

***INCORPORATION
POLICIES, GUIDELINES AND PROCEDURES***

***A GUIDE TO LAFCO PROCESS
FOR
CITY INCORPORATIONS IN EL DORADO COUNTY***

***INCORPORATION
POLICIES, GUIDELINES AND PROCEDURES***

A GUIDE TO LAFCO PROCESS

FOR

CITY INCORPORATIONS IN EL DORADO COUNTY

Prepared by:

Peter Banning, Consultant

Roseanne Chamberlain, Executive Officer

Published: June 1998

ACKNOWLEDGMENTS

The attached Incorporation Guidelines, Policies and Procedures are the result of a cooperative effort of many individuals and groups to seek a consensus and establish ground rules for the potentially contentious incorporation process.

Beginning in November 1997, the El Dorado LAFCO took the leadership role in fostering policy discussions and building an understanding of the Incorporation process in the county. The Commission, under the leadership of Kenneth Bush (1997 Chairman) and Walt Shultz (1998 Chairman), successfully adopted policies to ensure orderly analysis and an open process for incorporations. The work of the Commission extended over a seven month period and included public hearings and meetings with numerous agencies, their officers and members of the public.

The County Administrative Officer, Michael Hanford, and his assistant, Tom Soike were particularly helpful in their review and comment through every stage of the process. Their analysis and insights in the area of government finance were essential to the preparation of the LAFCO policy analysis. The Commission is also grateful for Mr. Hanford's participation in numerous hearings and his support for the preparation of this document.

The members of the El Dorado Hills Incorporation Committee participated throughout the process and contributed in countless ways to the overall quality of the document. Their comments and policy proposals were much appreciated by staff and the Commission.

Peter Banning, consultant, and Roseanne Chamberlain, Executive Officer, integrated and adapted material from many sources to build the framework for policy development. Susan Stahmann, Clerk to the Commission, worked diligently to prepare the document for publication.

Particular thanks for the quality of this work is due to each of the LAFCO Commissioners who individually engaged in dialogue, formulated questions, and built the consensus necessary for adoption of these policies.

EL DORADO
LOCAL AGENCY FORMATION COMMISSION

COMMISSIONERS

City Members

W. Trent Saxton (City of Placerville)

Margo Osti (City of South Lake Tahoe)

County Board of Supervisors Members

J. Mark Nielsen

Walt Shultz

Public Member

Aldon R. Manard

Special Districts Members

Kenneth Bush (Pioneer Fire Protection District and
Showcase Ranches Community Services District)

Wayne H. Haug (El Dorado Hills Community Services District)

ALTERNATE COMMISSIONERS

Kathi Lishman, City

Raymond J. Nutting, County

Harriett Segel, Public

Robert Flynn, Special Districts

TABLE OF CONTENTS

	<i>PAGE</i>
I. INTRODUCTION	
A. Purposes of Incorporation	1
B. Overview of the Incorporation Process	1
C. Costs	2
D. Organization and Support	3
<i>El Dorado LAFCO Policies</i>	3
II. THE INCORPORATION APPLICATION	
A. General Application Requirements	4
<i>El Dorado LAFCO Policies</i>	4
B. Application Contents	4
1. Application by Petition	4
2. Application by Resolution of an Affected Agency	6
3. Description of Incorporation Proposal	7
<i>El Dorado LAFCO Policies</i>	7
4. Boundaries & Spheres	8
<i>El Dorado LAFCO Policies</i>	9
5. Special Districts in the Incorporation Area	10
<i>El Dorado LAFCO Policies</i>	11
6. Map & Legal Description	11
<i>El Dorado LAFCO Policies</i>	11
7. Fees	12
<i>El Dorado LAFCO Policies</i>	12
III. STAFF REVIEW	
A. Processing of Incorporation Petitions	13
B. Environmental Documentation under the California Environmental Quality Act (CEQA)	13
C. Comprehensive Fiscal Analysis	15
1. Statutory Requirements	15
<i>El Dorado LAFCO Policies</i>	16
2. Estimated Property Tax Transfer	16
3. Financial Feasibility	17
<i>El Dorado LAFCO Policies</i>	17
4. Review of Comprehensive Fiscal Analysis by State Controller	17
<i>El Dorado LAFCO Policies</i>	18

TABLE OF CONTENTS

	PAGE
III. STAFF REVIEW (Continued)	
D. Revenue Neutrality	18
<i>El Dorado LAFCO Policies (page 18-21)</i>	
1. Process and Procedures	19
2. Revenues/Expenditures considered for revenue neutrality purposes	20
3. Terms and Conditions	21
4. Duration of Fiscal Impact Mitigation	21
5. Method of Annual Payment	21
6. Effective date of Incorporation	21
E. Executive Officer's Report and Recommendation	
1. Statutory Requirements	21
2. Discussion and Comment	22
IV. PUBLIC HEARING	
A. General	23
B. Commission Actions	23
1. Section 56375.1 Incorporation Findings	24
2. Terms and Conditions	24
3. Revenue Neutrality	24
4. Modification of Incorporation Boundaries	24
5. Acceptance or Rejection of Findings	25
6. Environmental Determination	25
7. Property Tax Determination	25
8. Provisional Appropriations Limit Determination	25
C. Request for Reconsideration	25
V. CONDUCTING AUTHORITY HEARING	
A. Conducting Authority Fees	26
B. Board of Supervisors Hearing	26
VI. ELECTION	27
VII. COMPLETION	28
VIII. ATTACHMENTS	29

EL DORADO COUNTY INCORPORATION GUIDELINES

I. INTRODUCTION

A. PURPOSES OF INCORPORATION

Incorporation of a city is a process which shifts local government responsibility for an unincorporated area under the jurisdiction of a county board of supervisors to a newly established city council. This process is accomplished under the Cortese-Knox Local Government Reorganization Act, the law governing all local government organization changes. The definition of incorporation given in the Cortese-Knox Act states: "Incorporation means the incorporation, formation, creation, and establishment of a city with corporate powers." (§56043)

The more general definitions of incorporation include: to form into one body or whole, to constitute as a legal corporation, or the formation of one body of many individuals. In California, groups of citizens (and sometimes established local governments) will pursue city incorporation in order to achieve goals such as:

- To improve local public services
- To capture increased revenues from state or federal sources to support local services
- To give a local community control over land use planning
- To create a politically accountable governing body (a city council) in a more limited geographic area
- To resist inclusion within the boundaries of other local government jurisdictions
- To pursue other local policy goals such as rent control or infrastructure development

The reasons for incorporation efforts vary from place to place with local circumstances. The purpose of these guidelines is to present in an accessible format general information on the incorporation process, the roles of the different actors in that process and the criteria that must be met by a successful incorporation proposal.

B. OVERVIEW OF THE INCORPORATION PROCESS

The procedure for the incorporation of an unincorporated community in the State of California is a long, expensive and very complex process. The complexity of the process however, is designed to ensure that any proposed incorporation is economically feasible, in the best interests of the community and environmentally and logically sound. The procedures for incorporation must be followed precisely if long delays and potential litigation are to be avoided.

Incorporation proceedings begin with either a group of local citizens or an existing local government agency applying to LAFCO. An incorporation application requires a proposed boundary, a plan for local government services to be provided by the new city, an analysis of the proposed city's financial feasibility, an analysis of environmental impacts (if any), and payment of fees and costs associated with processing the proposal.

EL DORADO COUNTY INCORPORATION GUIDELINES

The LAFCO staff organizes the review of the proposal and formulates a recommendation. The LAFCO holds public hearings. After the conclusion of the hearing, the Commission may approve the proposal, approve it with conditions, or deny the proposal.

If approved, the county Board of Supervisors holds a public hearing to determine if there is sufficient protest to block the incorporation. The Board of Supervisors is not empowered to alter the terms of a LAFCO-approved incorporation. A protest of 50% or more of registered voters in the proposed incorporation area terminates the process. If less than 50% protest is submitted, the Board of Supervisors must set a date for an election on the incorporation issue. If approved by voters within the proposed city boundaries, incorporation becomes effective on the date determined by LAFCO.

Incorporation is a complex and often controversial process because it changes how local services are provided, which elected officials are accountable for them, how local residents participate in government, how services are paid for, and often, how much services cost. All persons in the incorporation area, residents in adjoining areas, other cities, the county and special districts may be directly affected by the changes brought about by the incorporation of a new city.

As with other complex public issues, city incorporations require information in the form of studies and staff reports and involve a host of participants: citizen groups, the boards and staff of existing local governments, LAFCO and its staff, consultants, attorneys, and registered voters. The Cortese-Knox Act structures the interactions of these participants to ensure that a new city will be a viable organization that can pursue its goals without substantial harm to other local governments.

