

# EL DORADO LAFCO

LOCAL AGENCY FORMATION COMMISSION

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## ***POLICIES***

## ***AND***

## ***GUIDELINES***

### **Adopted**

November 7, 1988

### **Revised**

September 6, 1990, February 1, 1996, December 5, 1996, November 5, 1998, July 1, 1999,  
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May 23, 2018, August 22, 2018, February 27, 2019, April 24, 2019

# EL DORADO LAFCO

LOCAL AGENCY FORMATION COMMISSION

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## **REGULAR MEMBER COMMISSIONERS**

### City Members

**Mark Acuna** (City of Placerville)

**Cody Bass** (City of South Lake Tahoe)

### County Board of Supervisors Members

**Shiva Frentzen**

**Brian Veerkamp**

### Public Member

**Michael Powell**

### Special District Members

**Tim Palmer** (Georgetown Divide Resource Conservation District)

## **ALTERNATE MEMBER COMMISSIONERS**

**Dyana Anderly**, Public

**Kara Taylor**, City

**Holly Morrison**, Special Districts

**John Hidahl**, County

## **STAFF**

**José C. Henríquez**, Executive Officer

**Erica Sanchez**, Assistant Executive Officer

**Riley Nork**, Assistant Policy Analyst

**Denise Tebaldi**, Administrative Assistant

**Kara K. Ueda**, Commission Counsel

With assistance from **Graichen Consulting**, Barbara Graichen, Principal

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**1 GENERAL<sup>1</sup>**

**1.1 TITLE**

This Commission shall be entitled and known as the El Dorado Local Agency Formation Commission (“El Dorado LAFCO”).

**1.2 MISSION**

The Local Agency Formation Commission coordinates logical and timely changes in local governmental boundaries (§56001); conducts special studies which review ways to reorganize, simplify and streamline governmental structures (§56301); and prepares spheres of influence for each city and special district within the County (§56425). The Commission promotes provision of efficient and economical services while encouraging protection of agricultural and open space lands (§56001, §56300). Further efforts include discouraging urban sprawl and encouraging orderly formation and development of local agencies based upon local conditions and circumstances (§56301).

Local Agency Formation Commissions are independent commissions that are not a part of county government. Each Commissioner is independent when weighing and reviewing information and when making determinations (Attorney General Opinion 98.802). The mission of the El Dorado County Local Agency Formation Commission is to act by implementing the Cortese-Knox-Hertzberg Act (§56381, §56001) and through the adoption of policies and guidelines (Approved June 5, 1997).

This document contains the policies, procedures and guidelines needed to implement LAFCO’s mission. The provisions of these policies, procedures and guidelines are not intended to preempt state law. In the event of a conflict between these policies and guidelines, and the provisions set forth in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, the provisions of the Act shall prevail.

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<sup>1</sup>Note: All code notations in the Policies and Guidelines refer to California Government Code unless otherwise noted.

### 1.3 **MEMBERSHIP**

1.3.1 **Membership:** El Dorado LAFCO shall be composed of seven regular members and four alternate members (§56325, §56332). All members must be residents of El Dorado County.

- 1) County: Two members and one alternate from the County Board of Supervisors are selected by that Board (§56325).
- 2) City: Two City Council Members and one alternate are designated by the City Selection Committee (§56325).
- 3) Special Districts: Two members from the Special Districts and one alternate are selected by the Special Districts Selection Committee (§56332).
- 4) Public Member: The Public Member and one alternate Public Member are appointed by the other six Commissioners (§56325(d)) in the following manner:

#### **Application Process** *(Approved July 24, 2002)*

- (a) The vacancy shall be posted by the Clerk of the LAFCO Commission within 20 days after the vacancy occurs (§54974). At the same time notice shall be published in a newspaper of general circulation and mailed to all cities, the Board of Supervisors, all independent districts, and any member of the public who has requested such notice in writing.
- (b) The application period will run 30 days from the date of posting. Applications with attached resumes shall be submitted to the LAFCO Clerk within 30 days of the date posted.
- (c) If four or fewer applicants apply for the position, the full Commission shall interview the applicants at the next regularly scheduled LAFCO meeting for which notice can be given. All applicants are expected to attend interview sessions.

If five or more applicants apply for the position, the Executive Officer shall transmit the application materials for all of the candidates to the six regular Commissioners. Each Commissioner shall independently select three candidates he or she wants to invite to the interview and independently notify the Executive Officer accordingly. The Executive Officer will tally all of the invitations. The interview process shall proceed according to one of the following two manners:

- i. The four applicants who receive at least two Commissioner invitations shall be interviewed by the full Commission at the next regularly scheduled LAFCO meeting for which notice can be given; or

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- ii. If more than four candidates receive at least two Commissioner invitations, the four candidates who received the most invitations shall be interviewed by the full Commission at the next regularly scheduled LAFCO meeting for which notice can be given.

All applicants are expected to attend interview sessions.

**Selection Process**

- (a) Selection of the public member and alternate public member shall be subject to the affirmative votes of at least one City, County, and District member seated on LAFCO [§56325(d)].
- (b) A written ballot containing the names of all qualified applicants and the names of each Commissioner will be distributed to all voting members of the Commission. The applicant receiving four (4) or more votes in the correct categories shall be appointed.
- (c) In the event of a tie vote, or if one candidate does not receive a majority vote from the Commission, a runoff vote or votes will be conducted.

Results of each ballot will be a matter of public record and be available to the public upon request under the Brown Act and Public Records Act. Ballots will be retained for a period of six (6) months.

- (d) If the alternate public member is selected as the new regular public member, the Commission has the discretion to fill the newly created vacancy in the alternate public member position by appointing someone from the pool of applicants who applied for the regular public member vacancy.

- 1.3.2 **Alternate Commissioners:** Alternate Commissioners are encouraged to take an active role in El Dorado LAFCO business including discussions and deliberations on project proposals, CALAFCO legislative activities and training workshops, interagency coordination and communication, and participation in policy development and other working groups.

Alternate members may vote in place of the regular member who is absent or who disqualifies himself or herself from participating in an action (§56325). However, Alternate Commissioners, when not acting in the absence of a regular member, do not generally participate in closed sessions. The Commission, under the advice of the Executive Officer and Counsel, may invite the participation of Alternates in closed sessions on a case-by-case basis.

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- 1.3.3 **Term of Office:** The term of each member shall be four years. Commissioners serve until the appointment and qualification of a successor or until removed by the appointing body (§56334). A Commissioner is required to vacate their seat if he or she ceases to be an officer of a city, county or district during his or her term (§56337). Terms begin on the first Monday of May (Approved January 24, 2002, February 28, 2007).
- 1.3.4 **New Members:** New Commissioners joining El Dorado LAFCO shall meet with the Executive Officer for an orientation to the agency within 45 days of assuming office. New Commissioners are encouraged to attend courses or programs about the functions and responsibilities of LAFCO, particularly CALAFCO sessions, within their first year of service to LAFCO.
- 1.3.5 **Member Requirements:** Each Commissioner and Alternate shall sign the Code of Ethics adopted by El Dorado LAFCO and adhere to its standards and precepts. The signed code of ethics shall be filed with LAFCO.
- 1.3.6 **Removal of Members:** The Commission may recommend to the appointing authority that a member be removed for the following reasons:
- (a) The absence of that member from three consecutive meetings or more than half the meetings in any 12 month period.
  - (b) Malfeasance of office or dereliction of duty by that member.
  - (c) Refusal to sign and comply with the LAFCO Code of Ethics (Appendix "X").
  - (d) Failure to complete required financial disclosure documents in a timely manner.
- 1.3.7 **Member Responsibility:** All Commission members shall exercise their independent judgment on behalf of the interests of residents, property owners, and the public as a whole. Any member appointed on behalf of local governments shall represent the interests of the public as a whole and not solely the interests of the appointing authority (§56325.1).
- 1.3.8 **Speaking in Public:** All Commissioners, when speaking in public forums of any kind, must clearly state that they are expressing their own views, unless they have been designated to be the spokesperson on that matter and to represent the Commission.

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- 1.3.9 **Stipends:** With the exception of County Board of Supervisors representatives, Commission members and alternates receive a meeting stipend as set by the Commission and are reimbursed for reasonable and necessary expenses incurred in performing the duties of their office (§56334). However, the Commission may temporarily suspend the payment of stipends for a fiscal year due to budget considerations.
- 1.3.10 **CALAFCO Membership:** It is the policy of El Dorado County LAFCO to be a member of CALAFCO and to support and actively participate in the State association.

**1.4 COMMISSION DOCUMENTS**

- 1.4.1 Subject to the discretion of the Executive Officer, printed material relevant to the business of LAFCO, including proposed or anticipated LAFCO actions, may be included in the meeting packet on an informational basis. Printed items submitted to staff by a Commissioner will be distributed to the Commission if the Commissioner clearly directs staff to do so. Commissioners are urged to consider copying and distribution costs for such materials at the time of their request.
- 1.4.2 No staff member will distribute campaign related documents or items unrelated to the business of LAFCO (Government Code §54964, Penal Code 424).
- 1.4.3 Documents provided by staff to individual Commissioners, other than public LAFCO records, will be distributed to the entire Commission. Commissioners are urged to consider copying and distribution costs for such materials when requesting such materials.
- 1.4.4 All persons are invited to submit written comments for any matters set for hearing before LAFCO. Members of the public are strongly urged to submit their comments sufficiently in advance of meetings to allow Commissioners to review and absorb the information.
  - 1.4.4.1 Written comments will be included in the meeting packet if received by staff prior to the distribution of the packet.
  - 1.4.4.2 Written comments received up to 24 hours prior to the LAFCO meeting will be duplicated by staff for distribution at the meeting.
  - 1.4.4.3 Persons submitting written comments less than 24 hours before a LAFCO meeting must provide 15 copies for distribution, or may also directly distribute their written comments and materials to the Commission anytime prior to the close of the public hearing.

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**1.5 OFFICERS**

- 1.5.1 **Elections:** The Chair (§56334) and Vice Chair shall be elected by a majority vote of the Commission. Elections shall be held annually at the first regular Commission meeting of the calendar year.
- 1.5.2 **Terms of Office:** The offices of Chair and Vice Chair are one-year terms. No Commission member shall serve more than two consecutive one-year terms in the same office.
- 1.5.3 **Duties of Chair:** The Chair, when present, shall preside at all meetings of the Commission and shall conduct the business of the Commission in the manner prescribed by these rules. The Chair shall preserve order and decorum, set time limits for speakers, and shall decide all questions of order subject to the action of a majority of the Commission.
- 1.5.4 The Chair may also, from time to time, appoint Commission members to subcommittees and may call special meetings as necessary and as provided by law (§54956). All documents involving official acts of the Commission shall be signed in accordance with appropriate statutes relating to such acts. In the absence of specific regulations, the signature of the presiding officer shall be deemed sufficient.
- 1.5.5 **Duties of Vice-Chair:** In the absence of the Chair or if for any reason the Chair is unable to act as Chair, the Vice Chair shall act as Chair and exercise all the powers and duties of the Chair.
- 1.5.6 **Chair Pro Tem:** In the absence of the Chair or Vice Chair or if the Chair or Vice Chair is unable to participate in the proceedings, the members of the Commission present shall, by an order entered in the minutes, select one of their members to act as Chair Pro Tem with all the powers and duties of the Chair (Robert's Rules of Order).
- 1.5.7 **Spokesperson:** The Commission may, from time to time, designate a spokesperson to represent the Commission for a particular matter.

## 1.6 **MEETINGS AND AGENDAS**

- 1.6.1 **Time and Place:** Regular meetings are conducted monthly (§54954) and are usually held in the Board of Supervisors Meeting Room located at 330 Fair Lane, Building A, Placerville, California. A meeting schedule is adopted annually. The Commission may change the meeting schedule or location, add or cancel hearings.
- 1.6.2 **Cancellation of Meetings:** The Chair is authorized to cancel an upcoming regularly scheduled meeting if staff advises that there are no projects or items of substance expected to be heard before the Commission for that meeting and provided the other Commissioners and the public are given two weeks notice about the cancellation. This authorization may be overridden if a majority of the Commission, after being notified of the cancellation, independently notifies the Executive Officer with his/her objection to the cancellation.
- 1.6.3 **Special Meetings:** The Chair, Executive Officer or a majority of the Commission may call a special meeting at any time, pursuant to the provisions of Government Code 54956. "For the majority to act, there is implied authority for them to communicate to determine if they want to call a special meeting" (Open & Public III: A user's guide to the Ralph M. Brown Act).
- 1.6.4 **Notice:** Public notice of meetings will be provided in accordance with the provisions of the Cortese-Knox-Hertzberg Act, the Brown Act, and the California Environmental Quality Act, as applicable. The Executive Officer may provide public notice, above that required by law, when appropriate. The meeting agenda will be provided to LAFCO's established agenda mailing list, including appropriate media, project proponents, and interested parties requesting notice for a specific hearing.
- 1.6.5 **Agendas:**
- 1.6.5.1 Items are placed on the meeting agenda by any member of the Commission, the Executive Officer, or by the Commission's direction or consensus.
- 1.6.5.2 Meeting agendas will be provided to LAFCO's established agenda mailing list, including appropriate media, project proponents, and interested parties requesting notice for a specific hearing.
- 1.6.5.3 In accordance with the Ralph M. Brown Act, the Commission may not take action on any items that do not appear on the El Dorado LAFCO agenda posted 72 hours prior to the meeting unless an exception is made as permitted under Government Code Section 54954.2 (immediate action required, etc).

## 1.7 **QUORUM, VOTING AND CONDUCT OF MEETINGS**

- 1.7.1 **Quorum:** Four members of the Commission constitute a quorum for the transaction of business. In the absence of a quorum, the members present shall adjourn the hearing to a stated time and place (Robert's Rules of Order).
- 1.7.2 **Voting:** Roll call shall be conducted in random order, with the Chair voting last. No act of the Commission shall be valid or binding unless four or more members concur. A tie vote, or any failure to act by at least four affirmative votes, shall constitute a denial.
- 1.7.3 **Conduct of Meetings:**
- (a) *Robert's Rules of Order* is the general guide for conducting meetings and will be used to resolve points of order.
  - (b) The usual order of business is as follows:
    - (i) Call to Order
    - (ii) Roll Call
    - (iii) Adoption of Agenda
    - (iv) Consent Items
    - (v) Public Comment/Public Forum
    - (vi) Contested Matters/Public Hearings
    - (vii) Executive Officer's Report
    - (viii) Commissioner's Reports
    - (ix) Adjournment
  - (c) The order of the agenda items may be rearranged by the Chair to serve the needs of the agency.
- 1.7.4 **Consent items are voted on in a group with one motion.**
- (a) If any member of the Commission desires that a separate vote be taken on any individual matter listed with the consent items, then that matter may be removed from the consent agenda and voted on separately.
  - (b) Discussion and public comment on all matters listed with the consent items may occur without removing it from the consent agenda for a separate vote.
  - (c) A Commissioner may record an abstention on one or more matters listed on the consent by so stating at the time the vote is taken.
- 1.7.5 **Public Comment/Public Forum:** Any person wishing to address the Commission on any item within LAFCO's jurisdiction but **not** appearing

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on the agenda may do so during this section of the agenda (Section 54954.3). The Commission cannot take action on an item that is not listed on the agenda. The time limit is three minutes per speaker, subject to the discretion of the chair.

- 1.7.6 **Contested Matters/Public Hearings:** The usual order of the public hearing for each agenda items is as follows:

The item is announced and the staff report and recommendation is presented. The Commission may discuss the item, asking questions and/or making comments. The public hearing is opened and each person requesting to speak on the agenda item is called to testify. The public hearing is then closed and the Commission discusses the item and/or takes action on the matter.

- 1.7.7 The Executive Officer shall provide periodic reports to the Commission on agency activities, pending projects, and the budget.

- 1.7.8 Commissioners' reports may include individual or committee activities, intergovernmental items, announcements and other relevant matters.

1.7.9 **Speakers**

1.7.9.1 All communications from the floor are addressed to the Commission.

1.7.9.2 Members of the public are requested to identify themselves and to sign in with the Clerk.

1.7.9.3 No person is allowed to speak from the audience.

1.7.9.4 Each speaker is allowed to speak once on agenda items.

- 1.7.10 **Time Limits:** The Chairman may limit the time for speakers or may limit the total time allotted for any individual item. The usual time limit is three minutes for speakers.

1.7.10.1 The main proponent of an item and spokespersons representing groups will be allowed five minutes. Speakers are allowed to speak once on any agenda item.

1.7.10.2 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.

## **1.8 RESPONSIBILITIES OF COMMISSIONERS**

### **1.8.1 Each member of the El Dorado LAFCO has a duty to:**

- 1.8.1.1 Diligently prepare for meetings by understanding the background, purpose, and arguments for and against items of business before a meeting.
- 1.8.1.2 Seek background information about agenda items and operational matters by contacting the LAFCO's Executive Officer prior to the Board Meeting.
- 1.8.1.3 Respect confidences and information designated as "confidential." Do not disclose information received during a Closed Session of the LAFCO Board held pursuant to state law.
- 1.8.1.4 Treat everyone with respect by actively listening to other viewpoints, and not interrupting, ignoring, or belittling the contributions of others. Members of the Commission will use professional language.
- 1.8.1.5 State views briefly and clearly during LAFCO Board and Committee meetings. Refrain from discussing non-agenda items.
- 1.8.1.6 Refrain from abusive conduct, personal charges, or verbal attacks upon the character, motives, ethics, morals, or comments of other Commissioners, staff, or the public.
- 1.8.1.7 Make impartial decisions in the best interest of the public, free of narrow political interest, financial, and other personal interests that impair independence of judgment or action, and are consistent with, but not limited to, the requirements of the Political Reform Act and other state and local laws.
- 1.8.1.8 Recognize and accept legitimate differences of opinion. Act with integrity in accepting, supporting, and defending LAFCO. Once the Commission takes action, all Commissioners should respect the decision of LAFCO and not create barriers to the implementation of said action. The dissenting Commissioner(s) should acknowledge the decision of the Board and current position of LAFCO.
- 1.8.1.9 Provide fair and equal treatment of all persons and matters coming before the Commission.

## 1.8.2 Rules of Conduct in Office

1.8.2.1 Each member of the El Dorado Local Agency Formation Commission has a duty to:

1.8.2.1.1 Support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; bear true faith and allegiance to the Constitutions of the United States and the State of California; and well and faithfully discharge the duties of the office.

