the County. (Government Code Section 56820)

REGULATION 13 - MINOR CHANGES IN EXISTING RULES AND REGULATIONS.

Minor changes in any existing rule or regulation affecting special districts may be ordered by the Commission, without adoption of a resolution of intention, notice and hearing, or reference to a special district advisory committee, provided, that the Commission makes a determination that such changes will not substantially affect the functions and services of any special district subject to such rules and regulations and such determinations are concurred by both Commission members appointed to represent independent special districts. (Govt. Code Section 56821.7)

REGULATION 14 - DISTRICTS AND PRINCIPALS ACTS.

The type of districts to be included in representation on LAFCO are outlined in Government Code Section 56036. The type of districts to be excluded from representation are outlined in Government Code Section 56044.

APPENDIX A

PROCEDURAL PROVISIONS FOR CONDUCTING AUTHORITY HEARINGS (PROTEST PROCEEDINGS)

(Adopted February 28, 2001, and Revised December 2, 2009)

Effective January 1, 2001, the Cortese-Knox Hertzberg Local Government Reorganization Act of 2000 (AB 2838) establishes LAFCO as the conducting authority for all proposals requiring protest proceedings. As the conducting authority, LAFCO is required to notice and set a proposal for a protest hearing within 35 days following the adoption of the commission's resolution making determinations, or to waive protest proceedings entirely if specific requirements are met.

At its regularly scheduled February 28, 2001 meeting, the commission delegated all duties, functions, and responsibilities of conducting authority to its executive officer. Therefore, any references made to the "commission" or "LAFCO" in the following discussion also pertains to the executive officer for any functions performed on behalf of the commission.

WAIVER OF PROTEST PROCEEDINGS

In the case of *uninhabited* (less than 12 registered voters) changes of organization or reorganization, the commission may waive protest proceedings pursuant to Part 4 (commencing with Section 57000) entirely if all of the following conditions apply (56663(c)):

- (1) All the owners of land within affected territory have given their written consent to the change of organization or reorganization.
- (2) No subject agency has submitted written opposition to a waiver of protest proceedings.

In the case of inhabited (12 or more registered voters) city and district annexations or detachments, or both, the commission may waive protest proceedings pursuant to Part 4 (commencing with Section 57000) entirely if all of the following conditions apply (56663(d)):

- (1) The commission has provided written notice of commission proceedings to all registered voters and landowners within the affected territory and no opposition from registered voters or landowner within the affected territory is received prior to the conclusion of the commission hearing. (The written notice shall disclose to the registered voters and landowners that unless 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).
- (2) No subject agency has submitted written opposition to a waiver of protest proceedings.

PROTEST PROCEEDINGS

Unless protest proceedings are waived as noted above, a protest hearing will be held. Within 35 days following adoption of the commission's resolution making determinations

(and following the reconsideration period specified in Section 56895(b)), the executive officer of the commission shall set the proposal for hearing and give notice of that hearing. The date of the protest hearing must be within 60 days, but not less than 21 days, from the date the notice of hearing is published (57002). The notice of hearing shall be mailed, published, and posted pursuant to Sections 57025 and 57026. In part, these sections indicate to whom mailed notice is to be provided and the content of the mailed notice.

Pursuant to Section 57050, the protest hearing shall be held by the commission on the date and at the time specified in the notice given by the executive officer. The hearing may be continued from time to time but may not exceed 60 days from the date specified for the hearing in the notice. At the protest hearing, prior to consideration of protests, the commission's resolution making determinations shall be summarized. At the hearing, the commission shall hear and receive any oral or written protests, objections, or evidence which is made, presented or filed.

Written protests may be filed with LAFCO from the date of the notice until the conclusion of the protest hearing and must include all information contained in Section 57051. Anyone who has filed a written protest can withdraw that protest prior to the conclusion of the hearing.

