APPENDIX C

# Merced County LOCAL AGENCY FORMATION COMMISSION (LAFCo)

Policies and Procedures

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# CHAPTER I: ROLES AND RESPONSIBILITIES OF THE MERCED COUNTY LOCAL AGENCY FORMATION COMMISSION (LAFCo)

## A. <u>HISTORY AND LEGISLATIVE INTENT</u>

Since the end of World War II, California has experienced a rapid increase in population, resulting in an extraordinary development boom and inefficient land use through the sporadic formation of cities and special service districts. As the demand for housing and municipal services increased, more agricultural land was converted to urban uses, resulting in a significant change to the conventional purpose and structure of local government. Special districts became more prevalent outside of municipalities, causing a decreased revenue base for cities, which in turn began annexing more territory than traditionally had been done in the past. This type of annexation led to premature, unplanned development and irregular city boundaries.

In 1959, Governor Edmund G. Brown, Sr., created the *Commission on Metropolitan Area Problems* to study and make recommendations on the "misuse of land resources" and the growing complexity of overlapping, local governmental jurisdictions. The Commission's recommendation on local government reorganization was introduced in the Legislature in 1963, resulting in the creation of the Local Agency Formation Commission, or LAFCos, operating in each county except San Francisco.

"The legislature recognizes that the logical formation and determination of local agency boundaries is an important factor in promoting orderly development and in balancing such development with sometimes competing state interests of discouraging urban sprawl, preserving open space and prime and prime agricultural lands, and efficiently extending governmental services. The legislature also recognizes that providing housing for persons and families of all incomes is an important factor in promoting orderly development."

#### B. AUTHORITY

The Local Agency Formation Commission (LAFCO) is an independent commission created by the State to promote the wise use of land resources while providing for the present and future needs of a community. LAFCO Commissioners have a responsibility to exercise their independent judgment while making decisions concerning appropriate local governmental boundary and service providers.

LAFCOs follow guidelines which are codified within the Cortese/Knox/Hertzberg Act.

## C. MERCED COUNTY LAFCO GOALS

To guide their decisions, the Merced LAFCO Commission has adopted the following four goals:

- 1. Planned, well ordered, efficient development patterns
- 2. Governmental services are delivered efficiently and effectively
- 3. The need to provide for urban development is balanced with the conservation of open space and prime agricultural lands
- 4. Urban land use patterns maximize the opportunity for local jurisdictions to provide their fair share of regional housing needs for all income levels

#### CHAPTER II: MERCED COUNTY LAFCO POLICIES

The Cortese/Knox/Hertzberg Act requires that by January 1, 2002, each LAFCO will have established written policies and procedures that incorporate the Legislature's intent to encourage and provide for planned, well-ordered, efficient urban development pattern which discourages urban sprawl, preserves open space and prime agricultural lands, provides housing for person and families of all incomes, and addresses the efficient extension of governmental services (§56300).

The Merced County LAFCO Commission has adopted the following policies:

## A. AGRICULTURAL POLICIES

OBJECTIVE I. A: Prime agricultural land is protected and conserved while ensuring there are adequate areas for efficient and orderly growth.

Policy 1:

In determining whether a City or Special District Annexation would affect prime agricultural land, the Commission shall apply the definition of "prime agricultural land" established under Section 56064 of the Cortese/Knox/Hertzberg Reorganization Act of 2000:

Land that has not been developed for a use other than an agricultural use and that meets any of the following qualifications:

- a. Land that, if irrigated, qualifies for rating as Class I or Class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not the land is actually irrigated, provided that irrigation is feasible.
- b. Land that qualifies for rating 80 through 100 Stories Index Rating.
- c. Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Handbook on Range and Related Grazing Lands, July, 1967, developed pursuant to Public Law 46, December 1935.
- d. Land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre.
- e. Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four hundred (\$400) per acre for three of the previous five calendar years.

#### **Implementation**:

The qualifications listed in items a-e shall be used in review of all boundary changes and sphere of influence revisions. However, the applicant or property owner may submit a soil analysis that demonstrates how soil has been degraded to a less than "prime" classification. The soil analysis should focus on the actual soil rather than the specific crops that may be planted. As an option, the analysis could address the soil and its ability to support crops typically grown in the area on similar soils. The cost of the soil analysis shall be borne by the applicant or property owner.

<u>Policy 2</u>: At the time of adoption of a sphere of influence for a city or urban service district, efforts to direct growth away from large concentrations of prime agricultural land shall be demonstrated, recognizing that some conversion of prime lands may be inevitable.

#### B. SPHERE OF INFLUENCE REVISION POLICIES

OBJECTIVE II. A: Create an urban land use pattern in the city that provides adequate areas for growth while ensuring the efficient delivery of services.

<u>Policy 1</u>: A City's sphere of influence boundary should be large enough to accommodate approximately 20 years of projected growth as well as territory that represents special communities of interest for the City.

<u>Policy 2</u>: LAFCO will recognize areas outside the sphere of influence boundary that reflect unique coordinated planning areas agreed to between the City, County and/or urban service district which are designated "area of interest", "joint planning area" or similar designation as identified in the City and County General Plans.

<u>Policy 3</u>: Cities should adopt phasing policies in their General Plans which identify priorities for growth and annexation which meet the joint objectives of extending urban services in an economic and efficient manner and avoiding the premature conversion of prime agricultural lands or other valuable open space resources.

<u>Policy 4</u>: Where the City and County have reached agreement on proposed sphere of influence boundaries and development standards the Commission will accept the sphere unless the Commission identifies an inconsistency with the requirements of the Cortese/Knox/Hertzberg Local Government Reorganization Act of 2000.