1.8.2.1.2 Commissioners will strive to work in cooperation with other public officials unless prohibited from so doing by law or officially-recognized confidentiality of their work.

1.8.2.1.3 Abide by and defend all applicable laws and policies, especially the political campaign, lobbying, and conflict of interest laws enforced by the Fair Political Practices Commission, state laws, and the El Dorado LAFCO's Policies and Guidelines.

1.8.2.1.4 Safeguard LAFCO's ability to make independent, objective, fair and impartial judgments by scrupulously avoiding financial and social relationships and transactions that may compromise, or give the appearance of compromising objectivity, independence, and honesty.

1.8.2.1.5 Carefully consider if exceeding or appearing to exceed authority of office for personal or financial gain. When in doubt, avoid actions that create, in the mind of a reasonable observer, the appearance of impropriety, ethical lapses, legal violations, or actions inconsistent with this Policy.

1.8.2.1.6 Refrain from making unauthorized commitments or promises of any kind purporting to bind LAFCO.

1.8.2.1.7 Refrain from using status as a public office holder to influence the outcome of a community meeting. When attending as a citizen, indicate when expressing personal opinions, and refer questions related to LAFCO policies to LAFCO's Executive Officer.

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- 1.8.2.1.8 Utilize LAFCO resources, including but not limited to, equipment, supplies, staff time, telephones, computers, and fax machines in a manner consistent with LAFCO policies and state laws.
- 1.8.2.1.9 Correspondence paid for with public funds or on agency stationery must relate to bona fide LAFCO business and must not purport to advance or advocate a policy not previously approved by the Commission as a whole. No individual Commissioner shall create or transmit any LAFCO correspondence without authorization from LAFCO to serve as spokesperson for this purpose. When otherwise signing correspondence using their title as Commissioner and presenting their individual opinions and positions, Commissioners shall explicitly state they do not represent LAFCO and will not allow the inference that they do. The following disclaimer shall be used on personal communication: *“This correspondence and any documents attached hereto, reflects the individual opinions and positions of the above-named Director and does not represent the opinions or positions of LAFCO’s Board of Directors or LAFCO. Pursuant to Section 1.8.1-1.8.1.9 of the LAFCO Policies and Guidelines, individual Commissioners, except as otherwise authorized by LAFCO, shall have no power to act for LAFCO or its Commissioners.”*

**1.8.3 Violation of Code of Conduct and Decorum Policy**

- 1.8.3.1 Presiding Officer. The presiding officer shall request that a person who is breaching the rules of decorum be orderly and comply with this Policy. After receiving a warning from the presiding officer, the presiding officer may agendaize an item for the next LAFCO meeting to discuss the conduct and have the Commission determine if the conduct is in violation of this Policy. If a super-majority of the Commission determines the conduct was in violation of this Policy, the Commission’s super-majority may impose any of the following remedial actions:
- (a) Issue a letter of warning from the Commission;
  - (b) Adopt a resolution expressing disapproval of the conduct of the Commissioner and censure by the Commission;
  - (c) Remove the Commissioner from their position on any LAFCO committees;

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- (d) Deny or reduce payment of stipend and/or expense reimbursement for meetings of outside organizations, if applicable; or
- (e) Deny or reduce payment of stipend and/or expense reimbursement for the LAFCO meetings at which the violations(s) occurred.

1.8.3.2 Motion to Enforce. If the presiding officer of the Commission fails to enforce the rules set forth above, any Commissioner may move to require the presiding officer to do so, and an affirmative vote of a super-majority of the Commission shall require him or her to do so. If the presiding officer of the Commission fails to carry out the will of a super-majority of the Commission, the super-majority may designate another member of the Commission to act as presiding officer for the limited purpose of enforcing any rule of this Policy it wishes be enforced.

**1.9 OTHER**

**1.9.1 Public Records Act Guidelines:** The following guidelines govern requests for access to inspect or obtain copies of public records prepared, owned, used, or retained by the Commission.

1.9.1.1 California's Constitution and the California Public Records Act recognize that the conduct of the people's business is a fundamental and necessary right of every person in California. Equally important, however, is the need to be mindful of individual privacy rights. To that end, the California Public Records Act and other state law provisions exempt certain records from disclosure. Records not exempt from disclosure must be made available to the public promptly upon request.

1.9.1.2 Consistent with the California Constitution and the Public Records Act, the Commission's policy is to provide all members of the public with prompt access to its records unless there is a legal basis not to do so.

1.9.1.3 The Commission's Records are generally open to inspection at all times during normal office hours at the administrative office, located at 550 Main Street, Suite E, Placerville, California. Appointments are not required, but are recommended to help Commission staff locate records and facilitate a response to the request in a timely fashion. In addition, the Commission has an optional form found in Appendix H to these Policies & Guidelines to help facilitate records requests.

1.9.1.4 When a member of the public requests the inspection of a public record Commission staff shall determine whether the Commission has records responsive to the request. It may be necessary for Commission staff to review the requested records to determine whether exemptions apply before the records may be available for inspection or copying. Commission staff, however, will determine whether it has responsive, non-exempt records within 10 days from the Commission's receipt of the request, except in unusual circumstances when the 10-day response period may be extended up to an additional 14 days. Unusual circumstances may apply if the requested records need to be retrieved from storage or other facilities, or the need to search through voluminous amounts of records. If an extension is required, Commission staff will notify the requestor of the need for an extension. Commission staff shall also to the extent feasible, assist individuals in identifying records that are responsive to the request, describe the location or the format in which the records may exist, and provide suggestions for overcoming any practical basis for denying access to a record.

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- 1.9.1.5 To the extent non-exempt public records exist in electronic format, they shall be made available to the public in such format, provided access is not otherwise restricted by law and production will not jeopardize or compromise the security or integrity of the original record or of any proprietary software in which it is maintained. The person requesting the information shall bear the cost of producing the record, including the cost to construct the record, and the cost of programming and computer service to produce the record when the Commission is requested to produce a copy of an electronic record that is produced only at otherwise regularly scheduled intervals or the request requires data compilation, extraction, or programming to produce.
- 1.9.1.6 Requests may be denied if the requested records are determined to be exempt from disclosure under the California Public Records Act or other provisions of federal or state law. Notification of a denial of any request for records must be in writing and include the name and title or position of the Commission employee responsible for the denial and the grounds for exemption or denial of the request.
- 1.9.1.7 A request for a copy of an identifiable public record, for information produced from such a record, or for a certified copy of such a record, must be accompanied by payment of the appropriate fee as stated in the Commission fee schedule. Any fee established may be modified from time to time by Commission to reflect the direct costs of duplication. Where the State Legislature has established a statutory fee for any given record, the statutory fee shall be charged.

## **2 LAFCO OPERATIONS**

### **2.1 LAFCO BUDGET**

As stated in Section 1.1, under the law and LAFCO's Policies and Guidelines, LAFCO is an independent Commission that adopts and administers its own budget and controls its expenditures. Government Code §56381, et. seq., and the following policies will control the LAFCO budget process:

- 2.1.1 **Adoption of Budget:** The Commission shall adopt annually, following noticed public hearings, a proposed budget by May 1 and final budget by June 15 in the manner prescribed by §56381.
- 2.1.2 **Open, Collaborative Process:** LAFCO will encourage an open, collaborative process in the development and approval of its budget. LAFCO will encourage efforts to equitably apportion or reapportion the cost of its budget. In addition, LAFCO will encourage cooperation and collaborative efforts among agencies in order to reduce the costs of special projects, studies and state mandates.
- 2.1.3 **Adoption of Work Plan:** LAFCO will annually review and adopt a work plan to fulfill the purposes and programs of state law and local policy. The work plan will guide the development of the budget.
- 2.1.4 **Resources:** The budget will identify the resources available for LAFCO's use under the law and those resources necessary for the purpose of carrying out state law and the Commission's goals and policies.
- 2.1.5 **Budget Administrator:** The LAFCO Executive Officer shall serve as budget administrator to prepare, present, transmit, review, execute and maintain the LAFCO budget.
- 2.1.6 **Fees:** Fees charged by LAFCO are set at the maximum justifiable level to recover the costs of processing applications and/or to recover the costs of providing services and materials to the public or to other government entities.
- 2.1.7 **Reserve:** LAFCO will appropriate monies to reserves consistent with Policy 2.10.
- 2.1.8 **Expense Claims:** All claims for expenses, other than usual employee costs (salaries and benefits), are to be reviewed by the Commission. Expenditure authorization for all expenses shall comply with Policy 2.9.
- 2.1.9 **Payments:** If the county, a city, or an independent special district does not remit its required payment within 60 days, the Auditor shall collect an

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equivalent amount from the property tax, or any fee or eligible revenue owed to the city, county, or special district (§56381(c)).

- 2.1.10 **Advance:** At the first of each fiscal year, the Board of Supervisors shall transmit an advance equal to 1/6 of the final LAFCO budget to cover the first two months expenses of each fiscal year (§56381 (c)).
- 2.1.11 **Carryover/Fund Balance Amounts:** For purposes of this section and Policies and Guidelines Section 2.10, the carryover/fund balance amount is defined as the amount left over at the end of each fiscal year after all outstanding payments for that fiscal year have been made. The carryover/fund balance amount will be calculated at the close of the books for a fiscal year. After it has been calculated, the LAFCO Executive Officer must report the carryover/fund balance amount to the Commission and to LAFCO's auditors. The carryover/fund balance amount will be used as a revenue source for the fiscal year beginning on July 1 after the carryover/fund balance amount has been calculated. The LAFCO Executive Officer shall deposit these funds consistent with Policy 2.10.

## **2.2 LAFCO FEES**

### **2.2.1 Application of Fees**

- (a) Effective May 2015, the Commission shall periodically review its fees and adopt a fee schedule for the purpose of recovering the costs pursuant to the Cortese-Knox-Hertzberg Act (§56383(a), §56384, §66016). See Section 8.3, Fee Schedule. The period between these reviews shall be no greater than once every five years.
- (b) The schedule of fees shall not exceed the estimated reasonable cost of providing the service for which the fee is charged and shall be imposed pursuant to §66016 and §56383.
- (c) No petition shall be deemed filed until the fee has been deposited (§56383(c)).
- (d) Any individual or entity that requests a LAFCO initiated study or service review of special district changes of organization or reorganization shall be responsible for required fees. Fees are due immediately after LAFCO acts to initiate the study. LAFCO will encourage cooperatively developed fee sharing agreements for LAFCO initiated multi-agency service reviews.

### **2.2.2 De Minimis Project Fee Waivers** *(Approved September 4, 1997)*

- (a) Proposed projects which include requests for minor administrative or corrective actions shall be “De Minimis” for application processing and fee collection purposes if staff determines that the project:
  - is consistent with Section 56668, factors to be considered, and LAFCO policies and procedures;
  - will not cause significant adverse impacts upon any agency or individual;
  - does not involve any new extension of service;
  - is proceeding with the consent of all affected landowners; and
  - is defined as ministerial under, or qualifies for an Exemption from, the requirements of the California Environmental Quality Act.
- (b) De Minimis projects may be approved without notice or public hearing (§56662 and §56663).

### **2.2.3 Appeal of Fees**

- (a) LAFCO fees may be appealed before the Commission.

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- (b) Appeals shall be submitted in writing with the application and contain specific justifications for the request. The appeal will be considered at the next LAFCO hearing.
- (c) Project processing will not begin until a fee determination is rendered by LAFCO.
- (d) The Commission may waive, defer or reduce fees based on the determination that the payment of such fee will result in undue and extra hardship to the applicant that is not caused by the applicant's own action, and where it can be demonstrated that the project is necessary for the public health, safety and welfare (§56383 (d)).
- (e) The Commission will consider the budget impacts of any fee waivers or reductions.

**2.2.4 Refunds**

- (a) If an application is withdrawn, LAFCO will refund fifty percent of the submitted fee, or a sum equal to the original fee minus processing costs to date, whichever ensures that LAFCO recovers its actual costs.
- (b) No refunds will be provided after a public hearing has been scheduled and LAFCO's scheduling procedure has been concluded. (Scheduling procedure includes mailed notices, legal ads, other agency notification.)
- (c) Projects which change substantially and require major revisions of previously completed work may be subject to the collection of additional fees (Adopted March 6, 1997).

**2.2.5 Legal Defense Fees**

- (a) The direct costs for legal defense of a LAFCO approval are considered application processing costs and are the responsibility of the applicant.
- (b) As a condition of approval for any action, the Commission will impose a condition which requires, in the event of legal challenges, that the applicant assume the full legal defense costs because they are a liability incurred by LAFCO after, and as a result of, project approval (§56886(f), §56383).
- (c) The Commission reserves the right to waive payment if it finds that payment of such fee will result in extraordinary hardship to the applicant, and where it can be demonstrated that the project is necessary for the public health, safety and welfare.

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- (d) The Commission may include, within its resolution of approval, a condition which requires the applicant to defend, indemnify, and hold the Commission harmless, in the event that legal action is taken against LAFCO as a direct result of a project's approval.
- (e) The Executive Officer shall notify an applicant of any legal action brought challenging the Commission's action, and the Commission, its agents, and employees shall cooperate fully in the defense of that action.
- (f) The applicant may provide his or her own counsel in the defense of the action taken, under the supervision of LAFCO Counsel, or the applicant may elect to use the services of LAFCO Counsel in that defense. In either case, the Executive Officer may require a deposit of funds sufficient to cover estimated expenses of the litigation (§56383(c)).

2.2.6 **Earned Applicant Fees:** For purposes of this section and Policies and Guidelines Section 2.10, earned applicant fees is defined as the payments made by applicants for services rendered by LAFCO staff over a given period of time. Once earned, LAFCO staff will consider these applicant payments as discretionary revenue. Any earned fees collected within a calendar year will be shown as a revenue source for the following fiscal year beginning on July 1 on the year. After these earned fees are collected, the LAFCO Executive Officer must provide a periodic report detailing the collected earned fees to the Commission and to LAFCO's auditors. The LAFCO Executive Officer shall deposit these funds consistent with Policy 2.10.

## 2.3 **PERSONNEL POLICIES**

The Commission intends to use the services available to county departments insofar as such services support the goals and mission of LAFCO. This shall not be construed to restrict or limit in any way the statutory authority of LAFCO as an independent local agency. LAFCO will comply with all applicable laws related to its operations and administration; the provisions of these policies are not intended to preempt state or federal laws.

- 2.3.1 **Employee Status:** All employees hold their employment in an “at-will” capacity. The Executive Officer serves at the will and pleasure of the Commission. All other employees serve at the will and pleasure of the Executive Officer. The Executive Officer shall conduct and perform the day-to-day business of the Commission (Government Code §56384), including the management and supervision of its staff. Policy and technical questions and suggestions for staff from Commissioners are routed through the Executive Officer.
- 2.3.2 **Number/Classification of Positions:** LAFCO shall specify the number and classification of all positions. A salary scale and position description specifying duties and responsibilities for each classification/position will be approved by LAFCO. The position description may be modified by the Executive Officer as necessary in order to accurately reflect any changes in job duties and responsibilities. However, any addition or deletion of a position must be approved by LAFCO.
- 2.3.3 **Employee Benefits:** Incorporated by reference into the LAFCO Policies and Guidelines are the LAFCO Personnel Policy and Procedure Guidelines, attached as Appendix F to this document. These guidelines set forth the employment policies, procedures, and benefits that apply to LAFCO employees. These guidelines are subject to review and may be changed at the discretion of the Commission.

**2.4 TRAVEL POLICIES** *(Adopted August 27, 2003, Amended August 24, 2007)*

**2.4.1 General Policies**

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

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

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

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

**2.4.2 Travel Authorization and Approval**

Authorization and approval by the Executive Officer or the Commission is required for all travel. Employees and Commissioners must obtain authorization for travel before incurring costs and before commencing travel.

**2.4.3 Mode of Transport**

Transportation shall be by the least expensive and/or most reasonable means available. Generally, costs in excess of the lowest feasible fare are not reimbursed.

- (a) Private auto reimbursement may be authorized by the Commission or the Executive Officer for LAFCO business travel. Reimbursement shall not be authorized for employees commuting to and from their residence to the assigned work site.
- (b) Rental cars or County vehicles may be used if such use is the most economical and practical means of travel. The use of a rental car must be noted on the Travel Authorization and authorized by the Commission or the Executive Officer before incurring costs and before commencing travel.

#### 2.4.4 Reimbursement – Transportation

(a) Public Transportation

Receipts are required for reimbursement of public transportation to facilitate payment. Costs in excess of the lowest possible fare are generally not reimbursed.

(b) Private Auto

Travel by private auto in the performance of “official LAFCO business” shall be reimbursed at the Federal rate as determined by the Internal Revenue Service on the date of travel.

The mileage reimbursement rate represents full reimbursement for private auto expenses for the use of a personal vehicle, including fuel, normal wear and tear, insurance, etc.

Reimbursement shall not be authorized for employees commuting to and from their residence to the assigned work site.

Mileage for travel shall be computed from the agency location or the point of origination, whichever is less.

(For example, an employee who works in Placerville and lives in Cameron Park is required to attend a meeting in Sacramento, originating and returning to their residence in Cameron Park. The employee is paid for the actual mileage, not the mileage from Placerville to Sacramento. An employee who works in Placerville, originating at home in Camino to attend the meeting in Sacramento would submit mileage based on the distance from Placerville to Sacramento.)

#### 2.4.5 Reimbursement - Meals

Reimbursement rates will be at the same levels as for El Dorado County, on the date the expense is incurred.

Alcoholic beverages are not reimbursed.

Actual meal expenses are reimbursed for out-of-county travel. Meals will not be provided for in-county travel or meetings which do not involve overnight lodging, unless special circumstances are involved such as the following:

- (a) When meals are approved as part of a program for special training sessions, conferences, and workshops;

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- (b) When staff/commissioners traveling from the western slope of the county to Lake Tahoe and vice-versa are required to spend the entire work day at that location;
- (c) When staff/commissioners meet with other governmental agencies, community organizations, or private companies in a breakfast, lunch or dinner setting in order to conduct LAFCO business.

Actual costs of meals may be reimbursed up to the total allowed under the County reimbursement maximum without regard to how much is spent on individual meals (e.g., breakfast, lunch, dinner, snacks) and without receipts. If staff/commissioner is on travel status for less than a full day, costs may be reimbursed for individual meals.