The Local Agency Formation Commission is intended to act as a neutral hearing body in evaluating the merits of the proposal without having a stake in the outcome of an incorporation effort. As the effects of a proposed incorporation become known and conflicting interests of affected parties emerge, the LAFCO staff is often in the role of moderator or facilitator, assuring that adequate information is developed and that basic legal requirements are met. Staff will also work cooperatively with incorporation proponents to ensure that the most thorough, complete and most accurate proposal is developed for the Commission's consideration.

C. COSTS

A by-product of the complexity of incorporation is that it is an expensive process. Incorporation proponents are responsible for most of the costs of producing and evaluating a proposal for a new city. The costs for processing and filing fees, mapping, consultant services, and other charges may exceed \$100,000 as evidenced by recent incorporations in the state. El Dorado County incorporation processing fees and deposit requirements are detailed in Section II. B. Application Contents.

EL DORADO COUNTY INCORPORATION GUIDELINES

D. ORGANIZATION AND SUPPORT

The existence of a broad-based community organization is a practical requirement for developing and pursuing incorporation efforts. An incorporation committee commonly functions to define and articulate incorporation goals on behalf of the community at large, raise funds, collect signatures, assemble application materials, work with LAFCO staff and consultants, testify at hearings and negotiate changes in the proposal to enhance its viability.

The importance of an incorporation committee or other community organization also implies leadership functions. The ability of a small number of community leaders to interact effectively with staff and consultants is crucial to the development of a viable proposal that meets overall community incorporation goals.

The Cortese-Knox Act provides for three "chief petitioners," who are persons designated in a petition for the purpose of receiving any notice authorized or required to be given to incorporation proponents. Proponents should be prepared to participate in a lengthy and interactive process. They are closely and continually involved in developing the application, proposing and negotiating terms and conditions and other key decisions leading up to approval of the proposal.

El Dorado LAFCO Policies

- At the time of the filing of an incorporation application, the Executive Officer and the incorporation proponents shall establish a clear understanding of the status and representational role of any individuals, groups, committees, agencies and petitioners for incorporation.
- The proponents of incorporation shall designate in writing the party responsible for the payment of fees.
- The proponents of incorporation shall designate in writing one individual who will serve as the principal contact to LAFCO and shall be responsible for disseminating information to other members of the incorporation organization. The proponents may change this designation at any time with written notification to the Executive Officer. If the designated individual is not one of the chief petitioners, he or she shall also receive notice which is required or authorized to be given to the chief petitioners.
- The proponents of incorporation may change these designations at any time.

EL DORADO COUNTY INCORPORATION GUIDELINES

II. THE INCORPORATION APPLICATION

A. GENERAL APPLICATION REQUIREMENTS

The Cortese-Knox Act requires only that areas proposed for incorporation include at least 500 registered voters, that the area be entirely within the boundaries of one county and that the incorporating territory be contiguous and without exclusions (islands). State law empowers each LAFCO to adopt additional standards for incorporation proposals (§56375 [i]).

El Dorado LAFCO Policies

- LAFCO will approve an incorporation only if it finds that the proposal complies with the general policies and standards applicable to all changes of organization.
- The proposed incorporation should not have significant adverse social and economic impacts upon any particular communities or groups in the incorporating area or affected unincorporated area.
- Applicants for an incorporation project shall complete the application requirements within a period of 24 months following the opening of their project file. The applicants will be notified at least 90 days before the 24-month deadline. If the application requirements remain incomplete after 24 months, closure of the incorporation application or an extension upon good cause being found by the Commission will be determined at a noticed public hearing.

B. APPLICATION CONTENTS

1. Application by Petition

A petition for incorporation of a new city requires the signatures of at least 25% of the total number of land owners (owning property valued at a minimum of 25% of the total assessed value of land in the incorporating area) or 25% of the total number of registered voters from within the area proposed to be incorporated (§56750). A sample petition is included in this document as Attachment B.

a. Text Requirements

The text of a petition for city incorporation must include the following (§56700-56711):

- A statement that the proposal is made pursuant to the Cortese-Knox Local Government Reorganization Act, Government Code Section 56000 *et seq.*
- A brief statement of the nature of the proposal, such as "Municipal Incorporation" or "Incorporation of the _____ area as the City of _____." Any other changes of local government organization, most often changes

EL DORADO COUNTY INCORPORATION GUIDELINES

to special district organization, must also be included in this statement. For example, "Municipal incorporation of the City of _____, including the dissolutions of the _____ Community Services District and County Waterworks District No. 8."

- A map and description of the boundaries of the area to be incorporated.
- Applicants' requested terms and conditions to be attached to approval of the incorporation by LAFCO under its authority to attach conditions (See §56841 for permissible terms and conditions).
- A statement of the reason(s) for the proposed incorporation.
- A statement as to whether the petition is signed by registered voters or landowners.
- The names of three chief petitioners.
- A request that further proceedings be taken by the Local Agency Formation Commission pursuant to the provisions cited.
- A statement of whether the proposed incorporation is consistent with the *spheres of influence* previously adopted by LAFCO.

b. Signature Form Requirements

The form of the petition must provide for each signer's printed name, street address (post office boxes are not sufficient), signature and the date of signature (§56704). For landowner petitions, each signature must be accompanied by a description of property owned within the incorporation area, such as an assessor's parcel number.

All signatures must be gathered within a six month period from the date of the first signature (§56705). The LAFCO executive officer must be notified of the date of the first petition signature in order to establish the total number of registered voters in the proposal area and to establish a numerical signature requirement. Incorporation petitions must be submitted to LAFCO for filing within 60 days of the date of the last signature on the petition.

The total number of valid signatures necessary to meet the 25% requirement for a *petition of registered voters* will be established by the registrar of voters as of the date of the first signature on the petition (§56375[h]).

Each signer of the petition must be either a registered voter or landowner as specified by the petition within the boundaries of the proposed incorporation.

EL DORADO COUNTY INCORPORATION GUIDELINES

c. Requirements for Petition Circulators

Petition Circulators must be registered voters and must execute the "Affidavit of Circulator" on each page of the petition. If a non-qualified person circulates the petition, the entire petition circulated by that person may be invalidated.

d. Discussion & Comment on Incorporation Petition Process

In addition to the many requirements for petitions described in State law, the following suggestions are offered to incorporation proponents for management of the incorporation petition:

- The most effective way of ensuring that the form of the petition fulfills the requirements of the Cortese-Knox Act is to submit a draft of the petition to LAFCO staff prior to circulation.
- Petition circulators should not promise or guarantee particular benefits from the proposed incorporation. Until the proposal is approved by LAFCO and the new city council is elected and begins to establish policy, there is no way to assure what policies will be established, what levels of service will be provided or what costs will be incurred.
- It is advisable to collect at least 10% to 15% more signatures than the minimum requirement in order to compensate for signatures found to be invalid after the petition is filed. LAFCO staff will provide the proponents with the minimum number of signatures required based upon a review of the map of the territory proposed for incorporation by the registrar of voters and the date of the first petition signature.
- Review the map of the area with each signer of the petition to confirm his or her residence within the proposed incorporation boundary. This practice will reduce the number of invalid signatures.
- Establish a target date by which petitions should be ready for submission to LAFCO. This insures that circulators will finish their task in time to meet the mandatory legal time limits.

2. Application by Resolution of an Affected Agency

It is possible under the Cortese-Knox Act, though uncommon, for the board of an affected public agency such as a community services district or the county board of supervisors to assume responsibility and serve as applicant in an incorporation proposal. Any affected agency in the area proposed for incorporation may become the applicant by adopting a resolution of application (§56800). The contents of the resolution must include all of the same components as an application petition (described above) except for the signature requirements. The district board assumes the leadership role in the complex incorporation process and is responsible for completion of all application requirements including the payment of fees.

EL DORADO COUNTY INCORPORATION GUIDELINES

3. Description of Incorporation Proposal

All applications for changes of organization filed with LAFCO must include basic information on the nature of the proposal (§56652). Some of this requirement may be satisfied by completion of a standard LAFCO application form, which is included with this document as Attachment A.

Incorporation proposals will generally require the development of information specific to the circumstances of the proposed new city. The executive officer may specify additional informational requirements both at the time the application is submitted and supplementary requirements as the proposal is analyzed by staff. Sections 56652 (d) and (e) provide the Commission and its Executive Officer with authority to require additional information as needed to process the incorporation proposal.

The Cortese-Knox Act requires a formal plan for providing services for applications filed by resolution of an affected agency. However, the feasibility and financial effects of an incorporation proposal are impossible to determine without specific service arrangements being part of the proposal. In addition, the requirements for financial study of incorporation proposals result in the need for in-depth analysis of local government services and finance.

It has become common practice for incorporation proponents to undertake a preliminary fiscal analysis in order to establish an initial indication of financial feasibility prior to formal application. A preliminary study is helpful in identifying major financial issues in an incorporation proposal and ways in which the proposal itself might be altered to overcome the difficulties. A preliminary study will identify a proposal that is clearly infeasible, thereby eliminating the need to spend a much larger sum on a comprehensive study. A preliminary fiscal analysis may also be useful to proponents in building support for incorporation.