**Implementation**:

When the Commission performs a periodic review of a City's sphere of influence, or when a sphere of influence revision has been submitted at the request of a City, the current City General Plan will be evaluated to identify adopted growth, development phasing, and municipal service delivery policies. The Commission will also utilize information contained in the "service review" document that has been prepared by LAFCO consistent with Government Code Section 56430. The Commission will also consider any revenue sharing agreement mutually adopted by the City and County, which contains land use and growth policies.

OBJECTIVE II. B: The future urbanization of a City is reviewed comprehensively at the sphere of influence amendment stage rather than during the review of individual annexation requests.

<u>Policy 5</u>: The following criteria will be applied to cities requesting a sphere of influence amendment which is included in their General Plans and Policies that address both the Cortese/Knox/Hertzberg Act and Merced County LAFCO policies:

- a. Does the General Plan identify the City's desired sphere of influence boundary and all planned land uses in the expanded sphere?
- b. Does the City's General Plan contain policy regarding the phasing of future annexations which is consistent with the policies of Merced County LAFCO and the Cortese/Knox/Hertzberg Act?

- c. Are there local policies regarding the timing of conversion of agricultural and other open space lands and the avoidance of conversion of prime soils?
- d. Does the City's General Plan demonstrate the present and probable need for public facilities and community services (including the sequence, timing and probable cost of providing such services) within the proposed sphere of influence boundary?
- e. Does the City's General Plan identify the existence of any social or economic communities of interest within the planning area, such as the relationship between any adjacent or nearby cities or special districts which provide urban services, which may affect the boundaries or the proposed sphere of influence?

#### **Implementation**:

Cities that address the above referenced criteria/issues in their General Plans will have their sphere of influence amendment proposals scrutinized more thoroughly by LAFCO. The Commission shall adopt findings for each of the criteria indicating conformance with State and local LAFCO policy. Upon approval of the sphere boundary, LAFCO's review of future annexations within this boundary will be limited to the appropriateness and efficiency of the boundary, conformance with the City's General Plan including relevant phasing policies, and public service availability.

However, when the Commission finds that the City's General Plan does not satisfy one or more of the above sphere of influence criteria in accordance with State and local LAFCO policy, action on the sphere will be more limiting. Approval of an amended sphere boundary will reflect the City's interest in the future annexation of the territory but will not represent a general acceptance of future individual annexation requests. All subsequent annexation proposals will be scrutinized against the full factors outlined in the Cortese/Knox/Herzberg Act under Section 56668, including justification for annexing prime agricultural or other valuable open space lands when other non-prime or non-significant open space lands are available in the sphere; availability of public services; and the timing of the annexation in relation to vacant land availability within the existing City limits.

OBJECTIVE II.C: Create an urban land use pattern in unincorporated communities that provides adequate areas for growth while ensuring the efficient delivery of services.

<u>Policy 6</u>: An urban service district's sphere of influence boundary should be large enough to accommodate approximately 20 years of projected growth as well as territory that represents special communities of interest for the district.

<u>Policy 7</u>: LAFCO will recognize areas outside the sphere of influence boundary that reflect unique coordinated planning areas agreed to between the urban service district, City and/or County which are designated "area of interest", "joint planning area" or similar designation as identified in the City and/or County General Plans.

<u>Policy 8</u>: The County should adopt phasing policies in the General Plan or Community Plan which identify priority areas for growth and future district annexation and meet the joint objectives of extending urban services in an economic and efficient manner while avoiding premature conversion of prime agricultural lands or other valuable open space resources.

#### Implementation:

When the Commission performs a periodic review of an urban service district's sphere of influence, or when a sphere of influence revision has been submitted at the request of a special district, the applicable County General Plan or adopted Community Plan will be evaluated to identify adopted growth, development phasing, and municipal service delivery policies. The Commission will also utilize information contained in the "service review" document that has been prepared by LAFCO consistent with Government Code Section 56430. The Commission will also consider any special agreements entered between the County, the special district and/or a City which contain land use, service delivery and growth policies affecting the proposed sphere of influence area.

OBJECTIVE II. D: The future expansion of an urban service district is reviewed comprehensively at the sphere of influence amendment stage rather than during the review of individual annexation requests.

#### Policy 9:

The following criteria will be applied to an urban service district requesting a sphere of influence amendment when policies in the County General Plan and/or a Community Plan are found consistent with both the Cortese/Knox/Hertzberg Act and Merced County LAFCO policies:

- a. Does the County General Plan and/or Community Plan identify the urban service district's desired sphere of influence boundary and all planned land uses in the expanded sphere as identified as the Specific Urban Development Plan (SUDP) boundary?
- b. Does the County General Plan and/or Community Plan contain policy regarding the phasing of urban expansion that is consistent with the policies of Merced County LAFCO and the Cortese/Knox/Hertzberg Act?
- c. Are there local policies regarding the timing of conversion of agricultural and other open space lands and the avoidance of conversion of prime soils?
- d. Does the County General Plan and/or Community Plan demonstrate the present and probable provision of public facilities and community services (including the sequence, timing and probable cost of providing such services) within the proposed sphere of influence boundary?
- e. Does the County General Plan and/or Community Plan identify the existence of any social or economic communities of interest within the planning area, such as the relationship between any adjacent or nearby cities or special districts which provide urban services, which may affect the boundaries of the proposed sphere of influence?

# <u>Implementation</u>:

When the above referenced criteria and issues have been addressed in the County General Plan and/or Community Plan, urban service districts will have their sphere of influence amendment proposals scrutinized more thoroughly by LAFCO. The Commission shall adopt findings for each of the criteria indicating conformance with State and local LAFCO policy. Upon approval of the sphere boundary, LAFCO review of future annexations within this boundary will be limited to the appropriateness and efficiency of the boundary, conformance with the County General Plan and Community

Plan including relevant phasing policies and public service availability.