County Maximum Allowable Meal Reimbursement (Effective 5/29/99)

Breakfast	\$ 8.00
Lunch	\$ 12.00
Dinner	\$ 20.00
Total for full day	\$ 40.00

**2.4.6 Reimbursement - Lodging**

Lodging within the county may be authorized by the Executive Officer or the Commission if assigned activities require a staff member to spend one or more nights in an area of the county which is distant from their place of residence. Receipts are required for reimbursement of lodging costs to facilitate payment. Overnight accommodations should be as economical as possible and practical.

Lodging is reimbursed up to \$125.00 per night, plus tax, single occupancy. The Executive Officer may approve extraordinary costs above these limits on a case by case basis.

Single rates will be paid except when the room is occupied by more than one LAFCO employee or commissioner. This policy shall not be construed to require shared sleeping accommodations while traveling on LAFCO business.

Lodging arrangements should be made, whenever possible and practicable, at hotels/motels which offer a government discount, will waive charges to counties for Transient Occupancy Tax, or at which the County or LAFCO has established an account. When staying at such a facility, the name of the staff/commissioner and the agency must appear on the receipt of the hotel/motel bill.

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**2.4.7 Reimbursement - Other Expenses**

All other reasonable and necessary expenses (i.e., parking, shuttle, taxi, etc.) will be reimbursed at cost if a receipt is submitted with the claim. Receipts are required except for those charges where receipts are not available such as bridge tolls and snow chain installation/removal fees. Claims submitted without receipts are subject to the approval of the Executive Officer or the Commission.

**2.4.8 Advance Payments**

The Executive Officer or the Commission may provide advance funds for estimated “out of pocket” expenses up to seventy-five percent (75%) of estimated travel expense, but no less than \$50.00. The “out-of-pocket” expenses may include meals, taxi and public transportation, lodging, parking, and pre-registration costs.

Requests for advance funds will be noted and itemized on the LAFCO Travel Authorization forms.

**2.4.9 Claims for Travel Reimbursement**

It is the responsibility of the claimant to understand and comply with these policies to receive reimbursement for travel.

Travel Claims are generally submitted to the Executive Officer or the Commission within 30 days after completion of travel.

Personal mileage and expense claim forms should be completed for each calendar month, one month per claim form unless the monthly amounts total a small amount (i.e. if cost of processing would exceed the amount being claimed). In the latter case, the claims for any individual may be accumulated and processed in a batch when a reasonable claim amount has accrued.

Claims must itemize expenses as indicated on claim forms, and must be processed with receipts attached.

All claims for travel reimbursement shall be made and submitted to the Executive Officer or the Commission for accounting and payment within the same fiscal year as the expense was incurred.

**2.4.10 Cancellations**

Cancellation of travel requires that any advanced funds be returned to the Executive Officer or the Commission as soon as possible or within five (5) working days of the cancellation.

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**2.5 CAPITALIZATION POLICY AND CAPITAL ASSETS** *(Approved February 25, 2004)*

- 2.5.1 Capital assets include furniture and fixtures with a useful life of ten years and a value of \$1500 or more. Equipment with an estimated useful life of five years and a value of \$1500 or more is considered a capital asset. Capital assets owned by LAFCO are stated at historical cost or estimated historical cost, if actual cost is not available.
- 2.5.2 It is LAFCO's policy to capitalize all capital assets. LAFCO will maintain an inventory of capital assets, including equipment and furniture. The inventory will be maintained by staff and will be updated annually at the close of the fiscal year. Capital assets are depreciated using the straight line method over the estimated useful life.
- 2.5.3 Assets become obsolete when the asset is no longer operable, has been replaced, or is no longer available for use. Notification of obsolescence is made annually at the time of audit and removed from the capital assets list thereafter.
- 2.5.4 The Commission shall review and approve a list of any capital assets to be declared surplus property. The Commission may dispose of surplus property by making the property available for donation to any non-profit or other agency listed or authorized by either the State of California or El Dorado County to receive surplus property donations. The Commission may dispose of surplus property through a negotiated contract with an auction company. Costs of assets sold or retired (and related amounts of accumulated depreciation) are eliminated from the accounts in the year of sale or retirement.

**2.6 INVESTMENT POLICY** *(Approved April 28, 2004)*

**2.6.1 Scope**

This policy provides guidelines for the prudent investment of El Dorado Local Agency Formation Commission (LAFCO) funds and for maximizing the efficiency of LAFCO's cash management system.

**2.6.2 Objectives**

The primary objectives of LAFCO's investment activities shall be, in order of priority:

1. Safety of Principal

Investments shall be undertaken in a manner that first seeks to ensure the preservation of principal. The Financial Officer shall evaluate, or cause to be evaluated, each potential investment, seeking both quality in issuer and in underlying security or collateral. The objectives will be to mitigate credit risk and interest rate risk.

2. Liquidity

Investments shall have maturity dates compatible with cash flow requirements and shall permit easy and rapid conversion into cash without substantial loss of value.

3. Return on Investment

Investments shall be undertaken to attain market rates of return, consistent with the higher priority objectives of safety of principal and liquidity.

**2.6.3 Prudence**

LAFCO shall manage its investments under the prudent person rule which states, in essence, that a trustee shall exercise the judgment and care, under the circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived (Government Code §53600.3).

Investment shall be made only in securities and with financial institutions in which LAFCO is legally empowered to invest funds.

Commissioners, officers, and employees involved in the investment process shall refrain from personal business activity that could conflict

with the prudent execution and management of LAFCO's investments, or that could impair their ability to make impartial decisions. Said individuals shall not serve on the board of directors of a financial institution in which LAFCO has invested funds.

#### 2.6.4 **Delegation of Authority**

The Executive Officer is designated as the Financial Officer of LAFCO, and is responsible for investment management decisions and activities.

#### 2.6.5 **Authorized Investments**

1. Passbook Savings and Money Market Checking Accounts. These accounts may be maintained in local branches of commercial banks and/or savings and loan associations. Amounts maintained in such accounts shall be fully insured by the FDIC or fully collateralized.
2. Certificates of Deposit. Cash may be invested in certificates of deposit only if they are fully insured by the FDIC or fully collateralized.
3. Local Agency Investment Fund of the State Treasury (LAIF) or *The Investment Trust of California, A Public Joint Powers Authority Otherwise Known as CalTRUST*.
4. El Dorado County Treasury. Funds may be deposited in the El Dorado County Treasury if the Financial Officer determines that the deposit would facilitate the use or purchase of county services until those services are no longer needed. Funds may also be deposited to facilitate compliance with Government Code §56381.

#### 2.6.6 **Prohibited Investments**

Certain investment practices and instruments are inconsistent with the first objective of this policy, safety of principal, and are therefore prohibited:

LAFCO shall not engage in leveraged investing, including but not limited to margin accounts, hedging, or any form of borrowing for the purpose of investment.

#### 2.6.7 **Reporting**

The Financial Officer shall submit to the Commission a quarterly investment report detailing all investments.

#### 2.6.8 **Policy Revision**

This policy may be revised by the Commission as necessary.

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**2.7 FINANCIAL POLICIES** *(Approved June 23, 2004)*

**2.7.1 Accounts and Signatures**

- (a) Bank accounts shall be authorized upon approval of the Commission and established by the Executive Officer consistent with LAFCO's Investment Policy, Section 2.6 (Adopted April 28, 2004). Such accounts shall be used to manage LAFCO's financial affairs.
- (b) One or more accounts may be retained with the County Treasury to facilitate the purchase of County services until those services are no longer needed and for the County Auditor's convenience in implementing the provisions of Government Code §56381.
- (c) The Executive Officer is designated as the Financial Officer of LAFCO and shall have principal signature authority for all accounts, subject to procedures and safeguards adopted by the Commission.
- (d) Signature authority for any accounts retained with the County Treasury shall continue as defined in County policies and regulations. The Executive Officer will continue signature authority equivalent to the County Chief Administrative Officer and County Department Heads. The Office Manager/Commission Clerk, or other designee, will continue with signature authority previously authorized by the Executive Officer and allowed under County regulations.
- (e) Three commissioners, including the Chairman, Vice-Chairman and one additional designated individual, shall have signature authority for bank accounts and financial transactions.
- (f) The use of auto-pens, signature stamps, auto-signatures or similar devices to authorize checks and other financial transactions conducted by and for LAFCO are not allowed.
- (g) A budget update and financial statement will be reviewed by the Commission no less frequently than quarterly (Policy 2.6.7).
- (h) For ease of purchasing, LAFCO may have one credit card, which may be used for approved purchases up to five thousand dollars (\$5,000.00). The credit card may not in any circumstance be used by any LAFCO employee to pay for any non-LAFCO related items. Any LAFCO employee who uses the LAFCO credit card shall make their best effort to obtain a receipt for each credit card purchase. LAFCO should pay its credit card bill in a timely manner every month.

- (i) LAFCO will not request, obtain, acquire, accept, maintain or use a debit or ATM card from any financial institution.

### 2.7.2 Expenditures

- (a) The Executive Officer will review all claims and invoices received by LAFCO and may authorize payment as appropriate within the framework and limitations of the budget adopted by the Commission.
- (b) The signature authority allowed by this section is as follows:
  - i. Disbursements for the payment of the usual health insurance premiums for LAFCO employees in excess of \$7,000 will require two signatures.
  - ii. Disbursements in excess of \$5,000 will require two signatures. At the discretion of the Executive Officer, a second signature for disbursements of less than \$5,000 may be required.
- (c) All claims for expenses, other than usual employee costs (salaries and benefits), are reviewed by the Commission (Policy 2.1.8).

Expenditure authorization for all expenses shall comply with Policy 2.9. The Executive Officer shall strive to authorize payment of routine claims in an expeditious manner in order to avoid late charges, ensure prompt payment and to qualify for early payment discounts.

- (d) An outside financial audit of LAFCO's financial statements shall be conducted annually following the close of each fiscal year and presented to the Commission when complete.

### 2.7.3 Internal Financial Controls

Financial duties and responsibilities are separated so that no one person has sole control over cash receipts, disbursements, payroll, the signing of checks, and reconciliations. The following are the internal controls and safeguards of LAFCO:

- (a) The Office Manager/Commission Clerk, or other designee, and Executive Officer will follow adopted procedures for invoices, claims, disbursements, receipt and deposits of revenues. The Office Manager/Commission Clerk, or other designee, shall initiate transactions such as Check Request and/or Credit Card Request and payment of invoices and claims.

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- (b) The Executive Officer and/or the Commission shall authorize transactions. The Commission, in a frequency no less than quarterly, will review all claims as specified by Policy 2.1.8.
- (c) The Office Manager/Commission Clerk, or other designee, will prepare payments and checks as specified in the approved procedures.
- (d) The Executive Officer will review and sign all checks in a manner consistent with Policy 27.2(b).
- (e) The Office Manager/Commission Clerk, or other designee, shall maintain and reconcile records of all financial transactions. The Executive Officer will review reconciliations monthly; however, the Executive Officer is prohibited from reconciling any financial records. Financial updates and budget reports will be prepared and presented to the Commission no less frequently than quarterly.

#### 2.7.4 **Fraud/Ethical Behavior**

It is the policy of El Dorado LAFCO to follow ethical, responsible, and reasonable procedures related to purchasing, claims, auditing, money management, and other financial matters. This policy applies to any irregularity, or suspected irregularity, involving employees, consultants, vendors, contractors, outside agencies, and/or any other parties with a business relationship with LAFCO.

El Dorado LAFCO is committed to protecting its assets against the risk of loss or misuse. Accordingly, it is the policy of LAFCO to identify and promptly investigate any possibility of fraudulent or related dishonest activities against LAFCO and, when appropriate, to pursue all legal remedies available under the law.

Fraud is defined as the intentional, false representation or concealment of a material fact for the purpose of personal gain or for the purpose of inducing another to act upon it to his or her injury. Each employee or member of LAFCO should be familiar with the types of improprieties that might occur in his or her area of responsibility and be alert for any indication of irregularity. Any fraud that is suspected or detected shall be reported immediately to the Executive Officer or alternatively to the Chair of the Commission.

#### Actions Constituting Fraud

The terms fraud, defalcation, misappropriation, and other fiscal irregularities refer to, but are not limited to:

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1. Any dishonest or fraudulent act.
2. Forgery or alteration of any document or account belonging to LAFCO.
3. Forgery or alteration of a check, bank draft, or any other financial document.
4. Misappropriation of funds, securities, supplies, equipment, or other assets of LAFCO, including the temporary removal of "borrowing" of LAFCO assets.
5. Impropriety in the handling or reporting of money or financial transactions.
6. Disclosing confidential and proprietary information to outside parties.
7. Accepting or receiving anything of material value from contractors, vendors, or persons providing goods or services to LAFCO.
8. Destruction, removal or inappropriate use of records, furniture, fixtures, and equipment.
9. Personal use of LAFCO Credit Card.
10. Claim for reimbursement of expenses that are not job-related or authorized by current Policy.
11. Authorizing or receiving payment for goods not provided by or services not performed by LAFCO.
12. Any violation of Federal, State, or Local laws related to dishonest activities or fraud .
13. Any similar or related irregularity as those delineated above.

**Whistleblower Protection**

Employees will be granted whistle-blower protection when acting in accordance with the reporting provisions of this policy. When informed of a suspected impropriety, LAFCO, anyone from LAFCO, or any person acting on behalf of LAFCO is prohibited from carrying out any of the following for retaliatory reasons:

1. Dismiss or threaten to dismiss the reporting employee,
2. Discipline, suspend, or threaten to discipline or suspend the reporting employee,

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3. Impose any penalty upon the reporting employee, or
4. Intimidate or coerce the reporting employee.

Violations of the whistle-blower protection will result in discipline up to and including dismissal. Nothing herein shall prevent LAFCO from otherwise taking non-retaliatory disciplinary action under these policies or under LAFCO's Personnel Policies and Procedures.

### **Investigation Procedures**

Any investigation of fraud will be conducted in an objective and impartial manner without regard to the suspected wrongdoer's length of service, position, title, or relationship to LAFCO.

The Executive Officer is designated as the investigator for all allegations of fraud or other wrongdoing unless the Executive Officer is the subject of the investigation. In that case, the Chair of LAFCO will appoint an alternate investigator. The investigator has the primary responsibility for investigating suspected fraudulent acts and may use whatever internal and/or external resources are necessary to conduct an investigation.

### **Investigator Responsibilities**

1. Upon receiving an allegation of Fraud or other irregularities, the Investigator will promptly conduct a thorough investigation, the scope of which is appropriate to the circumstances. To the extent that is possible, investigations should be conducted in a confidential manner and will not be disclosed or discussed with anyone other than those who have a legitimate need to know. This will avoid damaging the reputations of persons who may be suspected, but where the allegations are subsequently found to be unsubstantiated.
2. Employees must cooperate with the Investigator. Refusal to cooperate, or the conveyance of inaccurate information or deliberate attempt to manipulate the investigation, may subject an employee to disciplinary action up to and including dismissal.
3. The Investigator shall be available and receptive to receiving relevant, confidential information to the extent allowed by law.
4. Results of any investigation and subsequent actions will be reviewed by LAFCO Counsel and referred to the Commission if appropriate.
5. If evidence is uncovered showing possible dishonest or fraudulent activities, the Executive Officer, or the LAFCO Chair if the Executive Officer is the subject of the investigation, will proceed as follows:

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- a. Take immediate action, in consultation with LAFCO Counsel, to prevent the theft, alteration, or destruction of evidentiary records pertinent to the investigation. Such action may include, but is not limited to:
    - 1) Removing the records and placing them in a secure location or limiting access to the records.
    - 2) Preventing the individual suspected of committing the fraud from having access to the records.
  - b. Take immediate action to improve internal control. Such action shall result in the Executive Officer, or the LAFCO Chair if the Executive Officer is the subject of the investigation, having reasonable assurance that the changes in procedures will prevent similar future occurrences.
  - c. Following his or her review of the investigation results, the Executive Officer, or the Chair if the Executive Officer is the subject of the investigation, will take appropriate action regarding employee misconduct. Disciplinary action shall be imposed in accordance with LAFCO's Personnel Policies and Procedures and can include a disciplinary action up to and including termination.
  - d. If appropriate, take immediate action, in consultation with LAFCO Counsel, to notify law enforcement and the District Attorney's Office for possible arrest and prosecution of the wrongdoing parties.
  - e. Pursue every reasonable effort to recover any financial loss incurred by LAFCO from the offender or other appropriate sources.
5. Unless exceptional circumstances exist (as determined in the reasonable discretion of the Executive Officer or, if the Executive Officer is the subject of the investigation, the LAFCO Chair), a person under investigation for fraud is to be given notice in writing of the investigation so that the individual is apprised of the nature of the allegations against them. The person against whom allegations are being made may submit a written explanation to the investigator no later than five (5) business days after notice is received. At the conclusion of the investigation, the person against whom allegations are being made will be advised of the outcome of the investigation (i.e. whether the allegations were sustained or not sustained).

Investigation results are confidential and will not be disclosed or discussed with anyone other than those who have a legitimate need to know. This will avoid damaging the reputations of persons who may be suspected, but subsequently found innocent of wrongful conduct.

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- 2.7.5 To the extent that LAFCO's Plan with the California Public Employees' Retirement System has a funded ratio of less than 100%, and provided that the "Emergency Expense" fund is fully funded in accordance with Policies & Guidelines Section 2.10.5(c), it is the intent of this Commission to allocate any carryover monies that are in excess of the estimated carryover amount specified in the final budget towards paying down the unfunded accrued liability until the funded ratio reaches 100%. This allocation will continue until LAFCO's Plan's funded ratio is 100% or unless the "Emergency Expense" fund is not fully funded per Policies & Guidelines Section 2.10.5(c).

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**2.8 RECORDS RETENTION** *(Approved September 26, 2007)*

Legal authority citations are listed in parenthesis at the end of each section where applicable and use the following abbreviations:

**LEGAL AUTHORITY ABBREVIATIONS**

<b>CCP</b>	Code of Civil Procedure (CA)	<b>IRC</b>	Internal Revenue Code
<b>CFR</b>	Code of Federal Regulations	<b>LC</b>	Labor Code (CA)
<b>GC</b>	Government Code (CA)	<b>USC</b>	United States Code

**2.8.1 Administrative**

**2.8.1.1 Accounts Payable**

- *Until audited + five (5) years (GC 34090; CCP 337)* – Journals, statements, asset inventories, account postings with supporting documents, vouchers.
- *Four (4) years [GC 34090; 26 CFR 31.6001-1(e)(2)]* – Invoices, checks, reports, investments, purchase orders.