El Dorado LAFCO Policies

- An application for incorporation will include a preliminary feasibility analysis that estimates municipal costs and revenues resulting from the proposed plan for services. The preliminary feasibility analysis may be performed by incorporation proponents or their contractors.
- All incorporation proposals must include the elements required for a plan for providing services under §56653:
 1. An enumeration and description of the services to be extended to the affected territory.
 2. The level and range of those services.
 3. An indication of when those services can feasibly be extended to the affected territory.

EL DORADO COUNTY INCORPORATION GUIDELINES

4. An indication of any improvement or upgrading of structures, roads, sewer or water supplies and facilities, or other conditions the local agency would impose or require within the affected territory.
5. Information with respect to how those services will be financed.

4. Boundaries & Spheres

a. Statutory Requirements

Although there are no specific provisions in the Cortese-Knox Act requiring a discussion or justification of proposed incorporation boundaries, there are general provisions that define legislative policy. These provisions apply to all types of changes of organization and include:

56001 ...The Legislature recognizes that the logical formation and determination of local agency boundaries is an important factor in promoting orderly development. Therefore, the Legislature further finds and declares that this policy should be effected by the logical formation and modification of the boundaries of local agencies.

56841(f) Factors to be considered in the review of a proposal shall include:(f) The definiteness and certainty of the boundaries of the territory, the non-conformance 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.

56109 territory shall not be incorporated into ... a city ... if, as a result of that incorporation or annexation, *unincorporated territory* is completely surrounded by that city or by territory of that city on one or more sides and the Pacific Ocean on the remaining sides.

b. Discussion and Comment on Setting Proposal Boundaries

While there is usually a consensus among city proponents as to the general geographic area under consideration, the establishment of specific boundaries is usually more difficult. *The following is a list of factors for applicants to consider when proposing incorporation boundaries:*

Service Delivery. Incorporation proponents should be able to answer the following questions in the affirmative: Can all areas within the proposed boundaries be provided an equal opportunity for service? Do these boundaries allow for an adequate level of service in an efficient and economical manner?

Land Use. The setting of boundaries greatly affects the quantity of revenues and expenditures a new city can expect. While some land uses provide greater revenue than others, and some are associated with greater expenditures, a viable, healthy city will usually contain a variety of land uses.

EL DORADO COUNTY INCORPORATION GUIDELINES

Topography, Geography, and History. Topographic and geographic features often provide logical, supportable political boundary designations. Service delivery constraints may be fostered by such features as a mountain or an unbridged river.

Historic community boundaries may have originated for physical or social reasons, or simply developed over time as a tradition. The validity of historic boundaries as a factor of consideration in the formation of city boundaries varies depending upon (a) the degree of importance placed upon them by the community, (b) the prevalence of their acceptance, and c) their relative importance to the other factors of consideration mentioned in this section.

Existing Cities and City Spheres of Influence. Existing neighboring city boundaries present obvious limitations for newly forming cities. Boundary adjustments between cities for whatever reason are an option; however, since a city cannot be required to detach an area without its consent, this course is rarely successful. Sphere of influence boundary adjustments, while more easily accomplished, would almost always face opposition from the existing city as well.

Simplicity. The boundaries should be simple and logical. Boundary convolutions designed to include or exclude a particular piece of property are discouraged. Parcels may not be split by city boundaries, and the boundaries should be readily identifiable.

Existence of Service Districts. Existing district boundaries are usually quite meaningful to the potential city since district boundaries were formed for the same reasons and by the same constraints that must be considered by an incorporated city. Those are, ease and economy of service delivery, geography, social and economic communities, tradition, and the existence of other nearby service districts.

El Dorado LAFCO Policies:

- Analysis of the incorporation proposal shall include a discussion of logical alternative boundary configurations. Proposed incorporation boundaries should meet the requirements of the boundary policies for annexations as defined in Section II C and E of the Commission's adopted Policies & Guidelines.
- Areas included within the proposed incorporation boundaries should consist of: 1) existing developed areas, 2) areas which are planned for development and/or 3) areas which are planned for development-supporting extensions of infrastructure in the future, such as the next ten years.
- Agricultural lands (Policies and Guidelines Section VI, A) and open space lands which are not designated for development in the future, such as within the next ten years, should not be included within the incorporation boundary (§56377).

EL DORADO COUNTY INCORPORATION GUIDELINES

- Lands specifically designated by the County General Plan for natural resource, agriculture, or open space uses should not be included within the initial boundaries of a proposed city.
- Where exclusions of such lands described above would create islands, flags, peninsulas, or boundary configurations that are illogical or difficult to serve, the Commission will determine that the inclusion of those lands within the boundaries of the proposed city is necessary to accomplish its goal of creating logical boundaries.
- The Commission shall determine the Sphere of Influence for the newly incorporating city within one year of the effective date of incorporation.
- Incorporation proposals involving land within an existing city sphere of influence will not be accepted for filing. If an incorporation 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 area being considered for a new city from the sphere of the existing city. The sphere amendment must be completed prior to circulating incorporation petitions or prior to the adoption of a resolution making application.

5. Special Districts in the Incorporation area

Over many years the legislature has articulated a clear preference for multi-service agencies over single purpose special districts. El Dorado LAFCO policies indicate a preference for service to be provided by cities and multi-purpose districts over single purpose districts (Policies & Guidelines, Section II, A). Cities are required to provide a number of services such as land use, planning, law enforcement, streets and drainage. Cities traditionally provide a broad array of municipal functions and services and have been given the necessary powers to do so.

The Cortese-Knox Act addresses the state's preference for multi-service agencies. "The Legislature finds and declares that a single governmental agency, rather than several limited purpose agencies, is in many cases better able to assess and be accountable for community service needs and financial resources and, therefore, is the best mechanism for establishing *community service priorities*". (§56001)

The legislature has enacted streamlined procedures for the elimination of subsidiary districts within cities. Recently enacted statutes have encouraged the consolidation of public agencies in order to reduce the number of special districts and to obtain cost savings and economies of scale.

EL DORADO COUNTY INCORPORATION GUIDELINES

El Dorado LAFCO Policies

- New cities should assume jurisdiction over as many services in the Incorporation area as are feasible. In implementing this general principle and for purposes of analysis, LAFCO shall consider the following:
- Districts that provide service or include territory in the incorporation area shall be included in the incorporation boundary unless LAFCO determines that there is an overriding reason to retain the district.
- Incorporation boundaries should be drawn so that community based special districts are wholly included or excluded from the incorporation area, unless the Commission determines that there is either an overriding benefit to dividing the district or that there is no negative impact from dividing the district.
- Detachment of territory from a region-wide special district which provides service to multiple communities outside the incorporation area should not be approved unless the Commission determines that there is an overriding benefit for the detachment.
- Where special district boundaries are not coterminous with a proposed incorporation, LAFCO should investigate, consider and approve alternatives to existing special districts that would facilitate the new city assuming jurisdiction over as many services as feasible.
- All districts whose service responsibility or territory would be changed as a result of the incorporation proposal shall participate in revenue neutrality negotiations to mitigate negative fiscal impacts of incorporation.

6. Map & Legal Description

All LAFCO applications except district dissolutions and municipal disincorporations must be accompanied by a map and legal description in the format prescribed by the State Board of Equalization (SBE). The County Surveyor reviews maps and descriptions for conformance with SBE standards.

El Dorado LAFCO Policy

- For incorporation applications, only the proposal map is submitted with the application. The required legal description is submitted following LAFCO approval of final incorporation boundaries along with a revised map reflecting those boundaries.

EL DORADO COUNTY INCORPORATION GUIDELINES

7. Fees

LAFCO fees are calculated based on the type of action. Incorporation proposals are charged on an actual cost basis with a deposit required at the time of submittal of the application. This deposit will allow staff to open a file and initiate the determination of sufficiency of a petition and begin meetings with the proponents to develop a time frame and cost estimates. The actual costs for processing the application including the comprehensive fiscal analysis and the CEQA determination, will be much higher than the initial deposit.

Because the actual costs occur incrementally throughout the incorporation process and because these costs cannot be precisely determined at the initiation of the project, a proposed payment schedule should be developed for each incorporation application, which links fee payment to the time frame for processing.

El Dorado LAFCO Policies

- Payment of fees for Incorporation applications is linked to the processing of the application.
- A fee payment schedule and estimates of processing costs will be determined by LAFCO staff at the time the project is submitted.
- The estimated total fees will be divided into monthly installments, payable as work on each phase of the project progresses, with a balloon payment if necessary, to complete payment of each individual expense item before the next step commences. For example, when the CEQA work is completed, the difference between the actual CEQA costs and monthly payments made, would be due and payable before the CEQA documents could be certified. If installment payments fall behind, work on the project will be suspended until the payments are brought up to date.

EL DORADO COUNTY INCORPORATION GUIDELINES

III. STAFF REVIEW

After required application documents and fees have been submitted to the LAFCO office, the petition and application will be processed by LAFCO staff.