Within 30 days of the protest hearing, the commission shall determine the value of written protests filed and not withdrawn and take one of the following actions (except as provided in Section 57002(b)):

- a) Order the change if the area is uninhabited and protest is received from landowners owning less than 50% of the assessed land value; or if it is inhabited and protest is received from less than 25% of the voters or landowners owning less than 25% of the assessed value;
- b) Order the change subject to an election if the land is inhabited and at least 25%, but less than 50%, of the registered voters protest or at least 25% of the landowners owning 25% or more of the assessed value of land protest;
- c) Terminate proceedings if a majority protest in accordance with Section 57078 (at least 50% of the landowners owning 50% or more of the assessed value in uninhabited territory, or a majority of the voters for inhabited territory).

(Findings and actions by the Conducting Authority, See Section 57075)

Protest proceedings for district formations must be conducted in accordance with the principal act of the district to be formed, unless the formation is part of reorganization. For any proposal initiated by the commission pursuant to Section 56375(a), the commission or its executive officer is required to hold the protest hearing in the affected territory.

The commission's resolution ordering a change of organization or reorganization must contain all of the following (Sections 57100-57012):

- a. A statement that the action is taken pursuant to the Cortese-Knox-Hertzberg Act.
- b. The type of change of organization or reorganization being acted on.

- c. A description of the exterior boundaries of the territory for each change of organization or reorganization.
- d. The entire list of terms and conditions approved by the commission.
- e. The reasons for the change of organization or reorganization.
- f. A statement that regular County assessment roll (or another assessment roll) will or will not be utilized.
- g. A statement that affected territory will or will not be taxed for existing general bonded indebtedness of any agency whose boundaries are changed.
- h. Any other matters which the commission deems material.

In some cases, the commission's resolution ordering a change of organization or reorganization must include specific findings:

- a. For city annexations of territories subject to a Williamson Act contract, a finding as to whether the city intends to not succeed to the contract.
- b. For dissolutions, findings upon one or more of the following:
 - 1. that the corporate powers have not been used for three years, as specified in Section 56871, by the district and that there is a reasonable probability that those powers will not be used in the future.
 - 2. that the district is a registered-voter district and is uninhabited.
 - 3. that the board of directors of the district has, by unanimous resolution, consented to the dissolution.

LAFCO does not have statutory authority to conduct an election. When one is required, the commission shall inform the board of supervisors or the city council of the affected city and request the board or the city council to direct the elections official to conduct the necessary election (57000(d)(e)). See Sections 57115-57120 for a discussion of the commission's resolution ordering a change of organization or reorganization subject to confirmation by the voters. After completion of proceedings ordering a change of organization or reorganization without election or confirming an order for a change of organization or reorganization after confirmation by the voters, the Executive Officer shall prepare and execute a certificate of completion.

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APPENDIX B

STANISLAUS LAFCO MUNICIPAL SERVICE REVIEW GUIDELINES

(Amended January 23, 2008.)

BACKGROUND

Section 56430 of the Cortese Knox Hertzberg Local Government Reorganization Act of 2000 (CKH Act) requires LAFCO to conduct municipal service reviews prior to establishing or updating spheres of influence. The service reviews are intended to serve as a tool to help LAFCO, the public and other agencies better understand the public service structure and evaluate options for the provisions of efficient and effective public services.

These policies, along with the State Office of Planning and Research's Municipal Service Review Guidelines will provide guidance to LAFCO in preparing and conducting service reviews.

A. Service Review

A service review is a comprehensive review of municipal services within a designated geographic area and includes steps to:

- Obtain information about municipal services in the geographic area,
- Evaluate the provision of municipal services from a comprehensive perspective, and
- Recommend actions when necessary, to promote the efficient provision of those services.

LAFCO is not required to initiate boundary changes based on service reviews. However, LAFCO, local agencies or the public may use the service reviews to pursue subsequent changes in jurisdictional boundaries or spheres of influence.

B. Service Review Preparation and Update

1. Service review reports will be prepared and updated as necessary every five years in conjunction with or prior to SOI reviews and updates. Until a MSR has been conducted for an agency, any request to modify an existing SOI will trigger the preparation of a service review.
2. Service reviews may need to be updated independent of SOI reviews, to facilitate review of a pending application or other LAFCO action, unless LAFCO determines that prior service reviews are adequate for the purpose.
3. The scope and schedule of Municipal Service Reviews (MSR) and Sphere of Influence (SOI) updates should remain flexible enough to accommodate legislation changes and other changes in local conditions.
4. Participation and cooperation from representative agencies will be solicited and encouraged for all municipal service reviews.