**2.8.1.2 Accounts Receivable**

- *Five (5) years [26 CFR 31.6001-1(e)(2)]* – Invoices, checks, reports, investments, receipt books.
- *Until audited + four (4) years* – Checks, coins, currency
- *Invoices – Until audited + two (2) years (GC 34090)*

**2.8.1.3 Budget – *Until audited + eight (8) years (GC 34090)***

Adjustments, journal entries, account transfers

**2.8.1.4 Statements of Economic Interest – Form 700 (originals)– *Seven (7) years (can be imaged after two) [GC 81009(e)(9)]***

Originals of statements of designated persons, elected officials and employees

**2.8.1.5 Financial**

- *Annual Financial Reports – Until audited + four (4) years (GC 34090)*  
Independent auditor analysis
- *Audit Reports – Permanent (GC 34090)*  
Financial services; internal and/or external reports
- *Bank Account Reconciliation – four (4) years [26 CFR 31.6001-1(e)(2)]*  
Bank statements, canceled checks, certificates of deposit
- *Checks – Until audited + two (2) years (GC 34090)*  
Includes canceled and voided checks and stop payments
- *Deferred Compensation –three (3) years (26 CFR 516.5; 29 CFR 1627.3)*  
Pension/retirement funds
- *Fixed Assets, Inventory – Until audited + two (2) years (GC 34090)*  
Reflects purchase date and cost

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- Fixed Assets, Surplus Property – *Until audited + four (4) years (GC 34090; CCP 337)*  
Auction, disposal, listing of property
  - Fund Transfers – *Until audited + two (2) years (GC 34090)*  
Internal; bank transfers & wires
  - General Ledgers – *Permanent (GC 34090; CCP 337)*  
All annual financial summaries
  - Grants – *Until completed + four (4) years (GC 34090; 24 CFR 570.502; 24 CFR 85.42)*  
Grants documents and all supporting documents: applications, reports, contracts, project files, proposals, statements, sub-recipient dockets, environmental review, grant documents, inventory, consolidated plan, etc.
  - Unemployment Insurance Records – *Four (4) years (IRC 3301-3311)*
  - Vouchers/Payments *Until audited + four (4) years (GC 34090; CCP 337)*  
Account postings with supporting documents
- 2.8.1.6 Forms – *Until superseded*
- 2.8.1.7 Code of Ethics – *Current + six (6) years (GC 34090)*  
Elected and public officials (Commissioners)
- 2.8.1.8 Payroll
- Federal/State Reports – *Ten (10) years (GC 60201)*  
Annual W-2's, W-4's, Form 1099s, etc.; quarterly and year-end reports
  - Deductions/Authorizations – *While current + ten (10) years [GC 60201; 29 CFR 516.6(c)]*
  - Registers – *Seven (7) years [GC 60201; 29 CFR 516.6(a)]*
  - Records, Terminated Employees – *Ten (10) years from date of last entry (GC 60201; 29 CFR 516.5)*
  - Timecards – *Ten (10) years (GC 60201)*
  - Wage Rates/Job Classifications – *While current + seven (7) years (GC 60201)*
- 2.8.1.9 Office/Administrative Procedure Manuals – *Current + two (2) years (GC 34090)*
- 2.8.1.10 Public Records Request – *Two (2) years (GC 34090)*  
Requests from the public to inspect or copy public documents
- 2.8.1.11 Reports
- Insurance, Risk Management Reports – *Five (5) years (Federal), two (2) years (State) (GC 34090; 29 CFR 1904.4)*  
Federal OSHA forms; loss analysis report; safety reports; actuarial studies
  - Demographic/Statistical Data – *Current + two (2) years (GC 34090)*

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- 2.8.2 **Agency Files & Sphere of Influence** – *Permanent (GC 34090)*
- 2.8.3 **Conducting Authority Proceedings** – *Permanent (GC 34090)*
- 2.8.4 **Contracts/Agreements**
  - 2.8.4.1 *Four (4) years after termination/completion (CCP 337)* – Original contracts and agreements and back-up materials, including leases.
  - 2.8.4.2 Insurance, Joint Powers Agreement – *Current + two (2) years (GC 34090)*  
Accreditation, MOU, agreements and agendas
  - 2.8.4.3 Insurance, Liability/Property – *Current + two (2) years (GC 34090)*  
May include liability, property, Certificates of Participation, deferred, use of facilities
- 2.8.5 **Correspondence**
  - 2.8.5.1 Electronic Correspondence – *30 days*  
E-mail not otherwise related to projects
  - 2.8.5.2 Regular Correspondence
    - Citizen Feedback – *Two (2) years (GC 34090)*
    - Complaints/Requests – *Two (2) years (GC 34090)*  
Various files not related to specific lawsuits involving the agency and not otherwise specifically covered by the retention schedule.
    - General correspondence – *Two (2) years (GC 34090)*  
Including various letters, not otherwise specifically covered by the retention schedule
  - 2.8.5.3 Legislation
    - Political Support/Opposition, Requests & Responses – *Two (2) years (GC 34090)*
- 2.8.6 **Legal**
  - 2.8.6.1 Litigation
    - Claims against the Agency – *Permanent (May be imaged after three (3) years) (GC 34090)*
    - Case Files – *Permanent (GC 34090)*
  - 2.8.6.2 Legal Opinions – *Permanent (GC 34090)*  
Confidential - not for public disclosure (attorney-client privilege)
- 2.8.7 **Maintenance Files**
  - 2.8.7.1 Maintenance Manuals – *Current only (GC 34090)*  
Equipment service/maintenance
  - 2.8.7.2 Maintenance/Repair Records – *Two (2) years (GC 34090)*  
Equipment

### 2.8.8 Meeting Records

#### 2.8.8.1 Affidavits of Publication/Posting/Notices (all meetings) – *Two (2) years (GC 34090)*

Legal notices for public hearings not otherwise related to projects, publication of ordinances, etc.

#### 2.8.8.2 Agenda/Agenda Packets

- *Permanent (GC 34090.5)* – Agendas, agenda packets, staff reports and related attachments, supplemental items and documentation submitted by staff/public in relation to agenda items. Originals may be imaged for **permanent records retention** after two (2) years; the imaged record may serve as the permanent record.
- Review of Claims – *Until audited + two (2) years (GC 34090)*  
Record of payments issued; approved by the Commission (copy is normally retained as part of agenda packet information)

#### 2.8.8.3 Meeting Minutes

- Hard copy – *Permanent (GC 34090)*  
May be imaged for **permanent records retention** after two (2) years
- Audio tapes – *May be destroyed ninety (90) days after Commission adoption of Minutes unless requested by a member of the public or Commission to retain for a longer period of time*

### 2.8.9 Personnel

#### 2.8.9.1 Accident/Illness/OSHA – *Duration of employment + 30 years [8 CCR 14307; 8 CCR 3204; 8 CCR 5254 (c)]*

Not a public record; employee medical records & employee exposure records, including Material Safety Data Sheets (MSDS).

#### 2.8.9.2 Employee File – *While current + seven (7) years [8 USC 1324(a)b3; GC 12946; GC 6254(c) 29 CFR 16273; LC 1174]*

Not a public record. Includes general information (name, address, date of birth, occupation, etc., including records relating to evaluations, promotion, demotion, transfer, disciplinary actions, lay-off, termination); payroll records, Employment Eligibility Verification (I-9 Forms), all family and medical leaves, (records of leave taken, agency policies relating to leave, notices, communications relating to taking leave), Workers Compensation (work-injury claims [including denied claims]; claim files, reports, etc. and work-injury claims [including denied claims]; claim files, reports, etc.), Employee Benefits – CALPERS.

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- 2.8.9.3 Employee – *Length of employment + three (3) years (GC 34090; GC 12946; 29 CFR 1627.3)*  
May include release authorizations, certifications, all training records, outside employment, commendations, pre-employee medicals, identification cards, medical health benefits
- 2.8.9.4 Employee Programs – *Current + two (2) years (GC 34090; GC 12946)*  
Includes EAP and Recognition
- 2.8.9.5 Employee Recruitment – *Current + two (2) years (GC 34090; 12946; 29 CFR 1602 et seq.; 29 CFR 1627.3)*  
Alternate lists/logs, examination materials, examination answer sheets, job bulletins.
- 2.8.9.6 Employee Rights – *Length of employment + two (2) years (GC 12946; 29 CFR 1602.31)*
- 2.8.9.7 Employment Applications – Not hired – *Two (2) years (GC 34090; GC 12946; 29 CFR 1627.3)*  
Applications submitted for existing or anticipated job openings, including any records pertaining to failure or refusal to hire applicant.
- 2.8.9.8 Recruitments and Selection – *Three (3) years (29 CFR 1627.3)*  
Records relating to hiring, promotion, selection for training
- 2.8.9.9 Vehicle Mileage Reimbursement Rates – *Until superseded (GC 34090)*
- 2.8.10 **Policies**
  - 2.8.10.1 Personnel Rules and Regulations – *Current + two (2) years GC 34090)*  
Employee handbook
  - 2.8.10.2 Policies and Procedures – *Current + two (2) years (GC 60201)*  
All policies and procedures adopted by the Commission; directives rendered by the agency not assigned a resolution number; Commission Bylaws
- 2.8.11 **Project Files**
  - 2.8.11.1 Annexations and Reorganizations – *Permanent (GC 34090; GC 60201)*  
Notices, Resolutions, Certificates of Completion; documents may be imaged, but the originals can never be destroyed.
  - 2.8.11.2 Articles of Incorporation – *Permanent (GC 34090; GC 60201)*
  - 2.8.11.3 Environmental Quality; California Environmental Quality Act (CEQA) – *Permanent (GC 34090; GC 60201)*  
For all project-related environmental reviews: Exemptions, Environmental Impact Reports, mitigation monitoring, Negative

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Declarations, Notices of Completion and Determination,  
comments, Statements of Overriding Considerations

2.8.11.4 Environmental Quality Review – *Completion + two (2) years*  
(GC 34090)

Correspondence, consultants, issues, conservation

2.8.11.5 Requests for Qualifications (RFQs) and Request for Proposals  
(RFPs) – *Current + two (2) years* (GC 34090)

2.8.11.6 Resolutions – *Permanent* (GC 34090; GC 60201)

2.8.12 **Subject Files** – *Permanent* (GC 34090; GC 60201)

2.8.13 **Approved LAFCO Resolutions** – *Permanent* (GC 34090; GC 60201)  
Not otherwise related to projects

**2.9 PURCHASING POLICIES AND PROCEDURES**

**2.9.1 Overview**

THE POLICIES DESCRIBED IN THIS SECTION APPLY TO ALL PURCHASES, AGREEMENTS AND CONTRACTS MADE BY EL DORADO LAFCO.

It is the policy of El Dorado LAFCO to follow a practice of ethical, responsible and reasonable procedures related to purchasing, agreements and contracts, and related forms of financial commitment. The policies in this section describe the principles and procedures that all staff shall adhere to in the completion of their designated responsibilities. The policies and procedures are intended to provide for the cost-effective use of public resources, including funds and staff time.

**2.9.2 Authorizations and Purchasing Limits**

2.9.2.1 All purchases should adhere to the following guidelines:

<b>Purchase Limit</b>	<b>Minimum Number of Quotes</b>	<b>Form of Quote</b>	<b>Approval Authority</b>
<b>Goods</b>			
Up to \$1,000	1	Verbal	Executive Officer
\$1,001 - \$5,000	2	Written	Executive Officer
\$5,001 - \$10,000	3	Written	Chair
Over \$10,000	3	Written	Commission
<b>Services</b>			
Under \$1,000	1	Verbal	Executive Officer
\$1,001 - \$10,000	1	Written	Executive Officer
Over \$10,000	2	Written	Commission

2.9.2.2 Any contract or agreement for services greater than \$10,000 within a fiscal year shall be presented to the Commission for approval and execution.

2.9.2.3 Any contract or agreement for which there are not sufficient funds contained in the appropriate line item of the LAFCO budget, regardless of the amount of the contract or agreement, shall be presented to the Commission for approval and execution.

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2.9.2.4 Any amendment to an existing contract or agreement for services which would cause the total amount of the contract or agreement to exceed \$10,000 in a fiscal year shall be presented to the Commission for approval and execution.

2.9.2.5 Any furniture or fixtures with a useful life of ten years or equipment with an estimated useful life of five years costing \$1,500 or more must be inventoried as a capital asset in compliance with Policy 2.5.

2.9.2.6 At the end of each fiscal year, the Commission shall review all open ended contracts, agreements and amendments and all unexpired limited term contracts, agreements and amendments.

**2.9.3 Conflict Avoidance**

2.9.3.1 Goods or services shall not be purchased from members of the Commission, Commission employees, other vendors that are related to Commissioners or Commission employees, or vendors in which Commissioners or employees have a financial interest.

2.9.3.2 Strict observance to Policy 2.7.4 will be observed at all times.

**2.9.4 Required Solicitation of Quotations**

2.9.4.1 Solicitation only requiring verbal quotes

2.9.4.1.1 Solicitor must document the quote amount in writing.

2.9.4.1.2 The written record must be retained for the appropriate period of time as indicated in Policy 2.8.1.

2.9.4.1.3 All purchases must be reviewed by the Commission as specified in Policy 2.1.8

2.9.4.2 Solicitations requiring written quotes

2.9.4.2.1 All purchases of goods must be reviewed by the Commission as specified in Policy 2.1.8.

2.9.4.2.2 Written approval from the Chair must be in the form of an agreement or contract executed by Chair, signed authorization from the Chair to the Executive Officer, or via e-mail from the Chair to the Executive Officer.

2.9.4.2.3 Where expected costs are equal to or greater than \$10,000 within a fiscal year, a bid or formal request for proposal (RFP) process is required. The process should provide for all of the following:

- A clear and accurate description of the technical requirements for the material, product or service to be procured. In competitive

procurements, such a description shall not contain features that unduly restrict competition. Requirements that the bidder must fulfill, and/or outcomes that the bidder must deliver or perform, and all other factors to be used in evaluating bids or proposals.

- A description, whenever practicable, of technical requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards.
- A description of the proper format, if any, in which proposals must be submitted, including the name of the LAFCO staff contact to whom proposals should be sent.
- The date by which proposals are due.
- Required delivery or performance dates/schedules.
- Clear indications of the quantity(ies) requested and unit(s) of measure.

#### 2.9.5 **Special Purchasing Conditions**

- 2.9.5.1 Emergencies: Where equipment, materials, parts, and/or services are needed to protect the health, welfare, safety, etc., of staff and/or to avoid damage or loss of Commission property, quotations will not be necessary. However, such purchases will be subject to approval by the appropriate authority subject to the limits depicted previously, except that the Executive Officer may approve such purchases if time does not allow for Commission approval and reasonable efforts to contact the Chair have been unsuccessful. The purchase must be reported back to the Commission within 90 days or by the next available meeting, whichever is later.
- 2.9.5.2 Equipment, supplies and furniture purchases from discount warehouses will not require multiple quotes; however, such purchases will be subject to approval by the appropriate authority subject to the limits depicted previously.
- 2.9.5.3 Single Distributor/Source: Where there is only one (1) distributor for merchandise needed and no other product meets the stated needs or specifications, quotations will not be necessary.
- 2.9.5.4 The Commission can delegate its authority to the Chair or Executive Officer on a case-by-case basis.

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2.9.5.5 Extending the purchase of goods or services under the terms of an existing agreement/contract will not require additional quotes unless the cost exceeds \$10,000 within a fiscal year. In those instances, Commission review and authorization under Policy 2.9.2 is required.

**2.9.6 Vendor Files and Required Documentation**

2.9.6.1 The creation of vendor files for each new vendor from whom LAFCO purchases goods or services will comply with established procedures for the retention of accounts payable documentation.

2.9.6.2 All reasonable steps should be taken to verify the authenticity and identity of the vendors contracting with LAFCO. As Financial Officer to LAFCO, the Executive Officer may not enter new vendors into the accounts payable system.

2.9.6.3 When a vendor file is created, if that vendor is not used again, the purging of their file must be in compliance with Policy 2.8.1.

## 2.10 FUND BALANCES

- 2.10.1 Fund balances are classified in accordance with the Governmental Accounting Standards Board (GASB) Statement Number 54, *Fund Balance Reporting and Governmental Fund Type Definitions*. Reporting of fund balance in LAFCO's CAFR will be based on the amounts and classifications listed in the fund balance summary of LAFCO's Annual Budget. Classification of fund balance reflects the current plans of the Commission with respect to the use of fund balance. These plans represent current intention and are subject to change and assignment. Furthermore, the classification of funds (reflecting current plans for asset use) does not in any way limit the ability of LAFCO to use those funds for other purposes, as deemed necessary by LAFCO.
- 2.10.2 Under GASB Statement Number 54, fund balances will be classified as "Non-Spendable" and "Spendable". Spendable categories will be further classified as *Restricted, Committed, Assigned, and Unassigned*.
- 2.10.3 Non-Spendable: The Commission shall designate fund balance as "Non-Spendable" for amounts that cannot be spent or are not in spendable form (i.e. prepaid items, land held for resale, long-term receivables), or are legally or contractually required to be maintained intact. Although, if the use of the proceeds from the sale of those properties or from the collection of those receivables is restricted, committed, or assigned, then they should be included in the correct spendable classification rather than the Non-Spendable classification.
- 2.10.4 Spendable Category Definitions
- a. Restricted: The Commission shall designate fund balance as "Restricted" for amounts that are externally imposed by creditors, grantors, contributors, or laws and regulations of other governments. The Commission shall also designate fund balance as "restricted" if required by imposed enabling legislation or regulations.
  - b. Committed: The Commission shall designate fund balance as "Committed" for amounts committed for specific purposes by formal action of LAFCO, such as enacted ordinances, resolutions, or action items, which prevent the amounts from being used for any other purpose without formal action of LAFCO. Committed funds also include contractual obligations to the extent that existing resources have been specifically committed for use in satisfying those contractual requirements.
  - c. Assigned: The Commission or Executive Officer may designate fund balance as "Assigned" for amounts intended to be used for specific purposes without formal action. This authority to determine the portions of a fund balance that is to be reported as "Assigned" in

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LAFCO's CAFR may be delegated to the Executive Officer or the Executive Officer's designee.