A. PROCESSING OF INCORPORATION PETITIONS

Within 30 days after the date the petition is filed with LAFCO staff, the Executive Officer shall cause the petition to be examined and shall issue a "Certificate of Sufficiency" or "Notice of Insufficiency" (§56706).

Registered voter petitions are examined by the County Registrar of Voters office to determine the number of required signatures and the number of valid signatures (§56707). Landowner petitions are examined by the County Assessor's Office to determine validity based on the "last equalized assessment roll" and the assessed value of the land owned by the qualified signers §56708. Both the Assessor's Office and the County Registrar of Voters charge a fee for the verification of petitions, based on the quantity of signatures checked.

If the petition is determined to be insufficient based upon the number of signers, the Executive Officer will notify the chief petitioners by certified mail. The proponents have 15 days after the date of this notice to submit a supplemental petition to the Executive Officer. It is important to note that this is the only chance to bring the petition up to the required number of signatures.

Within 10 days of the date the supplemental petition is filed, the Executive Officer will have the petition examined and certify whether or not the new signatures are adequate for sufficiency.

If the petition is not found to be sufficient, it will be filed as a public record "without prejudice" to any future filing. The proponents may submit an entirely new petition at any time (§56709).

If the petition is determined to be sufficient, the proposal may continue through staff review and to public hearing.

B. ENVIRONMENTAL DOCUMENTATION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The California Environmental Quality Act (CEQA) generally applies to discretionary projects proposed to be carried out or approved by public agencies. LAFCO decisions, including city incorporations, are subject to CEQA.

EL DORADO COUNTY INCORPORATION GUIDELINES

It is the purpose of the environmental assessment to determine if the proposal in question will have a significant adverse impact on any aspect of the physical environment as it exists at the time a project is proposed for approval. Water, soil, air, minerals, flora, fauna, noise levels, visual aesthetics, and significant historical sites are aspects of the physical environment that may be so affected. In incorporation decisions, proposed city boundaries or extension of urban services that enables new growth or other changes to existing urban services are the most common impacts examined in the CEQA process.

The application of CEQA to city incorporations will require an environmental determination. Approval of an incorporation is a project under CEQA. There are three possible determinations:

1. An incorporation proposal may be exempt under §15320 of the CEQA Guidelines which provides exemption for "...changes in the organization or reorganization of local governmental agencies where the changes do not change the geographic area in which ***previously existing powers*** are exercised." (emphasis added) "Previously existing powers" in the case of incorporation usually means the provision of municipal-type services by a county or a city.

Incorporation proposals that appear to be exempt from CEQA review may beneficially undergo an initial study. An initial study provides a written record documenting the course to the conclusion of lack of adverse environmental effects of an incorporation proposal and may reduce the risk of delay later in the process.

2. If the incorporation is not exempt, an initial study is required. The initial study process may produce no substantial evidence that the project will create significant adverse environmental impacts. If so, the Commission must adopt a negative declaration of environmental impact.
3. If the initial study concludes that the project may produce significant environmental impacts, the preparation of an environmental impact report is required. An environmental impact report analyzes the probable impacts and identifies ways of mitigating adverse effects. LAFCO may attach mitigation measures to its approval of an incorporation proposal or disapprove a proposal based on unavoidable adverse environmental effects. Although historically not required, recent court rulings suggest that an EIR may be the most appropriate CEQA document for an incorporation.

For LAFCO to function as lead agency in the examination of complex potential changes in land use regulation following an incorporation is inappropriate. Measuring the impacts of those changes would be based on the presumed actions of a city council that does not yet exist and those actions would therefore be hypothetical.

EL DORADO COUNTY INCORPORATION GUIDELINES

C. COMPREHENSIVE FISCAL ANALYSIS

1. Statutory Requirements

Incorporation proposals are subject to a complex series of requirements designed to ensure that the new city would be financially stable and self-sufficient and that the reallocation of local revenues to the new city are equitable.

A comprehensive fiscal analysis is required by §56833.1. The executive officer shall prepare, or cause to be prepared by contract, an analysis of the financial implications of an incorporation proposal's boundaries, plan for services and its financial effects on other local agencies. The components of the comprehensive fiscal analysis and required incorporation findings (§56375.1) are as follows:

Comprehensive Fiscal Analysis (§56833.1)

The costs to the proposed city of providing public services and facilities during the three fiscal years following incorporation.

The revenues of the proposed city during the three fiscal years following incorporation.

The effects on the costs and revenues of any affected local agency during the three fiscal years of incorporation.

Any other information and analysis needed to make the findings required by Section §56375.1

Incorporation Findings (§56375.1)

The proposed incorporation is consistent with the intent of this division (i.e. the Cortese-Knox Act).

The commission has reviewed the spheres of influence of the affected local agencies and the incorporation is consistent with those spheres of influence.

The commission has reviewed the comprehensive fiscal analysis prepared pursuant to Section §56833.1 and the controller's report prepared pursuant to Section §56833.3.

The commission has reviewed the executive officer's report and recommendation prepared pursuant to Section §56833, and the testimony presented at its public hearing.

The proposed city is expected to receive revenues sufficient to provide public services and facilities and a reasonable reserve during the three fiscal years following incorporation.

EL DORADO COUNTY INCORPORATION GUIDELINES

El Dorado LAFCO Policies

- An outside, objective consultant will be selected by LAFCO to conduct the comprehensive fiscal analysis. A bidding process will assure cost control, objectivity, and quality.
- A request for proposals will be circulated; a review panel representing diverse interests including the incorporation proponents will evaluate and/or score the responses.
- Names for the review panel membership will be brought to the Commission for approval.
- The Executive Officer will prepare a recommendation for Commission approval and authorization of the contract. The Commission will give final approval of the selection of the consultant based on staff recommendations and will authorize the contract for services to prepare the comprehensive fiscal analysis.

2. Estimated Property Tax Transfer

An important and challenging part of the comprehensive fiscal analysis is calculation of estimated transfer of property tax from the county (and any affected special districts) to the new city as specified under §56842. The intent of this provision is that the county will transfer property tax revenues to the new city in proportion to the service responsibilities undertaken by the new city. The property tax transfer is calculated in the following manner:

- The county auditor determines the percentage of property taxes in the county's budget that comprises "revenues available for general purposes".
- The Commission determines the "total net cost" of providing municipal services to be transferred to the incorporation area in the prior fiscal year. The Commission will determine these costs based upon estimates provided by the affected county departments. "Total net cost" is determined by conducting a geographic allocation of county agency costs for providing services in the incorporating area and then subtracting revenues not considered to be "general purpose revenues" e.g. building permit fees or gas tax revenues. The Commission is obligated to accept the determinations of the county auditor but has discretion to alter the cost estimates of the affected county and special districts based upon its own findings and deliberation.
- The percentage that property taxes comprise of revenues available for general purposes is multiplied by the aggregate "total net costs" of providing the services to be transferred. This dollar amount becomes the property tax revenue base transferred to the new city.

EL DORADO COUNTY INCORPORATION GUIDELINES

This calculation is subject to interpretation and difference of opinion. The executive officer must make recommendations to the Commission regarding this calculation and must therefore be closely involved in this process. The commission makes the final determination on transfer of property taxes.

An important function of the comprehensive fiscal analysis is to provide the Commission and all parties affected by the incorporation with sufficient information to meet the requirements for revenue neutrality stated in §56845. Revenue neutrality requirements are discussed in Section D.

3. Financial Feasibility

The Commission must make the determination that the proposed city is expected to receive revenues sufficient to provide public services and facilities and a reasonable reserve during the three fiscal years following incorporation (§56375.1[e]). Although it is the intention of all new cities to provide improved services, feasibility is best determined by using pre-incorporation levels of service. The determination of feasibility is based on existing costs and known revenues which support existing levels of service. Revenue neutrality is based on the transfer of revenues which support existing levels of service.

El Dorado LAFCO Policies

- The Commission defines "financial feasibility" to mean the ability of a new city to maintain pre-incorporation service levels.
- In determining feasibility, the Commission will consider only those revenues which are currently available to all general law cities. The Commission will not consider new revenues derived through special taxes or assessments which might become available through possible actions of a future city council. The Commission will consider existing county assessments and taxes in place at the time of the incorporation in the determination of financial feasibility.
- In determining feasibility, the Commission requires that proposed staff salary costs shall be based on an average of similar-sized cities within El Dorado County and the cities within the comparison counties used by El Dorado County Department of Human Resources for salary comparison purposes.

4. Review of Comprehensive Fiscal Analysis by State Controller

Any interested party may request that the State Controller's Office review a fiscal analysis prepared under §56833.1. The party requesting the review must state the elements of the comprehensive fiscal analysis which the Controller is requested to review and the reasons the Controller is requested to review them. The party requesting the Controller's review must bear the cost of the review as determined by the Controller. The Commission may adopt written procedures for the

EL DORADO COUNTY INCORPORATION GUIDELINES

acceptance, referral, and payment for a request for the Controller's review. The time period for accepting a request may not be less than 30 days following mailed and published notice that the comprehensive fiscal analysis is complete and available for public review.