However, when the Commission finds that either the County General Plan or Community Plan does not satisfy one or more of the above sphere of influence criteria in accordance with State and local LAFCO policy, action on the sphere will be more limiting. Approval of an amended sphere boundary in such instances, will only reflect the urban service district's interest in the future annexation of the territory, but will not represent a general acceptance of future individual annexation requests. All subsequent annexation proposals will be scrutinized against the full factors outlined in the Cortese/Knox/Hertzberg Act under Section 56668, including justification for annexing prime agricultural or other valuable open space lands when other non-prime or non-significant open space lands are available in the sphere; long-term availability of public services; and the timing of annexation in relation to vacant land availability within the existing Specific Urban Development Plan boundary that is available for similar types of development as the proposed annexation.

OBJECTIVE II. E: The sphere of influence reports for urban service districts clearly identify the types and capacity of services being provided to ensure their efficient and orderly delivery.

<u>Policy 10</u>: Ensure that urban service districts have adequately planned for the efficient delivery of services by requiring the following information be provided with sphere of influence applications:

- a. Identify the function, type and class of services provided by the district and available to future annexation areas; and
- b. Identify the nature, location and extent of any functions or classes of service provided by the district.

<u>Policy 11</u>: Unless authorized by the Cortese/Knox/Hertzberg Act, no new or different function or class of service shall be provided by an urban service district beyond that identified in the sphere of influence report adopted by the Commission.

OBJECTIVE II. F: Review of sphere of influence amendment proposals involving rural service districts will focus on those factors that are germane to non-urban service delivery and resources.

Policy 12: The following criteria will be applied to rural service districts requesting a sphere of influence amendment in conformance with Section 56425 of the Cortese/Knox/Hertzberg Act:

- a. The present and planned land uses in the area, including agricultural and openspace lands.
- b. The present and probable need for district facilities and services in the area.
- c. The present capacity of district facilities and adequacy of public services that the agency provides or is authorized to provide.
- d. The existence of any social or economic communities of interest in the area that the Commission determines are relevant to the agency.

OBJECTIVE II.G: The sphere of influence reports for independent special districts clearly identify the types and capacity of services being provided to ensure their efficient and orderly delivery.

<u>Policy 13</u>: Ensure that independent special districts have adequately planned for the efficient delivery of services through requiring the following information be provided with sphere of influence applications:

- a. Identify the function, type and class of services provided by the district and available to future annexation areas; and
- b. Identify the nature, location and extent of any functions or classes of service provided by the district.

<u>Policy 14</u>: Unless authorized by the Cortese/Knox/Hertzberg Act, no new or different function or class of service shall be provided by a special independent district than that identified in the sphere of influence report adopted by the Commission.

#### C. CITY AND URBAN SERVICE DISTRICT ANNEXATION POLICIES

OBJECTIVE III. A: City annexations reflect a planned, logical and orderly progression of urban expansion and promote efficient delivery of urban services.

<u>Policy 1</u>: Annexation boundaries should form a logical and efficient urban development pattern.

<u>Implementation</u>: Utilize the following criteria in the review of annexation requests:

- The proposed annexation boundary is appropriate in relation to existing city boundaries.
- Avoid the creation of islands, corridors, peninsulas or other undesirable boundary characteristics that lead to service inefficiencies and potential land use conflicts.
- c. Proximity of the annexation to existing developed or developing areas within the City. Annexations shall be contiguous with existing city boundaries unless it can be demonstrated to be orderly, logical or appropriate under special circumstances.
- d. Evaluate any alternatives to the annexation which would be more consistent with orderly growth, open space protection and public service efficiency goals of LAFCO.
- e. The existence of any social or economic communities of interest within the proposed annexation territory including the relationship between any adjacent or nearby cities or special districts which provide urban services that may affect the territory.
- f. The use of natural or physical features (such as canals or roads) as annexation boundaries is encouraged over use of property lines. All annexation requests that do not conform to existing lines of assessment or property lines, shall be justified by the proponent.
- <u>Policy 2</u>: Annexation proposals should be consistent with and implement City General Plan and Sphere of Influence policies:

<u>Implementation</u>: Utilize the following criteria in the review of annexation requests:

- a. Consistency of the proposal with City General Plan policy including planned land use designation, densities and other land use and development policy.
- b. Consistency with planned phasing of growth and improvements as defined in the City's General Plan and/or Sphere of Influence Report.
- c. Consistency with adopted open space and conservation policies of the City.
- <u>Policy 3</u>: All territory proposed for annexation shall be prezoned by the City, and no changes in General Plan designations or prezoning are permitted within two years following annexation, consistent with the Cortese-Knox-Hertzberg Act of 2000.
- <u>Policy 4</u>: Public services shall be available to all annexed land in an efficient and orderly manner.

<u>Implementation</u>: Utilize the following criteria in the review of annexation requests:

- Adequacy of governmental services for both existing and proposed land uses within the annexation territory.
- b. The ability to provide needed public services and facilities as demonstrated in the "plan for services," including the sufficiency of revenue sources for those services.
- c. Timely availability of water supplies adequate for projected needs as specified in Section 56668(k) of the Cortese-Knox-Hertzberg Act of 2000.
- d. Demonstration that public services will not be provided to annexing territory to the detriment of territory already within the City.
- <u>Policy 5</u>: Promote a balance of housing for persons and families of all income levels.

<u>Implementation</u>: Utilize the following criteria in the review of annexation requests:

- a. The extent to which the proposal will assist the receiving entity in achieving its fair share of the regional housing needs as determined by the Merced County Association of Governments.
- <u>Policy 6</u>: Analysis of agricultural or open space impacts from an annexation will be minimized when the Commission can make a finding that these resources were fully addressed during establishment of the City's Sphere of Influence and the annexation is consistent with any related sphere policy to protect these resources.
- <u>Policy 7</u>: Utilize considerations consistent with the Cortese-Knox-Hertzberg Act of 2000 when evaluating agricultural and open space impacts on an individual annexation level.