- d. Unassigned: The Commission shall designate fund balance as "Unassigned" for amounts that are in excess of Non-Spendable, Restricted, Committed, and Assigned fund balances.

2.10.5 LAFCO will allocate the fund balances in the following manner:

- a. Assigned: An "Accrued Leave" fund to cover the balance of all employees' vested time off (vacation and sick leave), allocated annually as a line item in the budget. Funds may be expended for the sole purpose of compensating an employee who leaves the agency's employment of the balance of his/her accrued time off, in accordance with applicable Federal and State laws and in conformance with LAFCO's policies. Disbursement of the Accrued Leave is delegated to the Executive Officer.
- b. Assigned: An "Operating Contingency" fund set at 10% of total operating expense, allocated annually as a line item in the budget. Funds may be expended to cover increases in cost for other budget items or unexpected expenses within the scope of other items in the budget. Disbursement of the operating contingency is at the discretion of the Executive Officer.
- c. Assigned: An "Emergency Expense" fund set at a maximum of 5% of the LAFCO budget for the purposes of funding non-budgeted legal expenses that may occur from time-to-time; unexpected catastrophic expenses; or an unexpected drop in revenues. Expenditure of "Emergency Expense" funds must receive prior approval of the Commission. An emergency expense can be authorized from the "Emergency Expense" with approval of the Executive Officer and either Commission Chair or Vice Chair for an amount totaling less than \$10,000.00 during a monthly period. Assignments into this classification will not be allocated in the budget. Instead, assignments into this fund will come from any carryover monies that are in excess of the estimated carryover amount specified in the final budget. Upon the time the "Emergency Expense" fund is fully funded in accordance with this policy, the application of any excess carryover monies will be applied per Policies & Guidelines Section 2.7.5.
- d. Unassigned: Carryover/Fund Balance amounts, as defined in Policy 2.1, can be deposited into LAFCO's short-term CalTRUST account between the time the amount is calculated and its utilization on the fiscal year beginning with July 1 after the amount has been calculated.

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- e. Unassigned: Earned Applicant Fees, as defined in Policy 2.1, can be deposited into Unassigned: Earned Applicant Fees, as defined in Policy 2.1, can be deposited into LAFCO's short-term CalTRUST account between the time the earned fees are collected within a calendar year and until they are to be used as revenue for the following fiscal year beginning with July 1.
- f. Assigned: Monies budgeted towards the replacement of LAFCO's IT infrastructure can be deposited into LAFCO's medium-term CalTRUST account. These funds cannot be withdrawn without prior authorization from the Commission.

### **3 GENERAL POLICIES, REQUIREMENTS AND CRITERIA**

This section includes general policies, requirements and criteria that apply to all LAFCO actions. There may be cases when the Commission must use its discretion in the application of these policies so that potential or real conflicts among policies are balanced and resolved based on project specifics and so that these policies remain consistent with the requirements of the Cortese-Knox-Hertzberg Act of 2000.

#### **3.1 APPLICATION PROCESS**

3.1.1 All applications for consideration by the Commission are to be submitted on LAFCO application forms (§56652). See Appendix E, Application Forms.

##### **3.1.1.1 Disclosure of Political Expenditure Regarding LAFCO Proceedings**

Pursuant to Government Code Sections 56700.1 and 57009, expenditures for political purposes related to a proposal for a change of organization or reorganization and contributions in support of or in opposition to any proposal at the conducting authority stage of the LAFCO process are subject to the reporting and disclosure to the same extent as required for local initiative measures under the Political Reform Act, Government Code Section 81000 et seq., and the regulations of the Fair Political Practices Commission implementing that law.

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

##### **3.1.1.1.1 Definitions**

- (a) “Contribution” as used herein shall have the same definition as provided in Government Code Section 82015, as amended.
- (b) “Expenditure” as used herein shall have the same definition as provided in Government Code Section 82025, as amended.
- (c) “Independent expenditure” as used herein shall have the same definition as provided in Government Code Section 82031, as amended, except that the term “measure” as used in Section

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82031 shall be replaced with the term “proposal for organization or reorganization.”

- (d) “Political Purposes” as used herein shall have the same definition as provided in Government Code Section 84251, as amended.

3.1.1.1.2 Disclosure and Reporting Requirements

(a) Contributions and expenditures for political purposes related to a proposal for a change of organization or reorganization, or conducting authority proceedings for a change of organization or reorganization, shall be disclosed and reported to the Secretary of State, pursuant to Sections 56100.1, 84252, and 84204.5 of the Government Code.

(b) In addition to complying with the above disclosure and reporting requirements, the applicant shall also provide copies of all disclosure documents to LAFCO, within the same timeframes as specified in Sections 56100.1, 84252, and 84204.5 of the Government Code.

3.1.1.1.3 Reporting requirements are non-exclusive

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

3.1.2 Applications shall be processed in an efficient and orderly manner that reduces hardship upon the applicant while ensuring consistency with the Cortese-Knox-Hertzberg Act of 2000. To that end, the applicant or applicant’s representative shall be required to attend a pre-application submittal meeting to receive direction and advice regarding the processing needs and requirements of the specific action to be considered.

3.1.3 Any application submitted to LAFCO is considered a preliminary submittal and will not be deemed filed until such time as all required information, fees and materials are received. Preliminary processing may occur during the preliminary submittal phase.

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3.1.4 Applicants will be required to provide information adequate to permit LAFCO to fully consider all factors required by law including, but not limited to, the following (§56668, §56375):

- (a) Population; population density; land area and land use; per capita assessed evaluation; topography; natural boundaries and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next ten years.
- (b) Need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs for those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas.

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

- (c) Effect of the proposed action and of alternate actions, on adjacent areas, on mutual economic or social interests, and on the local governmental structure of the county.
- (d) Conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the open space conservation policies and priorities set forth in §56377.
- (e) Effect of the proposal on maintaining the physical and economic integrity of agricultural lands as defined by §56016.
- (f) The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.
- (g) A regional transportation plan adopted pursuant to Section 65080, and its consistency with city or county general and specific plans.
- (h) The proposal's consistency with city or county general and specific plans.

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- (i) The sphere of influence of any local agency which may be applicable to the proposal being reviewed.
  - (j) The comments of any affected local agency or other public agency.
  - (k) The ability of the newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.
  - (l) Timely availability of water supplies adequate for projected needs as specified in §65352.5.
  - (m) The extent to which the proposal will affect a city or cities and the county in achieving their fair share of the regional housing needs as determined by the appropriate council of governments consistent with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7.
  - (n) Any information or comments from the landowner or owners, voters, or residents of the affected territory.
  - (o) Any information relating to existing land use designations.
  - (p) The extent to which the proposal will promote environmental justice. As used in this subdivision, “environmental justice” means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services.
- 3.1.5 No application shall be deemed filed until resolutions providing for an agreement for redistribution of property tax are received (§56810, §56815.) Once property tax exchange negotiations have been initiated by transmittal of the schedules prepared by the County Auditor/Controller, 60 days will be allowed for completion of negotiations (Revenue and Taxation Code §99 (b)(4) and §99 (b)(6).
- 3.1.6 No application shall be deemed filed for processing purposes until the Executive Officer makes an environmental determination pursuant to the requirements of the California Environmental Quality Act (Policy 3.2.4) and environmental documentation has been completed that adequately addresses the requirements of CEQA and El Dorado LAFCO’s CEQA Procedures (Policy 3.2.5).
- 3.1.7 Additional application requirements including maps, fees, signed application forms, etc. must be completed within six months following the property tax redistribution agreement. If the application remains incomplete after six months the project will be closed and the proposal will be terminated.

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- 3.1.8 Immediately after receiving an application and before issuing a certificate of filing, LAFCO shall notify the appropriate agencies pursuant to §56658(b), provide relevant application related information, and request review and comment on the proposal.
- 3.1.9 LAFCO encourages consolidated applications when related changes of organization are expected for adjacent territories. Applicants are strongly encouraged to include the adjacent territory and combine applications where possible.
- (a) If the applicants choose to proceed with separate proposals, each applicant will provide a map that indicates the location, size and boundaries of adjacent applications.
  - (b) LAFCO shall consider related applications at the same hearing when feasible, and may modify boundaries, including the addition of adjacent parcels, to encourage the orderly formation and development of local agencies based upon local conditions and circumstances (§56001, §56300, §56301).
- 3.1.10 If a project site can be anticipated to require one or more additional changes of organization that are timely and not part of the submitted application, LAFCO shall require that the application be filed as a reorganization.
- 3.1.11 Agencies shall comply fully with the Commission's requests for information necessary to prepare studies or process an application (§56378, §56386).

### **3.2 CEQA COMPLIANCE**

- 3.2.1 Within the scope of LAFCO's specific mission and purposes, and as stated in §21001 of the Public Resources Code, LAFCO shall be guided by state policy when considering projects. Those State policies that will be furthered are:
- (a) Develop and maintain a high-quality environment now and in the future, and take all actions necessary to protect, rehabilitate, and enhance the environmental quality of the state;
  - (b) Take all actions necessary to provide the people of California with clean air and water, enjoyment of aesthetic, natural, scenic, and historic environmental qualities, and freedom from excessive noise;
  - (c) Prevent the elimination of fish and wildlife species due to people's activities, ensure that fish and wildlife populations do not drop below self-perpetuating levels, and preserve for future generations representations of all plant and wildlife communities and examples of major periods of California history;
  - (d) Ensure that the long-term protection of the environment, consistent with the provision of a decent home and suitable living environment, shall be the guiding criterion when making decisions whether to approve or disapprove a proposed project;
  - (e) Create and maintain conditions under which man and nature can exist in productive harmony to fulfill the social and economic requirements of existing and future generations;
  - (f) Develop standards and procedures necessary to protect environmental quality; and
  - (g) Consider qualitative factors as well as economic and technical factors, long-term benefits and costs in addition to short-term benefits and costs, and less damaging alternatives to proposed actions affecting the environment.
- 3.2.2 LAFCO shall implement CEQA in an effective and efficient manner while maximizing opportunities for public participation and disclosures (§21003) by:
- (a) Meeting with applicants early in the process to facilitate processing and encourage modifications to the proposed project, before it is submitted, that may eliminate or avoid potential environmental impacts.

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- (b) Integrating environmental review with other processes to the maximum extent feasible so that such processes may run concurrently;
  - (c) Preparing documents that are organized, readable and concise;
  - (d) Omitting unnecessary information and only considering feasible mitigation measures and project alternatives;
  - (e) Providing new technical data gathered in the CEQA process to local, state and federal agencies to support data base development;
  - (f) Coordinating document preparation with other agencies possessing discretionary authority over any portion of a proposed project to minimize project related costs.
- 3.2.3 LAFCO shall adopt policies and procedures for processing and administering CEQA (§21082, §15022). LAFCO intends through the appropriate use of such procedures to:
- (a) Assist with the provision and maintenance of a high quality environment in El Dorado County (§21000, §21001); and
  - (b) Ensure ongoing CEQA compliance by initiating revisions to reflect amendments to CEQA within 120 days of the effective date of new legislation (§15022 (c)).
- 3.2.4 The Executive Officer shall serve as the Environmental Coordinator and have the authority to prepare, or cause to be prepared, the appropriate environmental documentation. The Executive Officer shall be responsible for making an environmental determination pursuant to the requirements of CEQA.
- 3.2.5 No application shall be deemed filed for processing purposes until CEQA documentation has been completed which adequately addresses the requirements of CEQA and El Dorado LAFCO's CEQA procedures.
- 3.2.6 Applications for annexation to a City shall not be deemed filed until the following is provided: (1) verification of an approved pre-zone from the annexing City (§56375); and (2) verification of a completed CEQA and NEPA process in which LAFCO assumed the Responsible Agency role (§15042, §15050, §15051, §15096, §15381).
- 3.2.7 LAFCO shall not act upon any change of organization or reorganization until environmental documentation has been approved which adequately addresses all potential areas of environmental concern.

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- 3.2.8 LAFCO shall use the Environmental Impact Report prepared by the Tahoe Regional Planning Compact when applicable and available (§66081, §21083.5).
- 3.2.9 Criteria for determining the Lead Agency is contained in §15051. LAFCO will typically act as Lead Agency in reviewing:
- (a) Changes of organization or reorganizations initiated by LAFCO pursuant to §56375 of the Cortese-Knox-Hertzberg Act;
  - (b) Spheres of Influence Plans and Amendments;
  - (c) Incorporations;
  - (d) Consolidations, Detachments, Dissolutions and District Formations;
  - (e) City annexations where no pre-zoning has been undertaken by the city prior to LAFCO approval;
  - (f) Annexations which are not a part of a larger project for which a city or county acted as Lead Agency, or for which LAFCO is the first to act; and
  - (g) When the Lead Agency is unable to undertake, or has failed to undertake, required CEQA responsibilities pursuant to §15052.
- 3.2.10 LAFCO shall assume the Responsible Agency role for annexations that include a pre-zone unless the Lead Agency did not consult with LAFCO pursuant to §15051(c) and §15052 (a)(3), and the environmental document failed to describe, or adequately disclose the impacts of, LAFCO's actions.
- 3.2.11 Because LAFCO projects in El Dorado County are generally initiated by a land use authority with annexations required as conditions of land use approvals, or processed with pre-zones, LAFCO is expected to assume the Responsible Agency role for most annexation proposals. In cases, where LAFCO and another public agency qualify for Lead Agency status, the agency with the greatest responsibility for carrying out the project should assume the Lead Agency role.
- 3.2.12 LAFCO shall assume a Lead Agency role for a project for which it was a Responsible Agency if the Lead Agency failed to conduct an environmental review, a previously prepared environmental review is outdated or substantive new technical data or new information is available, or the Lead Agency failed to consult with LAFCO when it prepared its review (§15052).

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- 3.2.13 When acting as Responsible Agency, LAFCO's Environmental Coordinator shall encourage the Lead Agency to consult with LAFCO early in the environmental review process in order to facilitate and coordinate the evaluation of impacts related to future LAFCO actions. LAFCO shall respond to Notices of Preparation, requests for consultations and other reasonable information requests as soon as feasible (§15103, §15082 (b), §15096 (b)).
- 3.2.14 LAFCO will comment, consistent with its legislated mandate and adopted mission, upon Notices of Preparation for Environmental Impact Reports for projects that may cause the conversion of important prime agricultural, open space and resource lands, not scheduled for development within five years of project approval, to urban uses (§56301).
- 3.2.15 When determining the significance of a potential environmental impact, LAFCO shall consult with Responsible and Trustee Agencies and may consult with any agencies that might provide guidance in determining the extent and nature of impacts (§15082, §15086, §15096). Where feasible, LAFCO shall use thresholds of significance established by the state, El Dorado County, the local air quality management district, county agricultural commission, and any other local entity possessing the technical expertise and statutory authority to determine levels of significance.
- 3.2.16 When evaluating environmental impacts discovered during the Initial Study process, LAFCO will identify such impacts as potentially significant and adverse if:
- Build-out of the proposed project may cause service levels to decline below established standards, costs of service provision to rise substantially to the detriment of service levels, or cause those currently receiving service to receive reduced or inadequate services especially when such change may cause adverse health and safety or other physical impacts;
  - Build-out of the proposed project may cause the infrastructure capacity of a service provider to exceed planned and safe limits especially when such change may cause adverse health and safety or other physical impacts;
  - The proposed project includes or plans for infrastructure capacity, especially water and sewer lines, that exceed the needs of the proposed project and may be used to serve areas not planned for development, especially those containing prime agricultural land, mineral, sensitive plant and wildlife or other important resources;
  - The proposed plan could cause health and safety or other physical impacts because a service provider is incapable of providing service,

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the proposal has an illogical boundary, or elements needed to provide service (water supply, treatment facilities, equipment, energy) are not available, or stressed beyond capacity.

- The proposed project may result in substantial loss of prime agricultural and important open space or resource land;
- The proposed project may cause premature, ill planned, illogical, or inefficient conversion of prime agricultural, open space, mineral resource or other important resource areas not planned for development in the next five years;
- The proposed project is substantially inconsistent with applicable Sphere of Influence Plans, long range and area service plans, phased land use plans of any city or county, or resource conservation plans of the state or federal government.
  - In the case of Sphere of Influence and area of service plans, the Environmental Coordinator reviews the appropriate plans and determines whether the level of significance warrants additional review. In the case of public agency land use or resource plans, the affected agency shall provide specific information regarding the nature and substance of the project's potential impacts upon its plans or programs.
- The proposed project may induce substantial growth on important agricultural and open space lands because it would:
  - Permit the extension of, or require, infrastructure such as flood control levees or water diversions, electrical, water or sewer lines, especially trunk lines, roadways or other public facilities that would permit new development in a substantial area currently constrained from development;
  - Encourage or foster development by permitting uses that adversely impact adjacent agricultural operations, significantly increase property values of adjacent or proximate resource land, or remove natural or man-made buffers between urban and agricultural, mining or other conservation uses.
  - Be adversely and substantially inconsistent with the agricultural, open space, resource conservation or preservation, growth management, trip reduction, air quality improvement or other plans, policies or Ordinances of the General, Community, Specific or other Plan of the land use jurisdiction responsible for the project site or vicinity.

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- Cause significant adverse cumulative impacts when considered in conjunction with other recent, present and reasonably foreseeable projects;
  - Result in substantial noncontiguous development which, in turn, results in adverse physical impacts;
  - Have no need for service and the proposed project adversely affects important public resources or the public health and safety;
  - Adversely impact animal or plant species either listed as, or determined to be, endangered, rare, or threatened as provided in §15380; or
  - Be identified as potentially significant when completing the Initial Study checklist adopted as Exhibit A of LAFCO's CEQA procedures.
- 3.2.17 LAFCO shall not charge public agencies having jurisdiction related to the project, or individuals or organizations possessing special expertise and from whom the Environmental Coordinator desires input into an environmental analysis, for environmental document reproduction costs.
- 3.2.18 Consultants may prepare Initial Studies only if hired and supervised directly by LAFCO. If consultants are used to prepare an EIR, the Environmental Coordinator shall ensure that the environmental documentation:
- Is completed pursuant to a phased plan developed by the Environmental Coordinator and within the timelines established by CEQA; and
  - Contains required environmental analysis and disclosures of issues identified in the Initial Study;
  - Reflects the independent judgment of the Lead Agency; and
  - Is adequate and complete pursuant to the requirements of CEQA (§21082.1).
- 3.2.19 In the event that a consultant is unable to produce an adequate environmental document, the Environmental Coordinator shall assume control of document preparation to ensure that CEQA issues are adequately addressed and processing timelines met (§21082.1).
- 3.2.20 Upon request by a public agency that provides services within El Dorado County but is unable or unwilling to fulfill the function, LAFCO may assume the Lead Agency role at the discretion of the Executive Officer for the

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purpose of providing environmental review for projects initiated by those governmental agencies. A written agreement will be required.