El Dorado LAFCO Policies

- Any party requesting review of the Comprehensive Fiscal Analysis by the State Controller shall deposit a fee in the amount of the estimated cost of the review at the time the request for review is filed. This estimate shall include the estimated charge by the State Controller, LAFCO staff costs, and costs for any consultants required to assist the State Controller with the review. The difference between the actual cost and the estimate shall be refunded/charged to the party initiating the request after the review is complete.

D. REVENUE NEUTRALITY

Under State law, the concept of revenue neutrality applies only to incorporations. Revenue neutrality means that city incorporations should result in a proportional transfer of both revenue and responsibility for service delivery between the county, the incorporating city and other agencies affected by incorporation. The provisions of Government Code §56845 declare the intent of the Legislature that the incorporation of new cities will result in a similar exchange of both revenue and responsibility for service delivery among the county, the proposed city and other subject agencies and, as a result, minimize the long term negative fiscal effects that incorporations may have on counties. The revenue neutrality statute is completely silent regarding the method for calculating financial impacts or the process for determining revenue neutrality.

LAFCO makes the determination that the proposed incorporation will be revenue neutral (§56845 [a]). If the proposed city is not revenue neutral, then the Commission must make a finding that either 1) the County and affected public entities (usually special districts) agree to the incorporation even though it is not revenue neutral or, 2) the parties have agreed to mitigation payments and LAFCO agrees that such payments mitigate the negative fiscal effects (§56845 [c][1][2]). The payments may be in the form of a tax sharing agreement, lump sum payments, payments over a fixed period of time, or any other term and condition such as assumption of debt or contract responsibilities (§56845[c][2]).

Uncertainties likely to arise in the interpretation of §56845 may act to impede incorporation of viable cities and/or invite inter-jurisdictional disputes following incorporation. The purpose of this section is to establish incorporation guidelines that provide a framework for the development of terms and conditions related to the balancing of revenues and service responsibilities, otherwise known as "revenue neutrality," and:

EL DORADO COUNTY INCORPORATION GUIDELINES

- To institute a process for analysis and mitigation of the fiscal impacts of incorporation on the county that results in stable, predictable financial outcomes for both the county and the new city.
- To define the terms and budget items to be negotiated under revenue neutrality requirements of §56845,
- To mitigate potential fiscal losses to the county without making incorporation impossible for local communities ready for self-governance or precluding an adequate fiscal base for new cities,
- To specify how participants in the incorporation process can develop proposed terms and conditions of incorporation that will meet revenue neutrality criteria and the standards of this commission in making the findings required by §56845 and §56375 for approval of incorporation.

El Dorado LAFCO Policies

- It is the policy of this Commission that implementation of revenue neutrality provisions of Government Code Section §56845 shall insure adequate protection of the county's financial stability while at the same time permitting the incorporation of communities demonstrating the necessary resources and capacities for self-governance.
- The legislative mandates for achieving revenue neutrality shall be implemented through a rational and predictable process for gathering information, determining the appropriate content of revenue neutrality agreements and providing for the revision of those agreements.

1. Process and Procedures

- A preliminary feasibility analysis (PFA) is an application requirement and is a prerequisite to revenue neutrality negotiations. Incorporation proponents are required to submit a PFA for evaluation by LAFCO staff. The PFA is augmented by LAFCO staff as necessary with county revenue and departmental cost data, the calculation of the property tax allocation and analysis of fiscal and service level assumptions. LAFCO staff convenes a revenue neutrality negotiating committee composed of representatives of the county and representatives of the proponents of incorporation. LAFCO staff will attend meetings of this committee in order to facilitate discussions and compliance with this policy.
- The revenue neutrality committee will have up to 90 days to negotiate and propose terms and conditions to meet the requirements of §56845. Any proposals for the terms and conditions of revenue neutrality should adhere to the standards for content described in this policy. Any proposal for the terms and conditions for revenue neutrality should also include criteria and a process for modification of the agreement after incorporation and a description of methodologies and assumptions leading up to the terms of the agreement.

EL DORADO COUNTY INCORPORATION GUIDELINES

- At the conclusion of the meetings of the revenue neutrality committee or the end of the 90 day negotiating period, the LAFCO Executive Officer will certify that agreement about the revenue neutrality terms and conditions has been reached or has not been reached. If the participants have agreement and concur with the negotiated terms and conditions, then the agreement will be documented by adoption of a resolution by the County Board of Supervisors and by a letter from the authorized representative of the incorporation committee. The documents demonstrating agreement to the proposed terms and conditions are returned to LAFCO staff for inclusion in the comprehensive fiscal analysis, staff report and recommendations, and will be presented to the Commission at its Public Hearing.
- If agreement to proposed terms and conditions for revenue neutrality does not occur within the 90-day negotiating period, LAFCO staff will draft proposed terms and conditions for use in the comprehensive fiscal analysis and for recommendation to the Commission at its public hearing. See Attachment E for a Diagram of the Revenue Neutrality Process.

2. Revenues/Expenditures considered for revenue neutrality purposes

The provisions of revenue neutrality agreements negotiated pursuant to this policy shall adhere to the following policies:

- Revenue neutrality agreements shall be based on county costs and revenues for the most recent prior year for which data are available. Only identifiable and recurring revenues and expenditures should be evaluated for purposes of determining revenue neutrality. Anticipated or projected revenue growth should not be included.
- Expenditures for services transferred to a new city should be evaluated on a "net cost" basis. Services funded on a cost recovery basis (such as building inspection) are by definition revenue neutral and should not be included in the analysis.
- Costs of capital improvements are not recurring costs and should not be included.
- Countywide costs of general government, including the CAO, Clerk of the Board, Auditor-Controller, Personnel and other administrative government functions which are required to support county governance of both incorporated and unincorporated areas should not be included in defining services or revenues to be transferred to the new city.
- Inflationary factors should not be included in the analysis of revenue neutrality provisions unless the resulting agreement provides for annual adjustment of mitigation payments based on actual data.

EL DORADO COUNTY INCORPORATION GUIDELINES

- Restricted and unrestricted revenues should be evaluated separately. An agency may pay a portion of its annual revenue neutrality payment with restricted funds if both agencies agree and a legal exchange mechanism can be created.
- Fees charged by the county for services to other jurisdictions (such as property tax administration fees) should be considered as an off-setting county revenue in the calculation of fiscal effects on the county.

3. Terms and Conditions

- Terms and conditions for implementation of revenue neutrality may include provisions for tax sharing agreements, lump-sum payments, payments over a fixed period of time, modification of incorporation boundaries or any other terms and conditions permitted under Section §56844.

4. Duration of Fiscal Impact Mitigation

- The duration of mitigation payments should extend no more than 10 years, based on the county's ability to implement general plan amendments and take other measures necessary to adjust to or compensate for the loss of revenue due to the incorporation of a new city.

5. Method of Annual Payment

- In instances in which revenue neutrality requires tax sharing or mitigation payments to the county, payment should be made as directly from the revenue source as permitted by state law.

6. Effective date of Incorporation

- The effective date of incorporation should be considered in revenue neutrality agreements. The effective date should be set to establishing adequate initial account balances for the new city as it assumes service responsibilities, but should not otherwise conflict with the intent of fiscal neutrality or exacerbate County revenue losses.

E. EXECUTIVE OFFICER'S REPORT AND RECOMMENDATION

1. Statutory Requirements

In order to complete the staff review of the incorporation proposal, Government Code §56833 requires the executive officer to prepare a report including his or her recommendations on the incorporation application. The comprehensive fiscal analysis (and any review of that analysis by the State Controller) becomes a part of the executive officer's report. The report must be completed and distributed not

EL DORADO COUNTY INCORPORATION GUIDELINES

less than five days prior to the date of the commission's hearing. Distribution of the report must include the principal petitioners and/or officers designated in the application, each agency whose boundaries or sphere of influence would be affected by the incorporation and all other parties filing written request for notice.

Section 56852.3 gives weight and emphasis to the report and recommendation of the executive officer by requiring the commission to make written findings in its resolution approving an incorporation on each of the executive officer's findings and recommendations and to provide the basis for any that are rejected. It is the last step in the staff review phase of the incorporation process.

2. Discussion and Comment

The purposes of the executive officer's report include insuring compliance with the *sometimes complex provisions of the Cortese-Knox Act*, providing support for the commission's decision-making and providing information to the public.

It is the function of the executive officer's report to focus and define incorporation issues by drawing together the information and events of the incorporation process and making recommendations that logically apply relevant policy criteria. The executive officer's report and recommendation must provide support to the commission for the long list of conclusions and filings that the commission must make to complete action on an incorporation proposal (see Section IV.B Commission Actions below).