<u>Implementation</u>: Utilize the following criteria in the review of annexation requests:

a. Consider the amount of existing vacant land within the City that is available for similar types of development to the proposed annexation. Make a comparison

of existing vacant and available land to the amount of land needed to accommodate growth needs over a ten year period as established in the City's General Plan or other official projection such as that adopted by the Merced County Association of Governments. The City must provide evidence why the consideration of existing vacant land is not appropriate based on such factors as location, limitations to infrastructure, development constraints, agricultural viability, economic market conditions, or unique characteristics of the annexation project.

- b. If the annexation involves the conversion of prime agricultural land or identified valuable open space land, consider alternatives to the annexation that avoid or reduce the impacts.
- c. If annexation will result in urban development adjacent to existing agricultural lands, consider measures to minimize potential conflicts such as land use transitions or buffers and "right to farm" notification to future residents.

Policy 8: In the case of large comprehensive development proposals, annexation should be phased whenever feasible. The Commission may approve annexation of all the subject territory if it finds the territory is likely to be developed within a reasonable period of time and if the City has adopted a phasing plan for the territory and policies for ensuring adequate facilities will be available once development occurs. Adoption of a specific plan for the territory by the City would be the most desirable means to ensure LAFCO policies are satisfied.

OBJECTIVE III. B: Urban service district annexations reflect a planned, logical and orderly progression of urban expansion and promote efficient delivery of urban services.

<u>Policy 1</u>: Annexation boundaries should form a logical and efficient urban development pattern.

<u>Implementation:</u> Utilize the following criteria in the review of annexation requests:

- The proposed annexation boundary is appropriate in relation to existing district boundaries.
- Avoid the creation of islands, corridors, peninsulas or other undesirable boundary characteristics that lead to service inefficiencies and potential land use conflicts.
- c. Proximity of the annexation to existing developed or developing areas within the district. Annexations shall be contiguous with existing district boundaries unless it can be demonstrated to be orderly, logical or appropriate under special circumstances.
- d. Evaluate any alternatives to the annexation which would be more consistent with orderly growth, open space protection and public service efficiency goals of LAFCO.
- e. The existence of any social or economic communities of interest within the proposed annexation territory including the relationship between any adjacent or nearby cities or special districts which provide urban services that may affect the territory.
- f. The use of natural or physical features (such as canals or roads) as annexation boundaries is encouraged over use of property lines. All annexation requests

that do not conform to existing lines of assessment or property lines, shall be justified by the proponent.

<u>Policy 2</u>: Annexation proposals should be consistent with and implement the County General Plan and district Sphere of Influence policies:

<u>Implementation</u>: Utilize the following criteria in the review of annexation requests:

- a. Consistency of the proposal with County General Plan and Community Plan policy including planned land use designation, densities and other land use and development policy.
- Consistency with planned phasing of growth and improvements as defined in the County General Plan and Community Plan.
- c. Consistency with planned phasing of growth and improvements as defined in the County's General Plan and/or district Sphere of Influence Report.
- d. Consistency with adopted open space and conservation policies of the County.
- e. The annexation territory is designated for urban land uses in the County General Plan, when the annexation area is proposed for urban development.

<u>Policy 3</u>: Public services shall be available to all annexed land in an efficient and orderly manner.

<u>Implementation</u>: Utilize the following criteria in the review of annexation requests:

- Adequacy of governmental services for both existing and proposed land uses within the annexation territory.
- b. The ability to provide needed public services and facilities as demonstrated in the "plan for services", including the sufficiency of revenue sources for those services.
- c. Timely availability of water supplies adequate for projected needs as specified in Section 56668(k) of the Cortese-Knox-Hertzberg Act of 2000.
- Demonstration that public services will not be provided to annexing territory to the detriment of territory already within the District.

Policy 4: Promote a balance of housing for persons and families of all income levels.

<u>Implementation:</u> Utilize the following criteria in the review of annexation requests:

a. The extent to which the proposal will assist the County in achieving its fair share of the regional housing needs as determined by the Merced County Association of Governments or the Housing Element of the Merced County General Plan.

<u>Policy 5</u>: Analysis of agricultural or open space impacts from an annexation will be minimized when the Commission can make a finding that these resources were fully addressed during establishment of the District's Sphere of Influence and the annexation is consistent with any related sphere policy to protect these resources.

<u>Policy 6</u>: Utilize considerations consistent with the Cortese-Knox-Hertzberg Act of 2000 when evaluating agricultural and open space impacts on an individual annexation level.

<u>Implementation</u>: Utilize the following criteria in the review of annexation requests:

- a. Consider the amount of existing vacant land within the District that is available for similar types of development to the proposed annexation. Make a comparison of existing vacant and available land to the amount of land needed to accommodate growth needs over a ten year period as established in the County's General Plan or other official projection such as that adopted by the Merced County Association of Governments. The district must provide evidence why the consideration of existing vacant land is not appropriate based on such factors as location, limitations to infrastructure, development constraints, agricultural viability, economic market conditions, or unique characteristics of the annexation project.
- b. If the annexation involves the conversion of prime agricultural land or identified valuable open space land, consider alternatives to the annexation that avoid or reduce the impacts.
- c. If annexation will result in urban development adjacent to existing agricultural lands, consider measures to minimize potential conflicts such as land use transitions or buffers and "right to farm" notification to future residents.

#### D. RURAL SERVICE DISTRICT CHANGE OF ORGANIZATION POLICIES

OBJECTIVE IV. A: Review of change of organization proposals involving rural service districts will focus on those factors that are germane to non-urban service delivery and resources.