- 3.2.21 LAFCO shall use its authority, pursuant to §56375, §56375.5, §56377, §56886.6, §56886.7, and other applicable sections of the Cortese-Knox-Hertzberg Act, to make a project self-mitigating whenever feasible (14 CCR §15040, 14 CCR §15041, Public Resources Code §21002).
- 3.2.22 Consistent with §21002 of CEQA, it shall be the policy of El Dorado LAFCO that no projects should be approved as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects.
- 3.2.23 LAFCO shall conduct a hearing on a Negative Declaration, Mitigated Negative Declaration and Draft EIR.
- 3.2.24 A Notice of Intent to adopt or consider a Negative Declaration or Mitigated Negative Declaration shall be provided to the public not less than twenty (20) days in advance of the hearing.

### **3.3 PLANS OF SERVICE**

LAFCO requires that applicants and service providers document their ability to provide service to areas proposed for annexations.

An evaluation of a local agency's plan of service is necessary to the proper consideration of any change of organization or reorganization (§56375) which expands or diminishes a service provider's responsibilities. The intent of plans of service evaluations is to ensure that the capacity, cost and adequacy of services within the district or City are not adversely impacted by the proposed LAFCO action (§56668).

#### **3.3.1 General**

- (a) Applications shall include a plan to provide services (§56653) which includes information needed to render an informed decision on the proposed project.
- (b) Plan of Service submittals are required to contain, but are not limited to, the following information and any additional information required by the commission or the executive officer:
  - 1. An enumeration and description of the service to be extended to the affected territory;
  - 2. The level and range of those services;
  - 3. The estimated time frame for service delivery;
  - 4. An indication of any improvement or upgrading of structures, roads, sewer or water facilities, or other conditions the local agency would impose or require within the affected territory if the change of organization or reorganization is completed; and
  - 5. Information with respect to how those services will be financed.
- (c) No application shall be deemed filed until plan of service information is received and accepted as complete by the Executive Officer.

#### **3.3.2 Plan of Service Information Requirements**

The following information requirements will enable the applicant and LAFCO to obtain information necessary to render a fair and informed decision. During the required pre-application conference, LAFCO staff will assist the applicant with determination of required project specific plan of service information. (For example, a City annexation plan of service might not be required to include service unit analyses for every proposed service.)

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- 3.3.2.1 All applicants must provide the following:
- (a) A capacity analysis which states:
    - 1. number of service units available (units can be described as parcels, meters, equivalent dwelling units or other project specific units of measure as approved by the Executive Officer);
    - 2. the number of service units currently allocated;
    - 3. the total number of service units within agency boundaries, including assessment districts which may cross district boundaries, that are entitled to receive service;
    - 4. the number of service units proposed to be added as a result of the annexation;
    - 5. the total number of service units entitled to receive services as a result of the proposed project. In the event that the applicant or annexing agency finds that there are not enough service units available to provide for number 5, the applicant shall provide a plan for obtaining the capacity necessary to provide service pursuant to 3.3.2.2 below.
  - (b) A description of the size, location and capacity of existing infrastructure.
  - (c) A statement from the annexing agency disclosing its disposition regarding responsibility to reserve capacity for unserved property within agency boundaries and current estimates of unserved property within its current boundaries.
  - (d) A list of the conditions that the applicant must meet in order to receive services from the annexing agency, such as annexation costs, facility plan report, fire flow requirements, on and off site construction requirements, or easements, and a statement regarding who is responsible to fund required items.
  - (e) A statement of intent to provide services by the annexing agency, including a description of the applicant's requirements to fund infrastructure so that areas within the

- (f) district can be served, or will continue to be served, at the same or higher level of service, and proposed service areas will be accommodated at the same or a higher level of service. If the annexing agency cannot provide the latter guarantees, then the applicant or annexing agency shall provide a written justification for project approval despite anticipated negative impacts.

3.3.2.2 If service cannot be provided without expanding service capacity or constructing infrastructure (other than at parcel connections to service), then the following information shall be provided:

- (a) A description of any required facility or infrastructure expansions or other necessary capital improvements;
- (b) The likely schedule for completion of the expanded capacity project, the viability of the needed project, and the relation of the subject project to the overall project and project time line;
- (c) A list of required administrative and legislated processes, such as CEQA review or State Water Resources Board allocation permits, including assessment of likelihood of approval of any permits and existence of pending or threatened legal or administrative challenges if known;
- (d) The planned total additional capacity;
- (e) The size and location of needed capital improvements;
- (f) The proposed project cost, financing plan and financing mechanisms including a description of the persons or properties who will be expected to bear project costs; and
- (g) Any proposed alternative projects if the preferred project cannot be completed (include information in letters "a" through "f" for each proposed alternative).

### 3.3.3 **Service Assurances**

No application to annex to a special district or city shall be deemed complete until the following information is provided in writing from the annexing special district or city:

- (a) A statement that the annexing agency has reviewed the Plan of Service and will be capable of providing adequate services within the

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time frame anticipated in the Plan of Service for the area being annexed; and

- (b) A statement that the furnishing of adequate services within the time frame anticipated in the Plan of Service will not result in a significant negative fiscal, service level or other impacts (within the special district or city).
- (c) In the event that the annexing agency will provide service by expanding its service capabilities in the future, the Commission will consider plans for such expansion and the agency's progress toward implementation of such plans in its review of the proposal. LAFCO may require a full description of any such plan. The Commission will evaluate such documentation and may make determinations pursuant to §56668. The Commission may also impose conditions related to progress toward completion of any such plans.

**3.4 CONSISTENCY WITH LOCAL LAND USE PLANS AND POLICIES**

The Commission shall view unfavorably projects that are inconsistent with the General or Specific Plans for the project area unless the following conditions are met:

- (a) The site is located in an existing developed area where if it can be clearly found that public health, safety, and welfare interests would best be served, or clear or present health or safety hazards could be mitigated, by the requested change of organization.
- (b) The site is located in an existing developed area where district facilities are present and sufficient for service and where the Commission determines that the annexation does not represent a growth inducing factor for the area.
- (c) The site is located in an existing undeveloped area and disapproval would cause the loss of service to existing service users.

3.4.1 Consistency with General and Specific Plans: For the purposes of this policy, a project is consistent if the type and level of services to be provided are consistent with and appropriate to the applicable General or Specific Plan land use designations and document text, and the applicable General or Specific Plan is legally adequate and internally consistent. The Commission will not approve projects that are inconsistent with the applicable General or Specific Plan unless the following circumstances are shown to exist:

- (a) The site is fully developed and located in an existing developed area where district or city facilities are present and found by LAFCO to be sufficient for service and where the Commission determines that the change of organization or reorganization will not induce growth in the area.
- (b) The site is fully developed and located in an existing developed area where LAFCO finds that the public interests of health, safety, and welfare would best be served, or that clear and present health or safety hazards could be mitigated, by the proposal.
- (c) The site is located in an undeveloped area where disapproval would cause a loss of service to existing service users.

3.4.2 Consistency with ordinances requiring voter approval: For jurisdictions that have enacted ordinances requiring voter approval for the extension of any service, the Commission shall not approve a proposal unless it is consistent with such ordinances and voter approval has first been granted.

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- 3.4.3 Planning and pre-zoning: All territory proposed for annexation must be specifically planned and/or pre-zoned by the appropriate planning agency. The planning or pre-zoning of the territory must be consistent with the applicable General or Specific Plan and sufficiently specific to determine the likely intended use of the property.
  
- 3.4.4 For city proposals, no subsequent change may be made to the applicable General Plan or zoning for the annexed territory that is not in conformance to the pre-zoning designations for a period of two years after the completion of the annexation, unless the legislative body of the city makes a finding at a public hearing that a substantial change has occurred in circumstances that necessitates a departure from the pre-zoning (§56375(e)).
  
- 3.4.5 Pending changes to applicable land use designations, zoning, or pre-zoning must be completed before review of the proposal.

**3.5 JURISDICTION**

The Commission shall not impose any conditions that would:

- (a) Directly regulate land use (§56375, §56886);
- (b) Cause LAFCO to assume control over all or part of the operation of, or set policy for, any agency (§56886.6);
- (c) Set standards or frequency of maintenance of any existing street or road, or cause an agency to improve public facilities not owned by the agency (§56886.7);
- (d) Require service provision to areas outside of an agency's sphere of influence unless that condition mitigates effects that are a direct result of the annexation (§56886.6); or
- (e) Regulate property development or subdivision requirements (§56886).

### **3.6 SPECIAL STUDIES**

Among the purposes of a commission are the discouragement of urban sprawl and the encouragement of the orderly formation and development of local agencies based upon local conditions and circumstances. One of the objectives of the commission is to make studies and to obtain and furnish information which will contribute to the logical and reasonable development of local agencies so as to advantageously provide for the present and future needs of each county and its communities (§56301).

3.6.1 The Commission shall initiate and make studies of existing governmental agencies (§56378).

3.6.2 Special studies shall include, but shall not be limited to, inventorying those agencies and determining their maximum service capabilities. In conducting those studies, the Commission may ask for land use information, studies, joint powers agreements, plans of cities, counties, districts, including school districts, community college districts, joint powers agencies and joint powers authorities, regional agencies, and state agencies and departments (§56378).

3.6.3 A special study may include analysis of any issues considered during service reviews, including but not limited to:

- Potential benefits to the stakeholder(s) such as reduced cost, better or new service, expanded service area;
- Boundary locations and issues including elimination of overlapping or confusing boundaries, relationship to geography, topography and planned urbanization, and which agencies and services are affected;
- Functions, classes or types of services, single or multi-purpose service provider and opportunities for expanded services;
- District's purpose and objectives and assessment of status, justifications for consolidations;
- Management, operations, budget processes and infrastructure;
- Costs of providing a service in terms of labor, overhead, indirect costs, retirement funding, debt service, insurance and other expenses;
- Personnel issues and considerations such as integration of employees, layoffs or attrition, retirement funding, claims, wages, training and fringe benefits;

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- Short and long term revenue forecasts related to type and source of funding (grants, enterprise or non-enterprise funds, user fees, property tax allocations;
  - Technical and infrastructure characteristics and needs (geography or topography, specialized equipment, technology, condition of infrastructure, condition and use of facilities, land and easements, buildings, equipment or rolling stock.
- 3.6.4 LAFCO will conduct SOI updates, service review studies, or other special studies needed to support LAFCO initiated proposals, if requested by public agencies, groups or individuals, or when such study is found by LAFCO to be needed.
- 3.6.5 LAFCO shall conduct a special study or service review prior to initiation of a district consolidation (§56378, §56430, §56837, §56853).
- 3.6.6 LAFCO will consider proposals recommended in service review, SOI, or reorganization committee studies. However, it is preferred that proposals be initiated by petition or proposal of affected citizens or agencies.
- 3.6.7 LAFCO initiated proposals are subject to all other LAFCO policies including those pertaining to SOIs and changes of organization and reorganization.
- 3.6.8 LAFCO will consider consolidations when the conclusions or determinations of special studies or service reviews indicate that consolidation would result in improved service provision at the same or lower cost.
- 3.6.9 LAFCO will consider dissolutions whenever the determinations or recommendations of a service review (§56430) or special study indicate that dissolution is needed in the short term, or there is substantial public support for the proposal and adequate technical evidence is provided.
- 3.6.10 Prior to the Commission meeting to consider LAFCO initiation of a proposal, the Executive Officer will call a meeting with affected agency managers for the purpose of determining whether or not agencies included in the proposal wish to prepare an application package including a preliminary assessment on proposal feasibility. The assessment would contain data, analysis and recommendations; include an identification of core issues; positive and negative service delivery and cost impacts; problems to be solved; and other possible alternative reorganization options, if any. The determinations of an up-to-date service review may if they adequately address all identified issues.
- 3.6.11 No LAFCO initiated proposal shall be approved unless the Commission finds that:

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- Service costs are likely to be less than or substantially equal to the costs of equivalent alternative means of providing the service (§56668);
- The proposal promotes public access and accountability for community needs and financial resources (§56881);
- The proposal furthers service provision that most effectively provides citizens with programs and services that they need and desire; and
- The proposal is consistent with the determinations of related service reviews.

**3.7 RECONSIDERATION PROCESS**

- 3.7.1 LAFCO provides for reconsideration of Commission decisions in a manner that is consistent with state law and that does not unduly delay the processing of applications for changes of organization or reorganization.
- 3.7.2 Requests for reconsideration of a Commission resolution are to be submitted in writing and accompanied by the reconsideration request fee (§56383(a)(4)).
- 3.7.3 Reconsideration requests shall be filed within 30 days of a resolution making determinations or prior to the adoption of a resolution by the conducting authority (§57075 et seq.), whichever is earlier (§56895(b)).
- 3.7.4 Reconsideration requests shall specifically describe the basis for the request. The request shall state the specific modification to the resolution being requested and shall state what new or different facts that could not have been presented previously are claimed to warrant the reconsideration (§56895(a)).
- 3.7.5 The reconsideration request shall be heard at the next regularly scheduled LAFCO meeting for which notice can be given, at which time the Commission shall consider the request and receive oral and written testimony. The Commission shall act upon the item no later than 35 days after the first noticed public hearing (§56895 (e)(f)).
- 3.7.6 Reconsideration is a two-step process. The Commission will first consider the request and may vote to reconsider the matter if any of the following findings can be made based on substantial evidence in the record.
- (a) Compelling new evidence exists or new or different facts, including significant and previously unavailable evidence or facts that might alter the LAFCO's decision; or
  - (b) Circumstances related to the project have substantially changed, such as the repeal of an applicable law that might alter LAFCO's decision; or
  - (c) LAFCO's procedures were not substantially followed in the previous hearing(s).
- 3.7.7 If the Commission approves, the request, the Commission shall adopt a resolution making determinations that shall supersede the resolution previously issued (§56895(g)).
- 3.7.8 Any Commissioner or alternate seated at a given meeting can vote on reconsideration of an action taken at a prior meeting regardless of their vote or lack of vote at a prior meeting as long as they review meeting reports, tapes and minutes prior to the meeting at which they vote.

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- 3.7.9 The Commission's determination is final. No person shall make any further request for the same change or substantially similar change as determined by the Commission (§56895(h)).
- 3.7.10 Clerical errors or mistakes in any action or resolution adopted pursuant to a reconsideration action may be corrected pursuant to §56883 (§56895 (i)).

### **3.8 PREFERRED SERVICE PROVIDERS**

The legislature has found that a single government 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 is the best mechanism for establishing community service priorities (§56001). In the review of proposals, the Cortese-Knox-Hertzberg Act of 2000 requires LAFCO to consider the costs, adequacy and efficiency of service provision (§56668) and the total organization of local government services.

3.8.1 LAFCO shall consider, and approve, where appropriate and feasible, the provision of new or consolidated services in the following order of preference.

- (a) Annexation to an existing city.
- (b) Annexation to an existing multiple purpose special district.
- (c) Annexation to an existing single purpose district.
- (d) Consolidation of existing districts.
- (e) Annexation to a subsidiary district or County Service Area.
- (f) Incorporation of a new city.
- (g) Formation of a new multiple purpose district.
- (h) Formation of a new county service area.
- (i) Formation of a new single purpose district.

**3.9 BOUNDARY LINES**

- 3.9.1 Every determination made by the Commission shall be consistent with the Spheres of Influence of the local agencies affected by that determination (§56375.5).
- 3.9.2 LAFCO shall modify, condition or disapprove proposals creating boundaries that are not definite and certain or do not conform to lines of assessment or ownership (§56668).
- 3.9.3 Lands to be annexed which are within an adopted Sphere of Influence shall be physically contiguous to the boundaries of the annexing agency except under one of the following circumstances (§56119):
- (a) Existing developed areas where LAFCO determines that interests of public health, safety, and welfare would best be served by the extension of the service, or which represent clear or present health or safety hazards that could be mitigated by the proposal and city or district facilities are present and sufficient for service.
  - (b) Existing developed areas where city or district facilities are present and sufficient for service, and where the Commission determines that the annexation will not induce growth.
- 3.9.4 Islands, peninsulas, flags, “pin point contiguity,” “cherry stems,” and other irregular boundary lines are inconsistent with the formation of orderly and logical boundaries and may be amended, modified or disapproved by LAFCO (§56744, §56741, §56742).
- 3.9.5 Natural boundary lines, which may be irregular, may be appropriate boundaries for LAFCO action and will not be discouraged.
- 3.9.6 Proposals that create irregular boundaries may be approved when LAFCO determines that the boundary is appropriate due to topography, is in the interest of public health, safety and welfare or is in the best interest of the total organization of government services in the area and needed city or district facilities are present and sufficient for service.
- 3.9.7 The resulting boundary configuration shall not produce areas that are difficult to serve (§56668, §56001).
- 3.9.8 The Commission may order the inclusion of additional territory to any proposal to amend an otherwise unacceptable boundary and to accomplish its goal of creating orderly boundaries (§56668, §56001).

**3.10 AGRICULTURE**

- 3.10.1 LAFCO's decisions will reflect its legislated responsibility to work to maximize the retention of prime agricultural land while facilitating the logical and orderly expansion of urban areas (Adopted November 5, 1998).
- 3.10.2 Agricultural land shall be determined to be prime based on soil characteristics or on productivity (§56064).
- 3.10.3 Development or use of land for other than open space uses shall be guided away from existing prime agricultural lands in open space use toward areas containing non prime agricultural lands unless that action undermines adopted County or City land use plans (§56377).
- 3.10.4 Development of existing vacant or prime agricultural lands for urban uses within the jurisdiction or sphere of influence of a local agency shall be encouraged before any proposal is approved which would allow for or lead to the development of prime agricultural or open space lands outside the jurisdiction or sphere of influence of any local agency (§56377).
- 3.10.5 Land specifically identified as Agricultural, or Timber, generally should not be approved for annexation to any city or special district for the extension of services to or through such areas if the landowner requests exclusion.
- 3.10.6 Development of existing vacant lots for urban uses should be encouraged before any proposal is approved which would allow for or lead to the development of existing agricultural lands for nonagricultural uses. Spheres of influence should reflect consideration for existing and/or potential agricultural uses (§56668).