5. In order to meet the MSR and SOI update mandate in the most practical and cost-effective manner, the Commission will utilize the best information and documents which are currently available from the public agencies rather than initiate new analyses. Local agencies, when preparing updates to their planning documents, including general plans, specific plans, community plans, master service plans, budgets, etc., are encouraged to work cooperatively with LAFCO and include information addressing the service review factors contained in Section 56430.
6. A minor amendment to the sphere of influence of any agency may be processed and acted upon by the Commission without triggering a MSR if the requested amendment is to accommodate the annexation of existing public owned facilities to that agency. In addition, if a requested amendment is less than 100 acres or three percent of the acreage within the subject agency's existing SOI, whichever is less, and a previous MSR has been conducted, the Commission may act upon the request without triggering a new or revised MSR.

C. Types of MSRs & SOIs

Cities and special districts require slightly different approaches to MSRs and SOI documents. Cities are municipal service providers that are generally created to provide a full range of urban services to dense populations at relatively high standard levels.

Some special districts, such as community services districts, sanitary districts, irrigation districts, and water districts can also provide municipal services, but generally on a smaller scale to unincorporated communities. Most of the other special districts within Stanislaus County provide a few specialized services to rural populations and land.

Recognizing the different levels and types of services provided by the public agencies in Stanislaus County, the Commission will conduct two levels of MSRs;

Level 1 will include non-municipal services typically provided by single-purpose special districts, such as a cemetery, mosquito abatement, hospital, county service area, irrigation water, non-municipal flood and drainage control, and soil conservation districts. The MSR for these agencies will generally be less detailed and may not include all the factors in Government Code Section 56430, as some generally do not apply.

Level 2 will include a detailed review for those agencies associated with urban development and will include such services as water, sewer, police, and fire.

D. Boundaries

1. A service review may be conducted for subregional areas within the county or on a countywide basis, it may review a single agency or multiple agencies and, it may review a single service or multiple services. LAFCO will determine how service reviews will be organized and conducted for an agency in Stanislaus County.

2. Generally, LAFCO will include in a service review the geographic area and agency(ies) that best facilitate a logical, comprehensive and adequate review of services in the area. LAFCO may need to include a service provider in more than one service review area; only review services of some providers to the extent that they affect the service review area and services under study; or only review a portion of services provided. Service reviews may extend beyond the county boundary in some cases, to provide a more useful and accurate analysis of service provisions, especially where multi-county service providers are involved.
3. Special districts providing non-municipal services will be generally reviewed individually or by service type in the specified geographic area.

E. Environmental Determination

Local agencies that submit municipal service review proposals to LAFCO will be considered lead agencies for purposes of environmental review and should conduct whatever environmental determination is appropriate under the California Environmental Quality Act (i.e., notice of exemption, negative declaration, environmental impact report).

When LAFCO initiates the MSR, it will be the Lead Agency and will prepare the appropriate documentation pursuant to the California Environmental Quality Act.

F. Service Review Funding

1. LAFCO will include the funding for LAFCO initiated service reviews in its annual work plan and budget development process. The Commission has stated their desire not to use outside consultants. Therefore, cooperation and assistance in gathering the necessary information from the agency(ies) subject to the service review will be requested in order to make the service review document a valuable resource to LAFCO, the agency(ies) and the public.
2. Processing fees for conducting the service reviews will be charged when LAFCO applications (such as, a sphere of influence amendment) trigger the service review requirement or an applicable service review does not exist.

G. Stakeholder Outreach and Public Participation

1. LAFCO will encourage collaboration, cooperation, and information sharing among service review stakeholders.
2. LAFCO will encourage public participation in the service review process.

H. Service Review Process

1. As an initial step, LAFCO will develop and mail a questionnaire to the agencies included in the service review. The questionnaire will request information pertinent to the six evaluation categories stated herein. Meetings

may be held as necessary, or additional questionnaires maybe sent out to gather further input.