The executive officer's report and recommendation is the only single document to address the entire scope of the incorporation process. It therefore bears an obligation to the public as well as to the commission to fairly present incorporation issues and explain the reasoning that underlies its proposed results.

EL DORADO COUNTY INCORPORATION GUIDELINES

IV. PUBLIC HEARING

A. GENERAL

An application for incorporation is deemed complete when the project requirements as previously described have been fulfilled. The executive officer will issue a certificate of filing, specifying the date of the commencement of LAFCO hearings on the proposal. The public hearing must be set within 90 days of the issuance of the certificate of filing and meet the requirements for notice as specified in the Cortese Knox Act.

The executive officer will prepare a report and recommendation on the proposed incorporation including proposed findings under §56375.1.

The report and recommendation of the executive officer will be distributed to the commission and made available to the public at the earliest possible date, but no less than 5 days prior the public hearing (§56833).

As a practical matter, it is likely that a series of meetings will be held for the Commission to receive information and testimony, give consideration and make determinations on each of the components of the incorporation. Some of these meetings may occur in the community which is proposing to incorporate. All of these meetings must meet the requirements for public notice. The hearing may be continued from time to time. At the public hearing, the Commission must hear testimony from all who wish to testify, although it may set guidelines for the length and order of testimony. The El Dorado LAFCO has established rules for the conduct of meetings. See Attachment C.

B. COMMISSION ACTIONS

At the conclusion of the public hearing, LAFCO may approve, amend and approve, or deny the proposed incorporation. The Commission must adopt a resolution of determination within 35 days of the close of the public hearing. If the proposal is denied, no similar proposal for incorporation involving the same or substantially the same area shall be initiated for one year after the date of adoption of the resolution terminating proceedings (§56855 and §56851).

If LAFCO approves the incorporation proposal, the Commission's action must include the following series of findings and determinations specifically addressing incorporation issues in the language of the resolution of approval.

EL DORADO COUNTY INCORPORATION GUIDELINES

1. Section 56375.1 Incorporation Findings: The Commission is required to make the following findings in any resolution approving an incorporation:
 - The proposed incorporation is consistent with the intent of this division (i.e. the Cortese-Knox Act).
 - The commission has reviewed the spheres of influence of the affected local agencies and the incorporation is consistent with those spheres of influence.
 - The commission has reviewed the comprehensive fiscal analysis prepared pursuant to Section 56833.1 and the controller's report prepared pursuant to Section 56833.3.
 - The commission has reviewed the executive officer's report and recommendation prepared pursuant to §56833, and the testimony presented at its public hearing.
 - The proposed city is expected to receive revenues sufficient to provide public services and facilities and a reasonable reserve during the three fiscal years following incorporation.
2. Terms and Conditions (§56844): In approving an incorporation, the Commission may alter or amend the incorporation proposal by specifying terms and conditions. The authority conferred by §56844 enables the Commission to clarify many aspects of implementation of the new city. In general, terms and conditions of incorporation address the following areas:
 - Continuation of services following incorporation.
 - Payments and taxes required by realignment of service responsibilities and necessary to attain revenue neutrality.
 - Disposition of money, property and rights of use, such as water or utility capacity rights.
 - Disposition of special district responsibilities, district governing boards and employees.
 - The effective date of incorporation.
3. Revenue Neutrality: See Section III.D. above.
4. Modification of Incorporation Boundaries: As with other types of proposals for changes of organization, the Commission may amend the boundaries of an incorporation proposal (§56375).

EL DORADO COUNTY INCORPORATION GUIDELINES

5. Acceptance or Rejection of Findings of the Executive Officer: The Commission's resolution making determinations must accept or reject each of the findings and recommendations made in the Executive Officer's report and the findings of the comprehensive fiscal analysis. The resolution must include the Commission's basis for any rejected findings (§56852.3).
6. Environmental Determination: Unless the incorporation is exempt from CEQA, the Commission must approve a Negative Declaration or certify an Environmental Impact Report and then file a Notice of Determination.
7. Property Tax Determination: The Commission is required to determine the amount of property tax revenues to be distributed to the new city. The property tax share should be identified by dollar amount in the Commission's resolution (§56842).

The amount of property tax received by the new city has a major effect on its financial feasibility. The task of calculating the property tax transfer is normally performed as part of the comprehensive fiscal analysis and is adopted or amended and adopted by the Commission in making its determinations. See Section III, C. Fiscal Analysis above.

8. Provisional Appropriations Limit Determination: The Commission must establish an interim appropriations limit or "spending ceiling" for the new city as required by Article XIIIB of the California Constitution. The initial appropriations limit is calculated in the manner described in §56842.6. This limit is annually adjusted by a formula which takes into account population growth and increases in the cost of living. The permanent appropriations limit shall be set at the first municipal election following the first full fiscal year of operation and shall not be considered a change in the appropriations limit.

C. REQUEST FOR RECONSIDERATION

Any person or affected agency may file a written request with the Executive Officer requesting reconsideration of any resolution approving incorporation. The request must comply with the provisions of §56857 and reconsideration policies adopted by the El Dorado LAFCO (Section II B,8 of the El Dorado LAFCO Policies and Guidelines). There is a fee for filing the reconsideration request.

EL DORADO COUNTY INCORPORATION GUIDELINES

V. CONDUCTING AUTHORITY HEARING

The County Board of Supervisors is designated by law as the "conducting authority" for city incorporations, for the purpose of conducting the protest hearing for an incorporation proposal.

A. CONDUCTING AUTHORITY FEES

The El Dorado County Board of Supervisors is the conducting authority for any incorporation in El Dorado County and may charge a fee for conducting authority proceedings.

B. BOARD OF SUPERVISORS HEARING

Within 35 days of LAFCO's adoption of its resolution of approval, the Clerk of the Board of Supervisors issues a "Notice of Hearing" scheduling the date for the Board's protest hearing on the incorporation proposal. The Board's hearing must take place not less than 15 days from the date the notice was issued. The notice is published in a newspaper of general circulation in the incorporating area. The proponents (and others requesting notice) also receive the notice by mail.

The sole purpose of the Board hearing is to review written protest from registered voters residing within the area to be incorporated. The Board of Supervisors does not have the discretion to modify the terms and conditions of an incorporation proposal or to terminate incorporation proceedings without sufficient protest being present. The conducting authority hearing may be continued for up to 60 days.

Written protest submitted at the Board hearing will be verified and tabulated, and one of the following actions will be taken by the Board within 30 days of the conclusion of the hearing:

- Terminate the proceedings if more than 50% of the registered voters residing in the incorporation area submit written protest; **or**
- Call an election on the question of incorporation if written protest is submitted by less than 50% of registered voters residing in the incorporation area.

Following the Board of Supervisors' determination that the protest was insufficient, the County Registrar of Voters begins the process of preparing the issue for a vote at the next general election.

If proceedings are terminated by majority protest or by the voters, no substantially similar proposal for the same territory may be filed within two years of the date of adoption of the resolution terminating proceedings (§57090).

EL DORADO COUNTY INCORPORATION GUIDELINES

VI. ELECTION

Elections for incorporation are usually made a part of the ballot of the next general election rather than occurring as a special election due to the higher costs involved. If the incorporation is successful, the new city will be liable for payment of election costs. In the event the issue fails, the county absorbs the election costs.

The LAFCO Executive Officer must draft an impartial analysis of the *incorporation issue* for inclusion in the incorporation ballot. The Commission may review the text of the impartial analysis and approve or modify it, if a review procedure has been instituted by the Commission. El Dorado LAFCO may adopt policies for a review procedure for the impartial analysis at a later date. The review must be completed in sufficient time to consider and approve or modify the analysis and submit the analysis to the officials conducting the election not later than the last day for submitting rebuttal arguments (§56859).

EL DORADO COUNTY INCORPORATION GUIDELINES

VII. COMPLETION

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

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

EL DORADO COUNTY INCORPORATION GUIDELINES

VIII. ATTACHMENTS

- A. LAFCO Application forms
- B. Sample incorporation petition
- C. Rules for the Conduct of Hearings
- D. Reference Information and Sources
- E. Diagram of Revenue Neutrality Process
- F. Sample Time and Cost Estimates for Incorporation

LETTER OF INTENTION

ATTACHMENT A

EL DORADO COUNTY
LOCAL AGENCY FORMATION COMMISSION (LAFCO)
360 Fair Lane
Placerville, CA 95667

NOTICE IS HEREBY GIVEN OF INTENTION to petition for Formation of the following district:

(Name of City or District)

This proposal is made pursuant to Part 3, Division 3, Title 5 of the California Government Code (commencing with Section 56000, Cortese-Knox Local Government Reorganization Act of 1985).

A map and legal description of the specific boundaries of the territory affected are attached.

Notices and other communications regarding said project may be directed to the applicant(s) at the address listed below:

Sincerely,

Property Owner(s)

Mailing address

City, State, and ZIP

(Proxy letter required for agent.)