**3.11 LEGISLATIVE PROCESS PARTICIPATION** *(Approved June 28, 2017)*

3.11.1 Process for Expeditious Legislative Relations

- 3.11.1.1 In situations when proposed legislation affecting LAFCO cannot be considered by the full Commission at a regular meeting due to timing, the Executive Officer is authorized to consult with the Chair to review the legislation within the context of the legislative policies of Section 3.11.2.
- 3.11.1.2 If a response is warranted, the Executive Officer, in consultation with the Chair, is authorized to provide written or email correspondence regarding the Commission's position, if the position is consistent with the adopted legislative policies of the Commission.
- 3.11.1.3 Matters in which the Executive Officer and Chair cannot agree upon a legislative position shall be placed on the next regular LAFCO meeting agenda for discussion and action by the full Commission.
- 3.11.1.4 Position letters will be placed on the next regular LAFCO meeting agenda as either informational or for discussion purposes.

3.11.2 Legislative Policies

3.11.2.1 LAFCO Purpose and Authority

- 3.11.2.1.1 Support legislation which enhances LAFCO authority and powers to carry out the legislative findings and authority in Government Code §56000 et seq., and oppose legislation which diminishes LAFCO authority.
- 3.11.2.1.2 Support authority for each LAFCO to establish local policies to apply Government Code §56000 et seq. based on local needs and conditions, and oppose any limitations to that authority.
- 3.11.2.1.3 Oppose additional LAFCO responsibilities which require expansion of current local funding sources. Oppose unrelated responsibilities which dilute LAFCO ability to meet its primary mission.

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3.11.2.1.4 Support alignment of responsibilities and authority of LAFCO and regional agencies which may have overlapping responsibilities in orderly growth, preservation, and service delivery, and oppose legislation or policies which create conflicts or hamper those responsibilities.

3.11.2.1.5 Oppose grants of special status to any individual agency or proposal to circumvent the LAFCO process.

3.11.2.1.6 Support individual commissioner responsibility that allows each commissioner to independently vote his or her conscience on issues affecting his or her own jurisdiction.

3.11.2.2 LAFCO Organization

3.11.2.2.1 Support the independence of LAFCO from local agencies.

3.11.2.2.2 Oppose the re-composition of any LAFCO to create special seats and recognize the importance of balanced representation provided by cities, the county, the public, and special districts in advancing the public interest.

3.11.2.2.3 Support representation of special districts on all LAFCOs in counties with independent districts and oppose removal of special districts from any LAFCO.

3.11.2.2.4 Support communication and collaborative decision-making among neighboring LAFCOs when growth pressures and multicounty agencies extend beyond a LAFCO's boundaries.

3.11.2.3 Agricultural and Open Space Protection

3.11.2.3.1 Support legislation which clarifies LAFCO authority to identify, encourage and ensure the preservation of agricultural and open space lands.

3.11.2.3.2 Encourage a consistent definition of agricultural and open space lands.

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3.11.2.3.3 Support policies which encourage cities, counties and special districts to direct development away from prime agricultural lands.

3.11.2.3.4 Support policies and tools which protect prime agricultural and open space lands.

3.11.2.3.5 Support the continuance of the Williamson Act and restoration of program funding through State subvention payments.

3.11.2.4 Orderly Growth

3.11.2.4.1 Support the recognition and use of spheres of influence as a management tool to provide better planning of growth and development, and to preserve agricultural, and open space lands.

3.11.2.4.2 Support recognition of LAFCO spheres of influence by other agencies involved in determining and developing long-term growth and infrastructure plans.

3.11.2.4.3 Support orderly boundaries of local agencies and the elimination of islands within the boundaries of agencies.

3.11.2.4.4 Support communication among cities, counties, and special districts through a collaborative process that resolves service, housing, land use, and fiscal issues prior to application to LAFCO.

3.11.2.4.5 Support cooperation between counties and cities on decisions related to development within the city's designated sphere of influence.

3.11.2.5 Service Delivery and Local Agency Effectiveness

3.11.2.5.1 Support the use of LAFCO resources to review Regional Transportation Plans, including sustainable communities strategies and other growth plans to ensure reliable services, orderly growth, sustainable communities, and conformity with LAFCO's legislative mandates. Support efforts that enhance meaningful collaboration between LAFCOs and regional planning agencies.

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- 3.11.2.5.2 Support LAFCO authority as the preferred method of local governance. Support the availability of LAFCO tools which provide communities with local governance and efficient service delivery options, including the authority to impose conditions that assure a proposal's conformity with LAFCO's legislative mandates.
- 3.11.2.5.3 Support the creation or reorganization of local governments in a deliberative, open process which will fairly evaluate the proposed new or successor agency's long-term financial viability, governance structure and ability to efficiently deliver proposed services.
- 3.11.2.5.4 Support the availability of tools for LAFCO to insure equitable distribution of revenues to local government agencies consistent with their service delivery responsibilities.
- 3.11.2.5.5 Support collaborative efforts among agencies and LAFCOs that encourage opportunities for sharing of services, staff and facilities to provide more efficient and cost-effective services. Support legislation which provides LAFCO with additional opportunities to encourage shared services.

### **3.12 MAPPING REQUIREMENTS**

#### **Map(s)**

Maps submitted as part of a LAFCO application shall conform to the following specifications:

#### **Map Documents:**

1. All maps shall be professionally and accurately drawn or copied, and shall conform to El Dorado County Recorder's Office requirements for recording purposes (see #12). Assessor's parcel maps, tentative maps, or pictorial drawings will not be accepted as a substitute for the project map.
2. Original or copies of the same size project map must be submitted. Reduced maps are not acceptable and will be rejected. Maps cannot exceed a maximum size of 18" x 26" but must be clearly legible and reproducible. To meet this requirement, several sheets may be necessary. A key map must be used when there are more than two map sheets. The key map may be of reduced size, if used as an inset.
3. A vicinity map shall be included. The vicinity map shall show the location of the project area in relationship to a larger geographic area that includes major streets and highways or other physical features. The vicinity map should be drawn as an inset on the map.
4. Any portion of an existing district or city boundary in close proximity to the project area shall be shown and identified.
5. Every map must clearly show all existing streets, roads and highways with their current names that are within and adjacent to the project area. Additionally, every map shall indicate each township and range, section lines and numbers, or ranchos that are in proximity of the project area.
6. Every map shall bear a scale and a north arrow. The point of beginning shall be clearly shown and match the written geographic description.
7. The boundaries of the project area shall be distinctively delineated on each map without masking any essential geographic or political features. The boundaries of the project area must be the most predominant line on the map. Boundary lines that are delineated by a line that exceeds 1.5 millimeter in width shall be rejected. The use of graphic tape or broad tip marking pens to delineated the boundary is not acceptable.
8. All dimensions needed to plot the boundaries must be given on the map of the project area. Each map shall have numbered courses matching the written geographic description. Index tables may be utilized.
9. All parcels within the project area that touch the new boundary shall be clearly labeled with the assessor's parcel number. Interior parcels that do not touch the boundary need not be identified on the map.

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10. If the project area has an interior island(s) of exclusion or the boundary has a peninsula of exclusion (or inclusion), that area(s) should be shown in an enlarged drawing.
11. When it is necessary to use more than one map sheet to show the boundaries of the project area, the sheet size should be uniform. A small key map giving the relationship of the several sheets shall be furnished. Match lines between adjoining sheets must be used. While the geography on adjoining sheets may overlap, the project boundaries must stop at the match lines.
12. Recorder requirements for maps include the following:
  - a. Black and white only
  - b. No shading or grayscale
  - c. Large, dark-lined cross-hatching okay
  - d. No gray dotted lines; black dotted lines okay
  - e. No bubble letters
  - f. Arial 12-point font on 18" x 26" format is okay; nothing smaller

**Written Geographic Description(s) of the Project Area(s)**

Written geographic descriptions shall conform to the following specifications:

1. Every written geographic description (a document separate from the maps) must stand on its own without the necessity of reference to any extraneous document; a description that relies solely on the use of secondary references will not be accepted.
2. The written description shall be of the project area only. If a complete description of the special district or city is filed, the project area shall be clearly identified in a separate document.
3. The geographic description shall:
  - a. State the township and range, section number(s) or rancho(s).
  - b. Have a point of beginning (POB) referenced to a known major geographic position (e.g., section corners, intersection of street centerlines, or the intersection of street centerline and an existing district boundary at the time of filing). A description will be rejected if the POB refers only to a tract map, a subdivision map or a recorded survey map. It is preferable that the POB be the point of departure from an existing district or city boundary, when applicable.
  - c. Be expressed as a specific parcel description in sectionalized land (e.g., "The SW 1/4 of Section 22, T1 N, R1W") or by bearings and distances. When the description is by bearings and distances, all courses shall be numbered and listed individually in a consistent clockwise direction. The

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description shall not be written in a narrative format. All courses required to close the traverse of the project area must be stated. All curves must be described by direction of concavity. Delta, arc length, chord, and radius shall be listed, including radial bearings for all points of non-tangency.

Following are examples of unacceptable and acceptable descriptions:

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

"From the point of beginning, northerly to the southwest corner of that certain property recorded in Book 12, Page 15 of Recorded Deeds, thence easterly to the southeast corner of that certain property recorded in Book 12, Page 16 of Recorded Deeds .... "

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

"From the point of beginning:

Course 1. North 10° 18' 56" West a distance of 150' to the southwest corner of that certain property recorded in Book 12, Page 15 of Recorded Deeds, thence,

Course 2. North 85° 07' 56" West a distance of 75' to the southeast corner of that certain property recorded in Book 12, Page 16 of Recorded Deeds, thence .... "

1. The written description shall state the acreage for each separate single area and a combined total acreage of the project area.

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

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

**4 SPHERE OF INFLUENCE** *(Approved November 5, 1998)*

**4.1 GENERAL**

Government Code, beginning with §56425, requires the Local Agency Formation Commission to establish and maintain spheres of influence for all local agencies within its jurisdiction. A sphere of influence (SOI) is defined by statute as a “plan for the probable physical boundary and service area of a local government agency as determined by the commission” (§56076). Every determination made by a commission shall be consistent with the spheres of influence of the local agencies affected by that determination (§56375.5). A sphere of influence is primarily a planning tool that will:

- Serve as a master plan for the future organization of local government within the County by providing long range guidelines for the efficient provision of services to the public;
- Discourage duplication of services by two or more local governmental agencies;
- Guide the Commission when considering individual proposals for changes of organization;
- Identify the need for specific reorganization studies, and provide the basis for recommendations to particular agencies for government reorganizations.

4.1.1 LAFCO shall establish the nature, location, and extent of any functions or classes of service provided by existing districts as part of SOI update and service review processes (§56425, §56430). LAFCO shall consider and approve or deny the exercise of new or different functions or services, pursuant to §56824.10-§56824.14.

## **4.2 PERIODIC REVIEW AND MAINTENANCE**

The adequacy of each adopted SOI will be reviewed every five (5) years following the initial sphere determination or initial review of an original sphere. At approximately five-year intervals, a preliminary sphere evaluation will be conducted by staff. The evaluation will include a recommendation by the Executive Officer to either:

- (1) proceed with a sphere update study or;
- (2) affirm the existing sphere.

Each subject agency will be notified of the pending review of its SOI and will be requested to participate actively in any restudy efforts deemed necessary by the Commission. Each agency will complete a SOI questionnaire relating to its services and plans. Failure to respond will be regarded as concurrence with the Executive Officer's recommendation.

Changes in land use, planning policy, demographics, demand for public services, or service capabilities may justify the need to restudy and amend spheres of influence. The commission is responsible for the cost of LAFCO initiated review and revision of spheres. LAFCO will seek cooperative cost sharing agreements with the agencies involved.

LAFCO will, at any time, receive requests for amendments to spheres. If an agency, the County, or other party requests a review, study and/or amendment to a sphere, LAFCO will undertake the review as required by statute. Where possible within the scope of the budget, LAFCO will assist a requesting agency with the costs associated with the sphere study in the initial review of an original sphere. Fees to cover the actual costs associated with a sphere review and amendment may be charged to the party requesting the review.

### **4.3 LIMITED SERVICE SPHERE OF INFLUENCE**

Territory proposed for inclusion within the SOI of a multi-service provider agency which is also contained within the boundary of another limited purpose district (providing some but not all of the services which may be needed), may be included within the SOI of the multi-service agency and designated as a limited service sphere of influence area. Territory designated as limited service sphere may be considered for annexation to the multi-service agency, without concurrent detachment from the limited purpose district, when the following determinations are made by the Commission:

- No feasible or logical alternative arrangement exists for the provision of service in the territory proposed for inclusion within the SOI.
- The existing multi-service agency is the most orderly and logical provider of some of the services which will be needed in the future.
- Existing services provided by the limited purpose district are found to be adequate, cost effective and efficient.
- Inclusion of the territory in the SOI is in the best interests of local government organization and structure in the area.

**4.4 CRITERIA FOR REVIEW OF SPHERE OF INFLUENCE AMENDMENTS**  
**(§56425)**

In determining the sphere of influence for each local agency the commission shall prepare a written statement of determinations with respect to each of the following:

- 4.4.1 The present and planned land uses in the area, including agricultural and open-space lands.
- 4.4.2 The present and probable need for public facilities and services in the area.
- 4.4.3 The present capacity of public facilities and adequacy of public services which the agency provides or is authorized to provide.
- 4.4.4 The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency.

Before making these determinations, the Commission will review the following:

- The service capacity, level and types of services currently provided by the agency and the areas where these services are provided, topographic factors, financial capabilities, costs of service, and social and economic interdependencies;
- Existing and planned land uses, land use plans and policies; consistency with county and city general plans; projected growth in the affected area , and potential effects on agricultural and open space lands;
- A description of the services that will be provided to any areas which may be added to the sphere, the timing and method for funding expansion of facilities or services;
- An analysis of the effects a proposed sphere of influence on other agencies and their service capabilities;

- 4.4.5 A substantial SOI amendment is an amendment that causes the SOI to be internally inconsistent, is inconsistent with provisions of the CKH Act, has the potential to cause significant adverse social, economic, environmental or other consequences, or has substantial adverse regional planning implications. Substantial SOI amendments shall not be processed until service reviews are completed (§56430) and the subject SOI is updated consistent with §56425.

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- 4.4.6 A substantial SOI amendment may be processed concurrently with a service review and incorporated into an SOI update. However, LAFCO will make service review determinations prior to considering a substantial SOI amendment (§56425, §56430).
- 4.4.7 A service review of all municipal services pertaining to the subject SOI will be prepared prior to, or in conjunction with, each SOI update (§56430) or substantial amendment unless the Commission determines that a prior service review is still adequate.
- 4.4.8 When determining which local agency should provide services, considerable weight will be given to an agency's ability and willingness to provide services. When more than one agency can serve an area, LAFCO shall also consider the conclusions of service reviews, each agency's service capacity, financial capabilities and costs of service, social and economic interdependencies, topographic, historic and environmental factors, input from affected communities and agencies, and pertinent LAFCO policies (§56668, §56430).
- 4.4.9 LAFCO shall prioritize pending or anticipated SOI actions and related services review, and consider preliminary work plans as part of its annual work plan and budget hearing processes. The Commission may also initiate related service reviews. If an SOI is not considered during budget hearings, LAFCO may consider it at a later meeting. The Commission may also need to review or approve final SOI work plans and other processing recommendations.
- 4.4.10 Agencies will be asked to participate in an SOI scoping session and complete SOI/service review questionnaires relating to its services and plans. The Agency will be required to complete and submit questionnaires within 90 days. Failure to respond within 90 days will be regarded as concurrence with Executive Officer recommendations.
- 4.4.11 LAFCO shall hear and consider the SOI, and related service reviews if any, at a noticed public hearing.

**4.5 OTHER RELATED POLICIES**

- 4.5.1 When more than one agency can serve an area, LAFCO shall consider each agency's service capacity, financial capabilities, costs of service, social and economic interdependencies, topographic factors, LAFCO policies and input from the affected communities and agencies.
- 4.5.2 LAFCO will make every attempt to bring about amicable Spheres of Influence but ultimately, if a conflict should arise, LAFCO is the final determinant of that Sphere of Influence.
- 4.5.3 Inclusion within an agency's sphere of influence does not assure annexation to that agency.
- 4.5.4 In order to encourage orderly growth of urban areas, the Commission promotes infill development of incorporated vacant lands located adjacent to already developed areas.
- 4.5.5 Developed lands which benefit from municipal services and are contiguous to a city boundary should be annexed to the city that provides service.
- 4.5.6 Spheres of influence for cities and districts will promote the long term preservation and protection of the County's agricultural and open space resources.
- 4.5.7 When an application for a new sphere of influence involves a City, the City and County are required to meet prior to submitting the application to LAFCO, to attempt to reach a mutual agreement regarding the boundaries, development standards, and zoning requirements for the proposed sphere. These agreements are required to carry great weight in any LAFCO decision (§56425).

## **5 SERVICE REVIEWS**

LAFCOS are required to comprehensively review all municipal services provided by agencies with SOIs. Service reviews are conducted before, or in conjunction with, but no later than the time LAFCO establishes or updates SOIs. A service review process must include adoption of written evaluations of service related issues (§56430).