Policy 1: The following specific criteria will be applied in review of changes of organization to rural service districts in accordance with Section 56668 of the Cortese/Knox/Hertzberg Act:

- a. The need for district services, cost and adequacy of services and future needs and effects of the annexation on service levels.
- b. Conformity with the County and/or City General Plan and sphere of influence of the rural district.
- c. The definiteness and certainty of the boundaries, conformance of the proposal with lines of assessment and ownership, creation of islands or corridors as well as alternatives.
- d. The maintenance of the physical and economic integrity of agricultural or valuable open space lands.
- e. Identification of any social or economic interest affecting the proposal, such as the relationship between any adjacent or nearby special district.
- f. If the change of organization involves a detachment, demonstration that either the City or County has amended their General Plans to allow for development if the territory when a detachment is proposed due to anticipated urbanization of the area.

#### E. <u>INDEPENDENT SPECIAL DISTRICT FORMATION POLICIES</u>

OBJECTIVE V.A: Agency formations are allowed in areas where a need for public services clearly exists and where no existing agency can adequately and efficiently provide those services.

<u>Policy 1</u>: Formation proposals must support inhabitants, land uses and/or development consistent with the General Plan of the affected land use authority.

Policy 2: All formation proposals for districts providing municipal services shall include the State mandated Master Service Element which will be used to establish an appropriate Sphere of Influence, if the formation is approved.

<u>Policy 3</u>: Formation proposals for districts providing municipal services will not be approved when the Master Service Element of the proposed district conflicts with the Master Service Element of an existing agency, unless services can be provided more efficiently.

<u>Implementation</u>: The formation proposal shall describe the relationship between

the proposed agency and all existing affected agencies, including the types and levels of service they perform.

They shall also contain a fiscal analysis detailing the services to be provided, estimated costs of providing those services for a period of at least five years, the related cost or rate to be charged service recipients, and the total annual revenues anticipated for at least five years.

<u>Policy 4</u>: Agency formations should only be supported where there is evidence for the fiscal success of the new agency.

## F. <u>CITY INCORPORATION POLICIES</u>

(Pending)

# G. <u>EXTENSION OF SERVICES BY CONTRACT (OUTSIDE CITY OR DISTRICT</u> BOUNDARIES)

OBJECTIVE VII. A: Extension of municipal services outside the boundaries of the service provider will be limited to circumstances where there exists a clear and immediate need and annexation is not feasible.

- <u>Policy 1</u>: For requests within a jurisdiction's sphere of influence, consider whether annexation is a logical alternative to extending services beyond the jurisdictional boundaries of the local agency.
- <u>Policy 2</u>: Consider the public benefit of the proposal, including the resolution of an existing health and safety hazard.
- <u>Policy 3</u>: The following factors will be utilized to determine the local and regional impacts of an out-of-agency contract for services:
  - a. The growth inducing impacts of any proposal.
  - b. The proposal's consistency with the policies and general plans of all affected local agencies.
  - c. The ability of the local agency to provide service to the proposal area without detracting from current service levels.

d. Whether the proposal contributes to the premature conversion of agricultural land or other open space land.

#### **Implementation**:

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 4:

An administrative approval may be allowed for those projects that pose an urgent health or safety concern, without consideration by LAFCO. The administrative approval shall be made jointly by the LAFCO Chairperson and the Executive Officer. Both must agree that an administrative approval is appropriate, based upon the criteria outlined below:

- a. The lack of service being requested constitutes an immediate health and safety concern.
- b. The property is currently developed.
- c. No future expansion of service will be permitted without approval from the Commission consistent with Policies 1, 2 and 3.

#### Policy 5:

The Commission will not support service extension outside a local agency's Sphere of Influence unless there is an existing or impending threat to public health or safety.

**Implementation**:

The Commission will follow the requirements contained in Section 56133(C) of the Government Code (Cortese/Knox/Hertzberg Act) in the review of proposals to serve territory with municipal services outside the local agency's sphere of influence.

#### CHAPTER III: MERCED LAFCO PROCEDURES

The following guide details procedures followed by the Merced County Local Agency Formation Commission (LAFCo) in implementing the Cortese/Knox/Hertzberg Act (AB 2838).

#### A. COMMISSION

The following outlines procedures the Commission will follow to conduct the LAFCO business.

#### 1. Meetings:

The regular meetings of the Merced County Local Agency Formation Commission shall be held on the fourth Thursday of each and every month, unless canceled by the Executive Officer due to lack of business, commencing at the hour of 2 p.m. at the County Administration Building, 2222 "M" Street, Merced California 95340. When a regular meeting falls on a holiday, the regular meeting of the Commission shall be held at the same place and at the same time on the next Thursday that is not a holiday. The November and December meetings are combined into one meeting to be held on the first Thursday in December.

When the business of a regular meeting cannot be concluded, the meeting may be adjourned to a time certain providing that the meeting is held prior to the next regularly scheduled meeting.

Any adjourned meeting of a regular meeting or adjourned regular meeting is part of the regular meeting.

#### 2. Commission Formation and Organization

Commission membership shall consist of two members appointed by the Board of Supervisors from their own membership. Two member selected by the city selection committee in the county, each of whom shall be a mayor or council member. The Board of Supervisors and the city selection committee shall appoint one alternate member from each panel who shall act as an alternate member in the event an appointed member is absent. The alternate member shall serve and vote in place of any appointed member on the commission who is absent or who disqualifies themselves from participating on a particular item. In addition, one member representing the general public and an alternate shall be appointed by the other members of the commission (§56325 GC).

#### 3. Chairperson – Vice Chairperson

The members of the Commission shall elect a Chairperson and a Vice Chairperson at the first meeting of the Commission in November of each year. The Chairperson and Vice Chairperson shall serve for a period of one year or until a successor is selected.