2. LAFCO Executive Officer will prepare and issue a draft service review report which includes draft determinations required by state law. Notice of availability of the draft service review will be provided to all affected agencies and to interested persons who have submitted a written request for notice.
3. LAFCO will distribute and provide a minimum 21-day public review period for the draft service review.
4. LAFCO will conduct a noticed public hearing to consider and accept comment on the draft service review and appropriate CEQA review. At the hearing, LAFCO may:
 - a. Take the necessary CEQA action and find that the draft service review report, with any minor amendments, is adequate and final and adopt written determinations. A draft service review may be considered final if no substantive comments are received prior to the end of the hearing and LAFCO determines it satisfactory.
 - b. Direct staff to address substantive comments and concerns and prepare a final service review report, or
 - c. Continue the hearing.
5. If a revised final service review is necessary, the LAFCO Executive Officer will prepare it including comments received during the public review period and schedule it on the next appropriate agenda.
6. LAFCO may also take action on a SOI update at the same hearing.
7. LAFCO will distribute the adopted Service Review Report to all participating and interested local and regional agencies for use as a resource in their work.

I. Municipal Service Review Evaluation Categories

As part of the service review process, the CKH Act requires LAFCO to make written determinations on six evaluation categories. A general description of the categories and criteria used to evaluate these categories is included in Exhibit 1, attached. It should be noted that how these categories apply to each of the service reviews may vary and will depend mostly on the nature of the service being reviewed.

J. Municipal Service Review Information Questionnaire

In order to prepare the determinations addressing each of the evaluation categories in Exhibit 1, information will be solicited from each agency using the information questionnaire, Exhibit 2.

EXHIBIT 1

MUNICIPAL SERVICE REVIEW EVALUATION CATEGORIES

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 requires LAFCO's to conduct reviews of municipal services and make six written determinations. The following factors to be considered provide examples of how Stanislaus LAFCO will fulfill the determination requirement (as amended January 23, 2008).

Determination 1: Growth and Population Projections for the Affected Area

Efficient provision of public services is linked to an agency's ability to plan for future need. For example, a provider of municipal water must be prepared to supply water for existing and future levels of demand, as well as also be able to determine where future demand will occur. Municipal service reviews will enable LAFCO, affected agencies and the public the ability to examine both the existing and future need for public services and will evaluate whether the projections for future growth and population patterns are integrated into an agency's planning function.

Determination 2: Present and Planned Capacity of Public Facilities and Adequacy of Public Services, Including Infrastructure Needs or Deficiencies

The State Legislature, in authorizing the preparation of municipal service reviews, focused on one of LAFCO's core missions – encouraging the efficient provision of public services. Infrastructure needs or deficiencies, which refers to the adequacy of existing and planned public facilities in relation to how public services are, and will be provided to citizens, impacts the efficient delivery of public services. Infrastructure can be evaluated in terms of capacity, condition, availability, quality, and correlations among operational, capital improvement, and finance plans currently in place. It is recognized that there may be unmet infrastructure needs due to budget constraints or other factors; however, identification of deficiencies may promote public understanding and support for needed improvements.

Determination 3: Financial Ability of Agencies to Provide Services

A community's public service needs should be viewed in light of the resources available to fund the services. Through a municipal service review, the financial constraints and opportunities, which have an impact on the delivery of services, will be identified and enable LAFCO, local agencies and the public to assess whether agencies are capitalizing on financing opportunities. For example, a service review could reveal that two or more sewer provision agencies that are each deficient in treatment capacity, and which individually lack financial resources to construct additional facilities, may benefit from creating a joint venture to finance and construct regional treatment facilities. Service reviews may also disclose innovations for contending with financing constraints, which may be of considerable value for numerous agencies.

Determination 4: Status of, and Opportunities for, Shared Facilities

Public service costs may be reduced and service efficiencies increased, if service providers develop strategies for sharing resources. For example, service providers in Stanislaus

County currently share wastewater treatment facilities and distribution lines. Sharing facilities and excess system capacity decreases duplicative efforts, may lower costs, and minimizes unnecessary resource consumption. The service review will inventory facilities within the study area to determine if facilities are currently being utilized to capacity and whether efficiencies can be achieved by accommodating the facility needs of adjacent agencies. Options for planning for future shared facilities and services will also be considered.