Signature (Property Owner or Agent)
(circle one)

Phone # (Property Owner or Agent)

DATE

FOR OFFICE USE ONLY

_____ Approved	Date Submitted	LAFCO Fee
_____ Disapproved	Applicant	STATE Fee
Date: _____	Type of Project	SURVEYOR Fee
ATTEST: (LAFCO Exec.Off.)	File No.	Receipt No.

ATTACHMENT A

PETITION MAKING APPLICATION UNDER FILE NO. _____

The undersigned hereby petitions under Cortese Knox Local Government Reorganization Act of 1985 for _____ to/from the _____

This proposal is made pursuant to: (Check one)

- A. _____ Section 56700 of the Cortese Knox Local Government Reorganization Act of 1985 (application by citizens for annexation to, detachment from, etc., a special district).
- B. _____ Section 56800 of the Cortese Knox Local Government Reorganization Act of 1985 (application by a public agency).
1. The name(s) of all other affected counties, cities, or districts are: _____
 2. The territory proposed to be included in this proposal is inhabited/uninhabited and is set forth a description (Exhibit "A") of the exterior boundaries of such territory.
 3. The proposal is/is not consistent with the sphere of influence of the affected city and/or district.
 4. State the purpose for the proposal: _____
 5. If the proposal is for a reorganization and requests the formation of a new district or districts, designate the principal act or acts under which said district or districts are proposed to be formed. _____
 6. This proposal is subject to (1) a LAFCO fee; (2) a State Board of Equalization fee; (3) AB 8 Regulations; and (4) _____

Sign: _____ APN: _____ House # & Street _____
Print: _____ Date: _____ City/Town: _____
(Check One) _____
(a) Resident-voter _____
(b) Landowner-voter _____
(c) Landowner _____
(ZIP) _____

Sign: _____ APN: _____ House # & Street _____
Print: _____ Date: _____ City/Town: _____
(Check One) _____
(a) Resident-voter _____
(b) Landowner-voter _____
(c) Landowner _____
(ZIP) _____

Sign: _____ APN: _____ House # & Street _____
Print: _____ Date: _____ City/Town: _____
(Check One) _____
(a) Resident-voter _____
(b) Landowner-voter _____
(c) Landowner _____
(ZIP) _____

PLEASE MAKE SURE ALL SIGNATURES ARE DATED THE DAY THEY ARE SIGNED.

PETITION FOR THE INCORPORATION
OF THE CITY OF PLEASANTON, CALIFORNIA

ATTACHMENT B

We, the undersigned registered voters, do hereby petition the Local Agency Formation Commission pursuant to the Cortese/Knox Local Government Reorganization Act of 1985, commencing with Section 56000 of the California Government Code, for the Incorporation of the City of Pleasanton, California within the boundaries of the community of Pleasanton, more particularly described on the Legal Description and Map attached hereto as Exhibit "A".

The reasons for the proposed incorporation are: 1) to provide for the retention of the identity of the community of Pleasanton; 2) to provide the citizens of Pleasanton with the desired and necessary municipal services; and 3) to provide such municipal services at a reasonable cost to be determined by a City Council composed of residents elected by the community.

The Chief Petitioners for this proposal are: John Doe, 1234 Pleasant Lane; Mary Smith, 5678 Jackrabbit Road; and Harry Jones, 9012 Hummingbird Court; all of Pleasanton, California, Zip Code 92407.

We hereby request that the San Bernardino County Local Agency Formation Commission conduct these proceedings for the Incorporation of the City of Pleasanton pursuant to Govt. Code Section 56000 et. seq. and in those proceedings provide for the City Council appointment of a City Manager, City Clerk, and City Treasurer.

The voter must sign his name, residence, and date of signing in his own handwriting. RESIDENCE means a number and a street address or description sufficient for the Registrar of Voters to locate property on a map. Post office box numbers or route numbers cannot be used and will not be accepted.

Sign Name 1 _____ Print Name	Residence Address	Date	Precinct
Sign Name 2 _____ Print Name	Residence Address	Date	Precinct
Sign Name 3 _____ Print Name	Residence Address	Date	Precinct
Sign Name 4 _____ Print Name	Residence Address	Date	Precinct
Sign Name 5 _____ Print Name	Residence Address	Date	Precinct
Sign Name 6 _____ Print Name	Residence Address	Date	Precinct
Sign Name 7 _____ Print Name	Residence Address	Date	Precinct

AFFIDAVIT OF CIRCULATOR

I, _____ residing at _____

Precinct Number _____

under penalty of perjury, state that between the dates of _____

and _____ I circulated the attached or foregoing petition subsequent to such circulation; and that no pages have been added thereto.

I circulated the petition and saw all signatures appended thereto, and that to the best of my knowledge and belief, they are the signatures of persons whose names they purport to be.

DATED: _____

SIGNATURE OF CIRCULATOR _____

**LEGAL DESCRIPTION FOR THE
PROPOSED INCORPORATION
OF THE
CITY OF PLEASANTON**

All that certain real property situated in the County of San Bernardino, State of California described as follows:

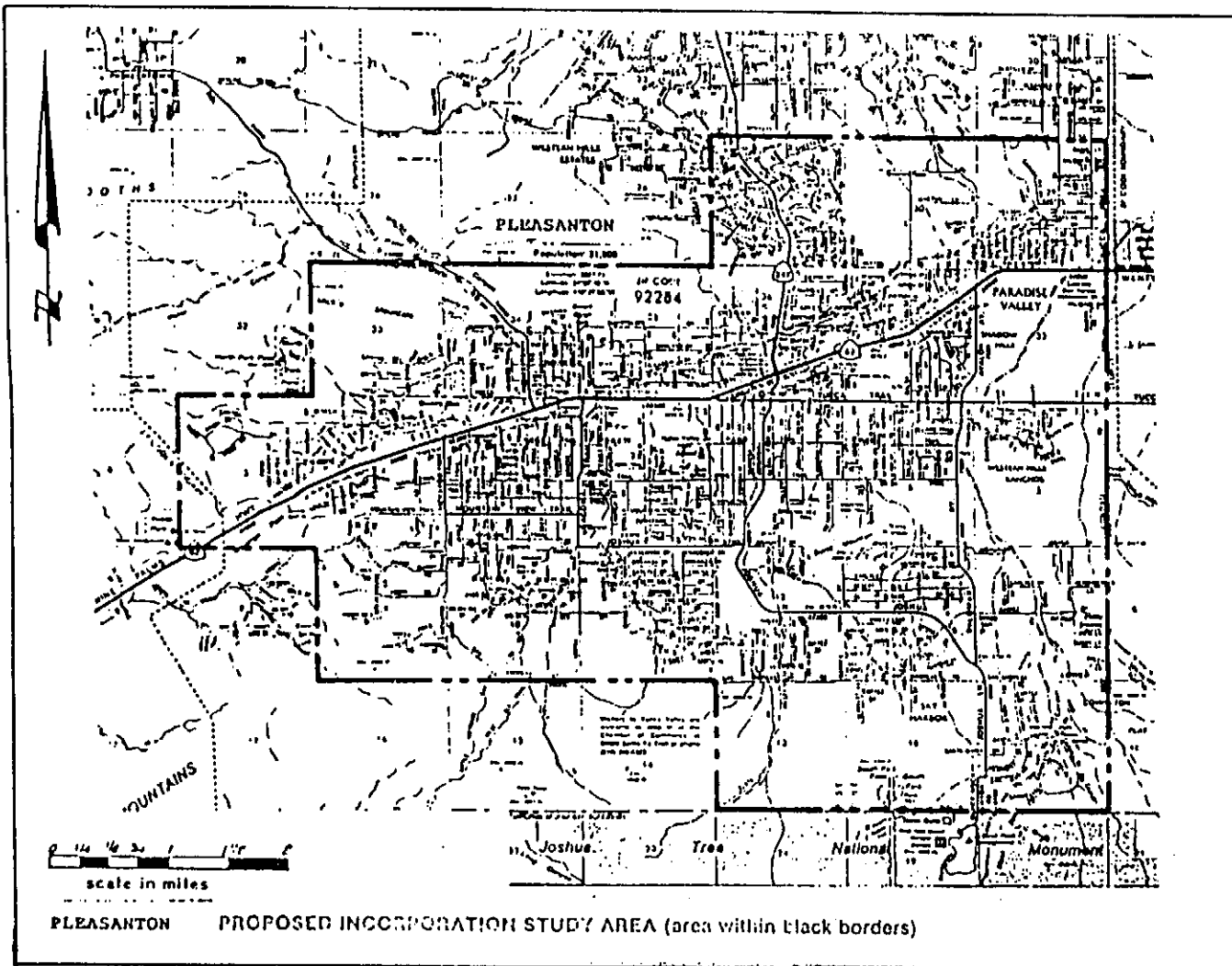
Township 1 North, Range 5 East,
San Bernardino Meridian: Sections
25, 33, 34, 35, and 36;

Township 1 North, Range 6 East,
San Bernardino Meridian: Sections
29, 30, 31, and 32.