The Chairperson when present, shall preside at all meeting of the Commission and shall conduct the business of the Commission in the manner prescribed herein. The chairman shall preserve order and decorum and shall decide all questions of order, subject to the action of a majority of the Commission.

#### 4. Quorum

A majority of the members of the Commission shall constitute a quorum for the transaction of business.

No act of the Commission shall be valid or binding unless a majority of all Commission members (3) concur therein. A tie vote shall constitute a denial.

In the absence of a quorum, the members present shall adjourn the meeting. If all members are absent, the Executive Officer may adjourn the meeting.

In the absence of, or inability to act of, the Chairman, the Vice Chairman shall have all the powers and duties of the Chairman. In the absence of both the Chairman and Vice Chairman, the Executive Officer shall call the Commission to order, then the members present shall select one of the members present as Temporary Chairman.

#### 5. Conduct of Meetings

The business of each regular meeting of the Commission shall be transacted as far as possible in the following order:

- a. Roll Call
- b. Disposition of minutes of previous meeting(s)
- c. Scheduled Public Hearings
- d. Continued Items
- e. Business from the Floor
- f. Special Orders
- g. Miscellaneous Business
- h. Information Items

This order can be changed at the discretion of the Chairman.

Items may be added to the agenda at any time at the discretion of the Chairman.

A motion made by any member of the Commission requires a second. Following the motion and any discussion, a voice vote shall be taken. The Chairman may make and second motions.

The roll call need not be called in voting upon a motion except when requested by a member. If the roll is not called, in the absence of a "Nay" vote, the Chairman may order the motion unanimously approved. When the roll is called on any motion, any member present who does not vote in an audible voice shall be recorded as "Aye". A stated abstention does not count as a "Nay" or "Aye" vote and shall be recorded as an abstention.

Each roll call of the Commission shall be in alphabetical order, except that the Chairman shall be called last.

Persons desiring to address the Commission shall first secure the permission of the Chairman. They shall then give their name and address, before proceeding to address the Commission.

The staff shall make its report first. The proponents shall then present their testimony. After the staff and proponents have presented testimony, the Commission shall hear testimony of those opposing the proposed action and such further testimony as the Chairman shall determine. At the conclusion of the testimony, as determined by the Chairman, the hearing shall be closed and the matter referred to the Commission for action.

Unless the presiding officer in his discretion shall direct otherwise, the following rules of evidence shall apply: (1) The hearings need not be conducted according to judicial rules of evidence; (2) Any relevant evidence may be admitted if it's the sort of evidence on which responsible persons are accustomed to rely and the conduct of serious affairs; (3) Witnesses will not ordinarily be sworn unless a specific request is made therefore prior to the hearing; (4) Any person wishing to direct questions to an opposing witness shall submit such questions to the Chairman, who will in turn ask the questions of the witness.

#### 6. Minutes

The Commission shall keep minutes of its meetings. Minutes shall be approved by the Commission and, upon approval, shall be signed by the Executive Officer or another person designated by the Executive Officer.

#### B. <u>APPLICATION PROCEDURES</u>

The following is given as a guide to assist those interested in submitting general local government organizational changes. For procedural information regarding other types of activities involving LAFCO, please see the appropriate Sections within this manual.

#### 1. Preliminary Steps

- a. <u>Pre Application Meeting</u>: Applicants are encouraged to schedule a pre application meeting with LAFCO staff. These meetings will serve to offer direction and to inform applicants of the necessary steps in an attempt to prevent unnecessary time delays. Applicants are encouraged to bring a Sphere of Influence Map and/or boundary map indicating all Assessors Parcel Numbers and boundaries involved in the proposed project
- b. <u>Notice of Intent</u>: Before circulating any petition for a change of organization, the proponent shall file with the Executive Officer a notice of intention, which shall include the name and mailing address of the proponent and a written statement, not to exceed 500 words in length, setting forth the reason for the proposal. The notice shall be signed by a representative of the proponent, and shall be substantially in the following form (§56700.4a):

Notice of Intent to Circulate Petition	
Notice is hereby given of the intention to circulate a petition	on
proposing to	
The reasons for the proposal are	

After filing the required Notice of Intent to Circulate Petition, the petition may be circulated for signature. Upon receiving such notice, the Executive Officer shall notify any affected jurisdiction (56700.4c).

Upon receipt of a proposed change of organization not filed by a local agency that includes the detachment of territory from any city, or annexation of territory to any district, the Executive Officer shall place the proposal on the agenda for the next Commission meeting for information purposes only, and shall transmit a copy of the proposal and agenda to the affected city or district. If the affected city or district transmits a resolution to the Commission requesting termination of proceedings, the Commission shall terminate the proceedings (56751, 56857).

- c. <u>Application Preparation</u>: All proposals must include the following (§56652):
  - 1) A certified resolution <u>or</u> a petition of landowners/registered voters making application. A resolution must contain the same information as petition, except for signatures. A petition shall include all of the following (§56653):
    - a) A statement of the nature of each proposal.
    - b) Maps and legal description of the proposed boundary change of organization.
    - Any data and information as may be required by any regulation of the Commission.
    - d) Environmental Documents
    - e) Fees
    - f) Names of those persons, not to exceed three, who are to be furnished with copies of the report by the Executive Office and who are to be given mailed notice of the hearing.