Determination 5: Accountability for Community Service Needs, Including Governmental Structure and Operational Efficiencies

The Municipal Service Review provides a tool to comprehensively study existing and future public service conditions and to evaluate organizational options for accommodating growth, preventing urban sprawl and ensuring that critical services are efficiently and cost-effectively provided. While the service review does not require LAFCO to initiate changes of organization based on service review finding(s), LAFCO, local agencies, and the public may pursue subsequent changes to governmental structure.

LAFCO's may examine efficiencies that could be gained through: (1) functional reorganizations within existing agencies; (2) amending or updating spheres of influence; (3) annexations or detachments from cities or special districts; (4) formation of new special districts; (5) special district dissolutions; (6) mergers of special districts with cities; (7) establishment of subsidiary districts; or (8) any additional reorganization options found in Government Code Section § 56000 et seq.

Local accountability and governance refers to public agency decision making, as well as operational processes. Ideal local government is marked by processes and actions that: (1) include an accessible and accountable elected or appointed decision making body and agency staff; (2) encourage and value public participation; (3) disclose budgets, programs, and plans; (4) solicit public input when considering rate changes and work and infrastructure plans; and (5) evaluate outcomes of plans, programs, and operations and disclose results to the public.

Determination 6: Any Other Matter Related to Effective or Efficient Service Delivery, as Required by Commission Policy

This determination may include other information that relates to the ability of the subject agency's to provide effective or efficient service delivery (such as level of service for fire and police protection).

EXHIBIT 2

MUNICIPAL SERVICE REVIEW INFORMATION QUESTIONNAIRE

The following questions are designed to help agencies and LAFCO compile information needed to complete the Municipal Service Review. Answers to these questions will be used by LAFCO to prepare the service review which will be used to update the agency's Sphere of Influence (as *amended January 23, 2008*).

1. Growth and Population Projections for the Affected Area.

Purpose: To evaluate service needs based upon existing and anticipated growth patterns and population projections.

- a. What is the agency's existing population (e.g. residents, landowners)?
- b. What is the size of current area served by the agency (e.g., acres, miles, parcels)?
- c. Has the agency developed and/or adopted population projections for the next 5, 10, 15, 20 years?
- d. How does the projected growth of the proposed SOI areas compare with present city/county land use designations?
- e. How have surrounding city/county land use patterns evolved and what impacts have they caused on infrastructure, i.e. water, sewer, drainage, fire, police?
- f. Will changes as proposed in the SOI increase pressure to develop surrounding county lands causing an increase in growth potential?
- g. Has the agency identified possible significant growth areas (and/or expansion of SOI)?
- h. Does the agency have plans for serving territory outside of existing SOI?

Information Sources: County and City General Plans, EIRs, Local and Regional Land Use Maps, US Census Website, State Department of Finance, Planning Departments, and Council of Government.

2. Present and Planned Capacity of Public Facilities and Adequacy of Public Services, Including Infrastructure Needs or Deficiencies

Purpose: To evaluate the present and planned capacity of public facilities, infrastructure needs and deficiencies of an agency in terms of capacity, condition of facility, service quality and levels of services and its relationship to existing and planned services users.

- a. What are the current capacities of public services? Are the agency's resources and facilities adequate to meet the existing needs of the community and to serve the area in the existing boundaries?
- b. What are the age and/or condition of the agency's facilities and/or infrastructure?
- c. What are the agency's plans for future growth?
- d. Does the agency have plans to acquire new property, facilities, and/or equipment within the next 5 years?
- e. Does the agency have a Reserve Capacity policy?

Information Sources: Water Master Plans, Urban Water Management Plans, Department of Water Resources Annual Reports, Wastewater Master Plans, Storm Drainage Plans, General Plan, EIRs Capital Improvement Plans, Master Service Plans/Studies, Insurance Service Office PPC rating, Websites, Questionnaires, and Interviews.

3. Financial Ability of Agencies to Provide Services

Purpose: To evaluate factors that affect the financing of needed improvements.