Township 1 South, Range 5 East,
San Bernardino Meridian: Sections
1, 2, 3, 4, 5, 9, 10, 11, 12, and
13;

Township 1 South, Range 6 East,
San Bernardino Meridian: Sections
5, 6, 7, 8, 17, and 18.

Contains 25 square miles, m/l.



ATTACHMENT B

ATTACHMENT C

EL DORADO LOCAL AGENCY FORMATION COMMISSION RULES FOR THE CONDUCT OF MEETINGS

The El Dorado LAFCO encourages the participation of members of the public in its meetings. Meetings shall be conducted according to Robert's Rules of Order, unless the Commission, by majority vote, adopts other rules. The Commission may continue or reschedule items on the agenda. The usual order of business is to hear consent items first, followed by contested matters and hearing items, then other business.

The usual order for each item is as follows:

Any member of the public who wishes to address the Commission should sign in with the Clerk at the beginning of the meeting. Please write legibly so we can correctly record your name in the minutes. The Commission will hear public comment prior to its decision on any item. When you are called to speak, please come forward to the microphone. No person is allowed to speak from the audience, as the meetings are recorded for the public record.

The Commission may limit the time for individual speakers or may limit the total time allotted for any item. The usual time limits are three minutes for speakers. The main proponent of an item and spokespersons representing groups will be allowed five minutes. Speakers are allowed to speak once on any item. The principal proponent of a contested item will be allowed a three minute rebuttal. The Commission may ask follow-up questions of any speaker. Time limits are subject to the discretion of the Chair.

Any person wishing to address the Commission on any item under its jurisdiction but not appearing on the agenda should do so during the "Public Comment/ Public Forum" agenda item. The Commission cannot take action on any item that is not listed on the agenda.

Participants in LAFCO proceedings are encouraged to be courteous and respectful. LAFCO expects to hear differing opinions and points of view during the course of its deliberations. Applause, remarks from the audience, and interruptions will not be tolerated by the Commission.

Approved 12/98

ATTACHMENT D

REFERENCE INFORMATION AND SOURCES

The El Dorado Local Agency Formation Commission has adopted Policies and Guidelines which are referenced in these Incorporation Guidelines and Policies. A copy of "The Policies and Guidelines, Procedures" publication is available for a small charge through the El Dorado LAFCO and is also available on the LAFCO website at:

<http://www.innercite.com/~edlafco>.

The Cortese-Knox Local Government Reorganization Act of 1985 (§56000) is available in printed form (077-A-96) at the following address:

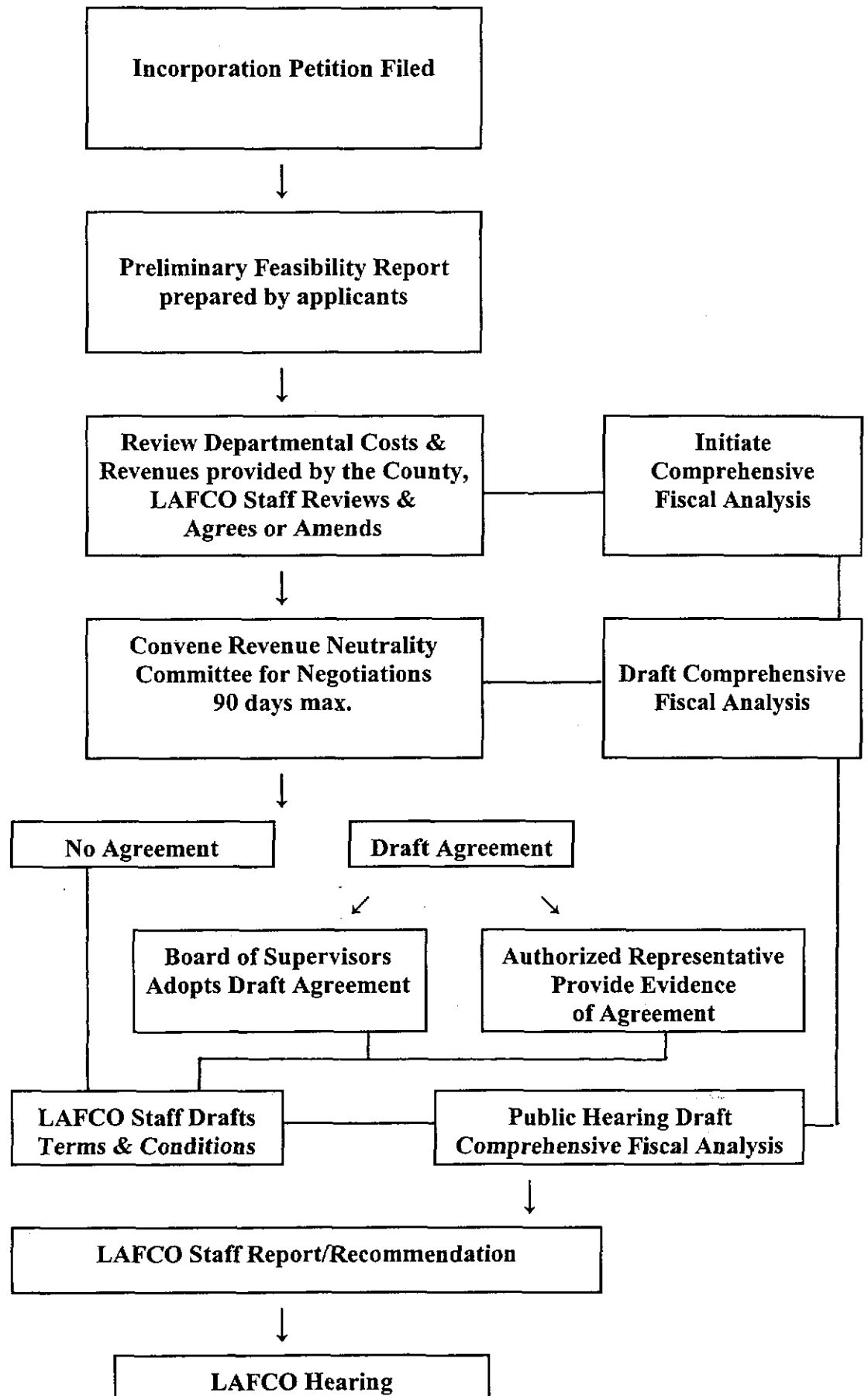
Assembly Chief Clerk's Office, Attention Publications
Room 3196
State Capitol,
Sacramento, CA 95814

Telephone: (916) 445-3614

All of the California Codes are available on the Internet at the following address:

<http://www.leginfo.ca.gov>

**Revenue Neutrality Negotiation
&
Fiscal Analysis Process**



ATTACHMENT F

SAMPLE TIME AND COST ESTIMATES FOR INCORPORATION (LAFCO Draft 11/4/97)

Note: Fees and costs for legal counsel are not estimated. All time estimates are approximate and may be subject to timing of fee payment. Policies may be adopted by LAFCO which may affect these estimates.

Items in bold face type are steps which may take significant amounts of time.

STEP OR PROCESS	MINIMUM TIME	MAXIMUM TIME	COST ESTIMATE
Petition Circulates	unknown	6 months	none/unknown
Petition verified	30 days	30 days	\$.75/ea
Additional signatures	15 days	15 days	\$.75/ea
RFP & select consultant for CFA	30 days	60 days	unknown, LAFCO staff time
Request/ receive CFA data from County	30 days ?	60 days?	None known
RFP & select consultant for EIR	30 days	60 days	unknown, LAFCO staff time
Preparation of CFA	60 days	6 months	Unknown, \$15- 40 K
Prepare NOP/Env	30 days	60 days	\$1,500-7,500
Circulate NOP	30 days	30 days	
Prepare and Review Adm. Draft EIR	3 months	6 months	unknown, \$25,000 to \$45,000?
Circulate Draft EIR	45 days	45 days	
Review/Respond to Comments	45 days		
LAFCO Hearing on EIR	30 days	unknown, may be continued	unknown, LAFCO staff time
Review/Analyze CFA (Possible workshop)	45 days	unknown	unknown, LAFCO staff time

STEP OR PROCESS	MINIMUM TIME	MAXIMUM TIME	COST ESTIMATE
Revenue Neutrality Negotiations	unknown	unknown	unknown, LAFCO staff time
State Controller's Review	30 days	unknown 45 days?	Set by State Controller
Prepare Executive Officer Report	30 days	90 days	unknown, LAFCO staff time
Publish and Circulate Staff Report	5 days	30 days	unknown, LAFCO staff time
LAFCO Hearing		unknown, may be continued	unknown, LAFCO staff time
Conducting Authority	30 days	110 days	Fee set by BOS
Election	unknown, next general election?		Costs to new City if approved, County if fails
Completion & Filings	30 days	45 days	unknown, LAFCO staff time

f:\susan\policies\incorp.ime