#### 2. Commission Proceedings

- a. Application submittal: (§56652)
- b. <u>Application Received Notice:</u> Mailed notice that application has been received is given to interested agencies, subject agency, the county committee on school district organization, and each school superintendent whose school district overlies the subject area. See §56658 for notice content.
- c. <u>Input Letters</u>: Letters requesting review and information are sent to appropriate County departments, affected agencies, and other affected county LAFCOs (56658). Comments are to be received by LAFCO within 20 days.
- d. Sufficiency Determination: Executive Office Determination of Sufficiency
  - 1) The Executive Officer must make a determination of sufficiency within 30 days of application submittal.
    - a) Appropriate Property Tax Sharing Agreements are on file with LAFCO.
    - b) Determination is made that application is complete (and that all property tax sharing agreement are on file) and issues a certificate of filing, setting the commission hearing within 90 calendar days;
    - c) Determination is made that application is incomplete and notifies the applicant according to provisions in §56652.
  - 2) Certificate of Filing is mailed along with Receipt of funds.
- e. <u>Legal Notice</u>: The Executive Officer, at least 21 calendar days prior to the date set for hearing, give notice (, 56600, 56661):
  - 1) Publication in a newspaper of general circulation,
  - 2) Posting on the LAFCO Web Site and near the door of the hearing room (§56300f, 56661),
  - 3) To the proponents, each person requesting special notice, the county clerk (for incorporations), and each affected local agency (by giving notice to each elected

- local official, each member of the governing body, and the executive officer of the agency) (§56661a)
- 4) To all registered voters and property owners, as shown on the most recent assessment roll, within the affected area and 300 feet of the exterior boundary of the proposal. If this requirement would necessitate a mailing of over 1,000, notice may alternatively be provided pursuant to Government Code Section 65091 (56157, 56661h).

#### 3. Commission Hearing Process

a. <u>Waiver of Notice, Hearing or Election</u>: The Commission may approve or disapprove the change of organization without notice, hearing, or an election under the following circumstances (§56663):

#### 1) Inhabited Land:

- a) If a petition is signed by all owners of land within the affected territory of the proposed change of organization.
- b) If a resolution of application by a legislative body of an affected entity is accompanied by proof, satisfactory to the commission, that all owners of land within the affected territory have given their written consent to that change of organization.

#### 2) Uninhabited Land:

- a) All owners of land within the affected territory have given their written consent to the change of organization.
- All affected local agencies that will gain or lose territory as a result of the change of organization have consented in writing to a Waiver of Protest Proceedings
- b. <u>Executive Officer's Report</u>: The Executive Officer has the application analyzed and a written report prepared (§56665). The report shall include at least an analysis of those factors as stated under §56668 and a recommendation. The report shall be completed not less than five (5) days prior to the date of the hearing.
- c. <u>Mailed Report</u>: The completed report is mailed at least five days prior to the hearing to each commissioner, each person named in the application to receive a report, each affected local agency requesting a report, each agency whose boundaries or sphere of influence will be changed, and the Executive Officer of the LAFCO of any other affected county (§56665).
- d. <u>Public Hearing</u>: The Commission hears the proposal on the noticed date and time. The hearing may be continued for up to 70 calendar days.
- e. <u>Resolution of Determination</u>: Within 35 calendar days of the hearing the commission will adopt a resolution of determination taking the following actions (§56880, 56881, 56882, 57000):
  - 1) Approve or deny with or without conditions or revisions to the proposal. If denied, no new proposal can be made for one year unless waived by LAFCO. If the proposal included incorporation or consolidation of a city, no new proposal can be made for two years unless waived by LAFCO (§56880, 56881, 57090).
  - 2) Determine if the territory is inhabited or uninhabited (inhabited territory means territory within which there resides 12 or more registered voters).
  - 3) Assign a short form designation.

- 4) Authorize proceedings without notice, hearing, or an election, if there is 100% consent and involves only annexations, detachments, and Community Service Areas (CSA) formations (§56837). See below item number 13 Waiver of Protest.
- 5) Establish conditions as authorized by \$56885.5, 56886, 56886.3, 56886.5, 56887, 56887.5, 56888, 56889 and 56890.
- 6) A copy of the adopted resolution shall be mailed to the chief petitioners where the proceedings for change of organization were initiated by petition and each affected agency whose boundaries would be changed by the proposal.
- 7) Resolution Amendment: The Executive Officer may, before the completion of a proceeding, on good cause being shown, correct clerical errors or mistakes made through inadvertence, surprise, or excusable neglect that may be contained in the resolution adopted by the commission making determinations, upon written request by any member of the commission, by the executive officer, or by any affected agency. A correction made pursuant to this section shall not be cause for filing a request pursuant to §56883.
- 8) In any action or proceeding to attack, review, void or annul a determination by a commission on grounds of noncompliance with this division, any inquiry shall extend to whether there was fraud or a prejudicial abuse of discretion (§56107[c]).
- f. <u>Reconsideration:</u> When a commission has adopted a resolution making determinations, any person or affected agency may file a written request for amendments to or reconsideration of the resolution (§56895) based on the following requirements:
  - 1) The request must state the specific modification to the resolution.
  - 2) The request shall state what new or different facts that could not have been presented previously, are claimed to warrant the reconsideration.
  - 3) Requests for reconsideration filed by a school district must be considered by the commission at a public hearing.
  - 4) All requests for reconsideration shall be filed within thirty (30) days of the adoption of the resolution making determinations.
  - 5) Notice for reconsideration of the request must be given in the same manner as the original resolution.
- g. <u>Follow up from Petitioners</u>: The Executive Officer gathers follow up materials from applicant, including revised maps and ensures all conditions have been met.
- h. Waiver of Protest: Section 56663 (c, d)
  - 1) Inhabited Land: The commission may waive protest proceedings if all of the following conditions apply:
    - a) 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 landowners within the affected territory is received prior to or during the commission meeting.
    - b) The written notice shall disclose to the registered voters and landowners that unless opposition is expressed regarding the proposal or the commission's intention to waive protest proceedings, that there will be no subsequent protest and election proceedings