- a. What is the current fiscal status of the agency? What are the indicators?
- b. Will the fiscal impacts of the proposed changes to the SOI be greater or lesser than the fiscal benefits?
- c. Does the agency have financial reserves? If so, what percent of the general fund do the reserves represent?
- d. How will the agency fund needed capital improvement projects, i.e. bonds, loans, other?
- e. Does the agency have financing plans in place for service upgrades, capacity improvements within the next 5 years? What are the revenue sources to implement these plans?
- f. Does the agency have (written) investment policies? If so, what are the policies?
- g. Is the agency participating in any joint financing projects?
- h. What is the agency's existing source of revenue (e.g. property tax, special assessment, developer fees, entitlements, fundraisers, etc.)
- i. When were rates/fees last adjusted?
- j. Does the agency have an adopted budget?
- k. If applicable, has the agency submitted its annual (audit) report to the appropriate review body? (e.g. districts - County Auditor, cities - State Auditor's office)

Information Sources: Budgets for Last 3 Years, City/District Manager, State Cities, Special District Annual Reports, Department of Finance, Retail Sales, Transient Occupancy Tax (TOT), City/District Fiscal Policies, Development Impact Fees Information, Debt Information, and Joint Financing Efforts.

4. Status of, and Opportunities for, Shared Facilities

Purpose: To evaluate the opportunities for an agency to share facilities and resources to develop more efficient service delivery systems.

- a. Does the agency share facilities with other agencies?
- b. Are there presently any shared relationships for services between agencies in the SOI areas? Are there opportunities for the future?
- c. Is there any, or will there be duplication of facilities in the SOI area?
- d. Is there excess capacity available to outside customers?

Information Sources: Capital Improvement Plans, Shared Facility Construction Plans, Open Space Preservation Plans, Shared Wastewater Facilities, Water Storage and Distribution Facilities, Police and Fire Facilities, etc.

5. Accountability for Community Service Needs, Including Governmental Structure and Operational Efficiencies

Purpose: To evaluate the accessibility and levels of public participation associated with the agency's decision-making and management processes. To consider the advantages and disadvantages of various government structures to provide public services.

- a. How does the agency strive to involve the public in decision-making?
- b. How does the agency facilitate public access to their services? (e.g., hours of operation, media coverage, newsletters, website, cable/public access, public information programs/events).
- c. Are the elected and/or appointed representatives made accessible to their constituents?
- d. How does the agency respond to customer complaints?
- e. With regards to agency operations, what is the number of paid staff vs. volunteers?
- f. Are the agency's files records available for public review?
- g. How is the public and/or interested parties notified of meetings?
- h. Are the meetings open to the public?

- i. Does the agency prepare mid-year progress reports (major projects, change in operational costs)? Are they made available to the public?
- j. Who runs the agency's day-to-day operations (e.g. on-site manager)?
- k. Does the agency employ contractual (consultants) services?
- l. What government structure actions could be taken to enhance the effectiveness of the agency's ability to provide services?
- m. How will services to the SOI areas be enhanced by the agency?
- n. Will services to the SOI areas proposed for exclusion from the SOI be enhanced, decreased, or remain the same?
- o. Has the agency experienced previous consolidations/reorganizations within the past 5-10 years? If so, were there any hurdles experienced?

Information Sources: Public Involvement Policies, Website, Public Information Programs, Customer Complaint Process, Customer Surveys, Interviews, Public Works Departments, Redevelopment Agencies, Consolidation of Districts, Creation of New Districts, Mello-Roos Districts, and Utilities Districts, and Independent Studies..

6. Any Other Matter Related to Effective or Efficient Service Delivery, as Required by Commission Policy

Purpose: To evaluate whether any other matter relating to the agency's ability to provide effective or efficient service delivery is consistent with Commission policy.

- a. Does the agency have adopted measures to ensure that services are delivered in an effective and/or efficient manner? (Example: "levels of service" as commonly used for fire and police protection.)

Information Sources: County and City General Plans, EIRs, Specific Plans, Master Service Plans/Studies, Planning Departments, Insurance Service Office PPC rating, Questionnaires, etc.

APPENDIX C

DISCLOSURE OF POLITICAL CONTRIBUTIONS AND EXPENDITURES REGARDING LAFCO PROCEEDINGS

(Amended January 23, 2008.)