- c) All affected local agencies that will gain or lose territory as a result of the change of organization have consented in writing to a waiver of protest proceedings.
- 2) Uninhabited Land: The commission may waive protest proceedings entirely if all of the following conditions apply:
  - a) All owners of land within the affected territory have given their written consent to the change of organization.
  - b) All affected local agencies that will gain or lose territory as a result of the change of organization have consented in writing to a waiver of protest proceedings.
  - c) The commission has provided written notice of commission proceedings to all property owners and registered voters within the subject territory and no opposition is received prior to or during the commission meeting.
- i. <u>Protest Proceedings</u>: Shall occur when the commission does not waive hearing and protest proceedings.
  - 1) The Executive Officer shall set the proposal for protest hearing within 35 calendar days of the Commission's adoption of a resolution making determinations of a Change of Organization and following the reconsideration period (§57002).
  - 2) The Executive Officer shall give notice of that hearing by mailing, publication, and posting, as provided in §57025 and 57026 to all of the following:
    - a) Each affected county, city or district.
    - b) Each proponent noted in the petition.
    - c) Each landowner within the affected territory as shown upon the most recent assessment roll at the time a resolution of application is adopted.
    - d) Each registered voter within the inhabited territory who was registered at the time a resolution of application was adopted.
    - e) Persons requesting special notice.
    - f) Notice shall be published in one newspaper of general circulation 21 days prior to the hearing (\$56153 56154).
    - g) Notice shall be posted near the doors of the protest hearing room 21 days prior to the hearing (\$56158 56159).

# j. Protest Hearing (§ 57050, 57051, 57076 &57077)

- 1) The Executive Officer must summarize the commission's resolution at the start of the protest hearing and receive and hear all oral or written protests, objections, or evidence which is made, presented or filed.
- 2) Any owner of land or any registered voter (within inhabited territory) proposed to be annexed or detached may file a written protest against the annexation or detachment anytime prior to the conclusion of the hearing, and shall include contents as noted in Section 57051.
- 3) Within thirty (30) days following the protest hearing the commission must make a finding as to the value of written protest filed and not withdrawn and take one of the following actions:
  - a) Inhabited Territory (12 or more registered voters):
    - 1 Terminate proceeding if a majority protest exists (§57078)

- Order the change of organization subject to confirmation by the registered voters residing within the affected territory if written protests have been filed and not withdrawn by either:
  - At least 25 percent, but less than 50 percent, of the registered voters residing in the affected territory,
  - At least 25 percent of the number of owners of land who also own at least at 25 percent of the assessed value of land with the affected territory.
- <u>3</u> Order the change of organization without an election if 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 with the affected territory.
- b) Uninhabited Territory (less than 12 registered voters):
  - <u>1</u> Terminate proceedings if a majority protest exists in accordance with Section 57078.
  - Order the change of organization 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.
- 4) For any Change of Organization, a majority protest shall be deemed to exist and the proposed change of organization shall be abandoned if the commission finds that written protests filed and not withdrawn prior to the conclusion of the hearing represents one of the following:
  - a) In the case of uninhabited territory, landowners owning 50 percent of more of the assessed value of the land with the territory.
  - b) In the case of inhabited territory, 50 percent of more of the voters residing in the territory.
  - c) In the case of a landowner-voter district, 50 percent or more of the voting power of the voters entitled to vote as a result of owning land within the district (see Section 57076).
  - d) For registered voter districts or cities see Section 57075.
- k. <u>Elections Proceedings</u>: When the commission makes a determination that will require an election, it shall inform the Board of Supervisions or the City Council of the affected city of that determination and request the Board or the City Council to direct the elections official to conduct the necessary election (§57000). The Board or City Council shall do all of the following:
  - 1) Call, provide for, and give notice of a special election or elections upon that question.
  - 2) Fix a date of election.
  - 3) Designate precincts and polling places.
  - 4) Take any other action necessary to call, provide for, and give notice of the special election or elections and to provide for the conduct and the canvass of returns of the election, as determined by the commission.

#### 1. Conducting Authority Proceedings:

- 1) If the commission has waived protest proceedings in accordance with C.1 above and the commission's resolution includes all actions, no further conducting authority proceedings are necessary, and a "Certificate of Completion" will be issued (See #13).
- 2) However, when a protest hearing has occurred and an insufficient number of protests were submitted to require an election, as noted in C.10 above, or the proposal passed the election process as noted in C.11, a resolution ordering the change shall be placed on the LAFCO agenda as a consent calendar item within 30 days (§57075).
- 3) If a majority of votes were cast against the change of organization at an election (or a majority of landowners submitted a petition opposed to the change of organization) the commission shall execute a "Certificate of Termination of Proceedings", and the file will be closed.

#### m. Completion and Effective Date:

- 1) The Executive Officer issues a "Certificate of Completion", which completes the proceedings. The certificate is recorded with the County Recorder. If no effective date is specified in the commission resolution, the recordation date is the effective date for the Change of Organization. A statement of boundary change or creation is issued by the Executive Officer and filed with the appropriate fees with the State Board or Equalization for any boundary change for an agency that receives taxes through the equalized assessment role. If the proposal involves a change to a city's boundary, a notice is also given to the Secretary of State.
- 2) Notice of completion and effective date is given to all affected agencies and affected county departments.
- Proceedings for completion of a governmental reorganization must occur within one year of commission approval unless the commission authorizes an extension (§57001).

#### C. FEES

- 1. A fee is required by Merced County LAFCO for processing all applications with payment required at the time of application submittal. The approved Schedule of Fees shows fees for each of the applications under LAFCO jurisdiction. These fees do not necessarily represent the total cost to process an application. In some large applications, LAFCO reserves the right to charge applicants the full cost of application processing. (§56383).
- 2. State Board of Equalization Fees: These fees are charged by the State for all reorganizations involving agencies that collect taxes using the equalized assessment role and are based on the number of acres involved in each single area transaction. The State Board fees are collected after LAFCO approves the respective application and prior to recordation of the Certificate of Completion.