Pursuant to Government Code Sections 56700.1 and 57009, effective January 1, 2008, expenditures for political purposes related to a proposal for a change of organization or reorganization and contributions in support 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, Government Code Section 81000 et seq., and the regulations of the Fair Political Practices Commission implementing that law.

Stanislaus LAFCO adopts the following reporting and disclosure requirements to implement Government Code Sections 56700.1 and 57009.

1. Definitions
 - a. "Contribution" as used herein shall have the same definition as provided in Government Code Section 82015, as amended.
 - b. "Expenditure" as used herein shall have the same definition as provided in Government Code Section 82025, as amended.
 - c. "Independent expenditure" as used herein shall have the same definition as provided in Government Code Section 82031, as amended, except that the term "measure" as used in Section 82301 shall be replaced with the term "proposal for organization or change of organization."
 - d. "Political Purposes" as used in 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 Government Code Section 82032. It shall not include for the purpose(s) of complying with legal requirements and LAFCO rules for the processing of a proposal, including, but not limited to and by way of example only, preparation of a comprehensive fiscal analysis for an incorporation (Government Code Section 56800) or documents necessary to comply with the California Environmental Quality Act, Public Resources Code Section 2100 et seq., such as a mitigated negative declaration or environmental impact report.
2. Disclosure Requirements for Petitions for Proposals for a Change of 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 of organization or reorganization submitted to the Commission to which Government Code Section 56700.1 applies, shall comply with the reporting and disclosure requirements of the Political Reform Act (Government Code Section 81000 et seq.) to the same

extent and subject to the same requirements as for local initiative measures. Such reporting and disclosure requirements, except as otherwise excluded herein, extend to those required by the Fair Political Practices Commission Regulations regarding such disclosures and shall include disclosure of contributions, expenditures and independent expenditures on the reporting and disclosure forms published by the Fair Political Practices Commission.

- b. Disclosures made pursuant to this Section shall be filed with the Commission's Executive Officer, as designated in Section 5 below.
 - c. For purposes of determining the deadlines by which such reports and disclosures must be filed, the term "election" as used in the Political Reform Act for determining such deadlines shall mean the date of the originally scheduled commission hearing on a proposal for organization or reorganization. If no hearing date has been scheduled at the time a person becomes subject to disclosure under this policy, he or she shall request that the Executive Officer establish a date to serve as the "election" date for this purpose. The Executive Officer shall establish a date, such as, but not limited to, the date which is 6 months after the first filing with the commission regarding the proposal, and inform the requestor of that date in writing.
 - 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 10th day of each month following the original hearing date with respect to contributions and expenditures received in the previous calendar month up to and including the third calendar month following final action by the commission on the proposal.
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 Government Code Section 57009 applies, or in support of or in opposition to those conducting authority proceedings, shall comply with the reporting and disclosure requirements measures of the Political Reform Act (Government Code Section 81000 et seq.) to the same extent and subject to the same requirements as for local initiative measures. Such reporting and disclosure requirements, except as otherwise excluded herein, extend to those required by the Fair Political Practices Commission Regulations regarding such disclosures and shall include disclosure of contributions, expenditures and independent expenditures.
 - b. Disclosures made pursuant to this Section shall be filed with the commission's Executive Officer as designated in Section below.
 - c. For purposes of determining the deadlines by which such reports and disclosures must be filed, the term "election" as used in the Political Reform Act for determining such deadlines shall mean the date of the originally scheduled conducting authority hearing on the proposal for organization or reorganization. If no hearing date has been scheduled at the time a person becomes subject to

disclosure under this policy, he or she shall request that the Executive Officer establish a date to serve as the “election” date for this purpose.

The Executive Officer shall establish a date, such as, but not limited to, the date which is 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 a proposal for organization or reorganization is rescheduled or continued to a later date, the obligation to file continues and reports shall be filed on or before the 10th day of each month following the original hearing date with respect to contributions and expenditures received in the previous calendar month up to and including the third calendar month following final action by the commission on the proposal.

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 Government code sections 84501 et seq. and the regulations of the Fair Political Practices Commission implementing those sections.

5. Where to File

All reports and disclosures required hereunder shall be filed with the Commission’s Executive Officer.

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 or by local ordinance.

7. Sunset Provision

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