- 5.1** LAFCO shall conduct a service review of all municipal services provided in the county or other appropriate designated area. LAFCO shall include in the area designated for service review the county, the region, the sub-region, or other geographic area that makes sense from a public service provision standpoint (§56430).
- 5.2** LAFCO shall comprehensively review all of the agencies and private entities that provide the identified service or services within the designated area (§56430).
- 5.3** LAFCO shall complete service reviews for all municipal services provided by agencies with SOIs by January 1, 2008. After that date, service reviews shall be completed as necessary prior to, or concurrent with, SOI formations, updates, or substantial amendments (§56430).
- 5.4** LAFCO shall utilize service reviews to:
  - Promote orderly growth and development in appropriate areas with consideration of service feasibility, service costs that affect housing affordability, environmental justice, and preservation of open space, important agricultural land and finite natural resources;
  - Encourage infill development and direct growth to areas planned for growth in General Plans;
  - Learn about service issues and needs and update service provider records;
  - Provide tools to support perspectives or planning efforts that address regional, cross county or statewide issues and processes;
  - Develop a structure for dialogue among agencies that provide services and a support network for smaller or ill-funded districts that provide valuable services;
  - Develop strategies to avoid unnecessary costs, eliminate waste, and improve public service provision while planning for provision of the infrastructure needed to support healthy growth; and

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- Provide ideas about opportunities to streamline service provision through use of shared facilities, approval of different or modified government structures, joint service agreements, shared resource acquisition, joint funding requests or strategies, or integrated land use planning and service delivery programs.
- 5.5** Service reviews do not replace designations or updates of SOIs, but should be conducted in the establishment or amendment of any SOIs.
- 5.6** LAFCO will attempt to minimize the number of required service reviews by clustering services or agencies as feasible and appropriate.
- 5.7** LAFCO shall work to streamline service review processes by:
- (1) integrating SOI proposal processing and related CEQA processes with service reviews where appropriate;
  - (2) placing high priority on reviews of services affected by pending or anticipated proposals where feasible and fair;
  - (3) working with city and county planners to identify areas where the short-term conduct of service reviews is needed to support orderly growth and development; and
  - (4) requesting that technical information needed for service reviews be included in the General, Specific and Master Service Plans of land use agencies and special districts.
- 5.8** LAFCO shall use existing information resources, technical support from the county, cities and special districts when available and adequate, staging or tiering of reviews, and similar strategies to reduce service review processing costs and timelines. The intent is to avoid unnecessary processing costs and processing time while producing high quality technical reviews.
- 5.9** LAFCO shall encourage collaboration, cooperation and information sharing among service review stakeholders including participation in project scoping, designing the service review, negotiating funding strategies, developing information needs assessment and collection strategies, sharing Best Practices, identifying applicable industry standards, selecting consultants if appropriate, and evaluating technical drafts.
- 5.10** Service reviews shall include evaluations of issues related to activated and latent powers (§56430).
- 5.11** LAFCO shall encourage private service providers to fully participate in service review processes (§56430).

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- 5.12** Service review boundaries may need to cross county lines in order to provide the best analysis of multi-agency service structures. LAFCO will work with affected LAFCOS to create a joint decision-making process including consideration of formal inter-LAFCO agreements for conducting service reviews.
- 5.13** To augment technical capabilities of agencies involved in service reviews, LAFCO should utilize mentor LAFCO resources as feasible and encourage cities, special districts and the county to develop methods for providing technical assistance to smaller districts that need to be reviewed.
- 5.14** LAFCO shall independently review and verify service review information compiled by other agencies. Appropriate local, state, federal and industry standards, identified during the scoping process, will be used to support analysis of technical data and conditions.
- 5.15** Service reviews shall contain conclusions and recommendations for SOI or other government structure changes needed to implement positive service changes.
- 5.16** LAFCO shall prioritize service reviews, provide preliminary work plans including stakeholder lists and identify funding resources as part of its annual work plan and budget hearing processes. If a service review is not considered during budget hearings, LAFCO will review and approve its preparation at a later meeting.
- 5.17** The Executive Officer will conduct scoping meetings, prepare a mailing list, develop and implement final work plans consistent with LAFCO's recommendations, and prepare, or cause to be prepared, and issue each required draft service review.
- 5.18** The Commission may need to consider final service review work plans and other processing recommendations if necessary and at regularly scheduled meetings. The Commission may also be asked to initiate service review related SOI updates as appropriate.
- 5.19** Collaborative scoping and information sharing meetings, and informational workshops for agencies being reviewed, will be conducted as needed.
- 5.20** An administrative draft of technical data, and related analysis, may be circulated to encourage the highest quality service review possible within fiscal or other constraints.
- 5.21** The Executive Officer shall issue a draft service review report, which includes service review conclusions and recommendations, and may include draft recommendations for required written determinations.
- 5.22** Written or electronic notice shall be provided to any party on the service review mailing list. A 21-day public review period shall be provided for a draft service review.

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- 5.23** The Executive Officer shall prepare a staff report with general recommendations as well as recommendations for written determinations.
- 5.24** LAFCO shall hear and consider the draft service review report and recommendations at a noticed public hearing. At the hearing, the Commission may:
- (1) find that the draft service review report is adequate and final, approve appropriate recommendations and adopt written determinations;
  - (2) direct staff to address comments and concerns and prepare a final service review report; or
  - (3) continue the hearing.
- 5.25** For each service review, LAFCO shall adopt a written statement of its determinations with respect to each of the following:
- Growth and population projections for the affected area;
  - Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies;
  - Financial ability of agencies to provide services;
  - Status of, and opportunities for, shared facilities;
  - Accountability for community service needs, including governmental structure and operational efficiencies; and
  - The potential effect of agency services on agricultural and open space lands.
- 5.26** A draft service review will be considered final if no substantive comments are received prior to the end of the hearing and LAFCO determines it satisfactory.
- 5.27** LAFCO may consider SOI actions that are based on an approved service review immediately after adoption of written determinations. Such action should be delayed if imminent requests for reconsideration are expected or oral or written requests for delay are received prior to the end of the service review hearing.
- 5.28** A request for reconsideration may be filed pursuant to policies and procedures contained in Section 3.7.

## **6 CHANGES OF ORGANIZATION**

### **6.1 GENERAL**

This section includes general policies, requirements and criteria that apply to all changes of organization. There may be cases where the Commission must use its discretion in the application of these policies so that potential or real conflicts among policies are balanced and resolved based on project specifics and consistent with the requirements of the Cortese-Knox-Hertzberg Act.

- 6.1.1 An annexation shall not be approved if it represents an attempt to annex only revenue-producing property (§56668).
- 6.1.2 An annexation shall not be approved unless the annexing agency is willing to accept the annexation.
- 6.1.3 Where another agency is currently providing service or objects to the annexation, LAFCO will compare the proposed plan of service with alternative service plans and adopted determinations from any service reviews to determine whether the proposal is the best alternative for service provision.
- 6.1.4 It is the policy of the Commission to approve changes of organization that encourage and provide planned, well ordered, efficient development patterns, that include the appropriate preservation and conservation of open space and prime agricultural lands within and around developed areas, and contribute to the orderly formation and development of local agencies based upon local circumstances and conditions (§56300, §56301).
- 6.1.5 The Commission shall consider existing zoning and pre-zones, general plans, and other land use plans, interests and plans of unincorporated communities, SOIs and master service plans of neighboring governmental entities and recommendations and determinations from related service reviews (§56375, §56668).
- 6.1.6 LAFCO will only approve changes of organization that are consistent with policies and criteria contained in Sections II and III as interpreted by the Commission and do not worsen conditions or undermine recommendations disclosed in a service review.
- 6.1.7 Prior to annexation to a city or special district, the petitioners shall demonstrate that the need for governmental services exists, the annexing agency is capable of providing service, that a plan for service exists, and that the annexation is the best alternative to provide service (§56700, §56668).

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- 6.1.8 LAFCO will discourage projects that shift the costs of services and infrastructure benefits received to others or other service areas.
- 6.1.9 The proposed annexation shall be a logical and reasonable expansion to the annexing district (§56001, §56119, §56668).
- 6.1.10 LAFCO shall not approve proposals involving agencies with SOIs that are more than five years old until a service review has been conducted unless the proposal's impacts are insignificant as determined by LAFCO.
- 6.1.11 LAFCO actions shall further service review recommendations when feasible.
- 6.1.12 LAFCO will consider and approve consolidations when the conclusions of special studies or service reviews indicate that reorganization would result in improved service provision at the same or lower cost (§56375, §56881).
- 6.1.13 In implementing the provisions of Government Code Section 56157, notice will be given to all landowners and registered voters of Commission hearings within the boundaries of a proposal for change of organization, sphere of influence change, or development-related service contract. In addition, for the same proceedings, notice will be given to all landowners and registered voters within 500 feet surrounding the exterior boundaries, as also required by Section 56157.

**6.2 ANNEXATION TO A SPECIAL DISTRICT**

- 6.2.1 The annexation must provide for the most efficient delivery of services. The most efficient services are those provided at the lowest cost and highest service level. In the case of similar providers with the same level of service, the one that delivers the same service at the lowest cost will be considered to be most efficient.
- 6.2.2 The annexation shall be modified, conditioned or disapproved if it permits the more efficient delivery of one or more services to the detriment of other services.
- 6.2.3 The annexing agency must demonstrate that no parcel located within district boundaries will be deprived of its right to receive services if the annexation is approved (§56668).
- 6.2.4 The annexing agency must demonstrate that levels of service for existing and potential customers within its service boundaries will not be lowered, or costs of service increased, if the annexation is approved (§56668). If any adverse impacts may occur, the applicant or annexing agency must provide, for LAFCO consideration, a written justification for project approval despite the negative impacts.

**6.3 ANNEXATION TO A CITY**

Planned urban development contributes to the orderly growth of urban areas. Therefore, promotion of planned development is a primary goal of the El Dorado County Local Agency Formation Commission.

- 6.3.1 The fundamental policy of the Commission in considering the development status of land, located in or adjacent to an established city sphere of influence boundary and contiguous to a city boundary, shall be that such development is preferred in cities. This policy is based on the fact that cities exist to provide a broader range of services than do special districts (§56001, §56425, §56076).
- 6.3.2 Developed lands which benefit from municipal services and are contiguous to a city boundary, should be annexed to that city providing such services.
- 6.3.3 Urban development and utility expansion plans should be coordinated among cities, special districts, and the County, in cooperation with the El Dorado County Local Agency Formation Commission.
- 6.3.4 Land may not be annexed to a city unless it is contiguous to the city at the time the proposal is initiated, is owned by the city, is being used for municipal purposes at the time Commission proceedings are initiated, and does not exceed 300 acres in area (§56741, §56742).
- 6.3.5 Petitions shall demonstrate the need for municipal services and the city to which the territory is being annexed shall be capable of meeting these municipal needs (§56700).
- 6.3.6 A city shall pre-zone undeveloped property to be annexed before the Commission takes action on the annexation. No subsequent change may be made to the general plan or zoning of the annexed territory that is not in conformance with the pre-zoning designations for a period of two years after the completion of the annexation unless the legislative body for the city makes a finding at a public hearing that a substantial change in circumstances has occurred that necessitate a departure from the pre-zoning in the application to the Commission (14 CCR §15051; §56375).
- 6.3.7 The city shall be the Lead Agency and LAFCO shall be the Responsible Agency, for environmental review of any pre-zone and related change of organization. The City shall consult with LAFCO during the CEQA process, provide a written response to LAFCO's input, and submit environmental documentation to LAFCO pursuant to CEQA Guidelines 14 CCR §15050, §15381, §15096, §15051.

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- 6.3.8 Detachment from districts providing services to areas being annexed to the city are to be processed simultaneously as a reorganization in compliance with government codes (§56826, §56073) and consistent with applicable SOI policies and any service review recommendations adopted by LAFCO.

**6.4 DETACHMENT FROM A SPECIAL DISTRICT**

- 6.4.1 The petitioner shall demonstrate that there is no longer a need for service(s) provided by the affected district/agency, and that detachment is the best alternative (§56700).
- 6.4.2 The proposal for detachment shall not be an attempt by the petitioner to avoid paying district revenues while still receiving district service.
- 6.4.3 If the detachment is proposed principally to allow for some other means of providing the same service, the applicant must demonstrate that the proposal will result in an improved level of service (§56668).
- 6.4.4 Detachments shall not be approved if resultant boundaries are inconsistent with the affected agencies' SOIs or adopted service review recommendations unless special circumstances exist. Spheres of Influence amendments and service reviews for districts from which land will be detached shall be processed prior to, or concurrent with, any LAFCO approval of the detachment.

**6.5 FORMATION OF A SPECIAL DISTRICT**

- 6.5.1 The proposed formation of a special district shall demonstrate that a need exists for a service or control which can best be provided by a special district and that there are no other alternatives that would provide the service or control in a more efficient manner (§56841, §56001, §56301).
- 6.5.2 The proposed entity shall be able to provide sufficient revenue to provide the requested service (§56841, §56001).
- 6.5.3 The petitioner will provide and the Commission shall consider a cost versus benefits study showing the fiscal and levels of service gains and/or losses resulting from the formation (§56001). The project will not be approved if the costs are demonstrated to outweigh the benefits.
- 6.5.4 The proposal for the formation of a special district shall describe the relationship of the newly formed district to existing agencies (§56001). The proposed formation shall not undermine the logical expansion of adjacent or other governmental agencies or districts (§56301).
- 6.5.5 The proposed formation shall not give to any special interest group the status of a governmental agency.
- 6.5.6 If LAFCO determines that approval of the formation will necessitate adoption of any new regulations or the amendment or repeal of any regulations adopted by the county, LAFCO may condition approval of the application upon the adoption, amendment or repeal of the regulations (§56452).

**6.6 DISTRICT DISSOLUTION (§56885.5)**

6.6.1 With respect to any Commission determination to approve the disincorporation of a city, the dissolution of a district, or the reorganization or consolidation of agencies which results in the dissolution of one or more districts or the disincorporation of one or more cities, a condition prohibiting an agency being dissolved from taking any of the following actions (unless it first finds that an emergency situation exists as defined in Section 54956.5):

- (a) Approving any increase in compensation or benefits for members of the governing board, its officers, or the executive officer of the agency.
- (b) Appropriating, encumbering, expending, or otherwise obligating, any revenue of the agency beyond that provided in the current budget at the time the dissolution is approved by the Commission.

**6.7 INCORPORATIONS** *(Approved January 28, 2004)*

**6.7.1 Introduction**

This section recognizes and supplements the Governor's Office of Planning and Research "Guide to the LAFCO Process for Incorporations".

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 are 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-Hertzberg 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.

**6.7.2 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 ability of a small number of community leaders to interact effectively with staff and consultants is

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crucial to the development of a viable proposal that meets overall community incorporation goals.

The proponent is defined as the person or persons who file a Notice of Intent to Circulate a petition or the agency adopting a resolution of application (§56068). 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 they make other key decisions leading up to approval of the proposal.

- 6.7.2.1 At the time proceedings are initiated, 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.
- 6.7.2.2 The proponents of incorporation shall designate in writing the party responsible for the payment of fees.
- 6.7.2.3 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.
- 6.7.3 **General 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.
- 6.7.4 **Adverse Effects:** 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.
- 6.7.5 **Time Limits:** Proponents for an incorporation project shall complete the application requirements within a period of 24 months following the opening of their project file. The proponents 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(s) will be determined at a noticed public hearing upon good cause being found by the Commission
- 6.7.6 **Preliminary Feasibility Study:** An application for incorporation will include a preliminary feasibility analysis that estimates municipal costs

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and revenues resulting from the proposed plan for services. The preliminary feasibility analysis may be performed by incorporation proponents or their contractors.

6.7.7 **Service Plans:** All incorporation proposals must include the elements required for a plan for providing services. (§56653 and Policies and Guidelines Section 3.3).

6.7.8 **Boundaries:** Proposed incorporation boundaries must comply with boundary policies contained in section 3.9.

6.7.8.1 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.

6.7.8.2 Agricultural lands 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 and Policies & Guidelines Section 3.10).

6.7.8.3 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.

6.7.8.4 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.

6.7.9 **Spheres of Influence:** The Commission shall determine the Sphere of Influence for the newly incorporating city within one year of the effective date of incorporation.

6.7.9.1 Incorporation proposals involving land within an existing city sphere of influence will not be accepted for filing. If an incorporation proposal would overlap 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.

#### 6.7.10 **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 3.8).

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

Existing district boundaries, however, 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.

- 6.7.10.1 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:
- 6.7.10.2 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.
- 6.7.10.3 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.

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6.7.10.4 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.

6.7.10.5 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.

6.7.11 **Map & Legal Description:** For incorporation applications, the proposal map and a proposal description are submitted with the application (§56652(c) and OPR Guidelines). The required metes and bounds legal description is submitted following LAFCO approval of final incorporation boundaries along with a revised map reflecting those boundaries.

6.7.12 **Fees**

LAFCO fees are calculated based on the type of action. Incorporation proposals are charged on an actual cost basis with a deposit required when the proposal is initiated. 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.

6.7.12.1 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.

6.7.12.2 Payment of fees for Incorporation applications is linked to the processing of the application.

6.7.12.3 A fee payment schedule and estimates of processing costs will be determined by LAFCO staff at the time the project is submitted.

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6.7.12.4 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.

6.7.13 Incorporation Proposals are subject to general CEQA Policies contained in Policies and Guidelines section 3.2.

6.7.14 **Selection Process for Consultant - Comprehensive Fiscal Analysis**

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) A request for proposals will be circulated; a review panel representing diverse interests including the incorporation proponents will evaluate and/or score the responses.
- (b) Names for the review panel membership will be brought to the Commission for approval.
- (c) 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.

6.7.15 **Estimated Property Tax Transfer:** The Commission makes the final determination on transfer of property taxes.

6.7.16 **Financial Feasibility:** The Commission defines "financial feasibility" to mean the ability of a new city to maintain pre-incorporation service levels.

6.7.16.1 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.

- 6.7.17 **Review of Comprehensive Fiscal Analysis by State Controller:** 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.

### **REVENUE NEUTRALITY**

6.7.18 The purpose of the Revenue Neutrality Policies is as follows:

- 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 §56185.
- 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 §56815 and §56375 for approval of incorporation.
- To implement the legislative mandates for achieving revenue neutrality 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.

6.7.19 **Procedure for Revenue Neutrality**

- Draft Comprehensive Fiscal Analysis is a prerequisite to revenue neutrality negotiations. LAFCO staff convenes a revenue neutrality negotiating committee composed of representatives of the county and representatives of the proponents of incorporation. LAFCO staff

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- 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 §56815. 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.
  - 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 proponents. The documents demonstrating agreement to the proposed terms and conditions are used in the final Public Hearing Draft of the CFA.
  - 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. The Revenue Neutrality process is shown in the diagram attached at the end of this section.
- 6.7.20 The provisions of revenue neutrality agreements negotiated pursuant to this policy shall adhere to the following policies:
- 6.7.20.1 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.
  - 6.7.20.2 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.

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- 6.7.20.3 Costs of capital improvements are not recurring costs and should not be included.
- 6.7.20.4 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.
- 6.7.20.5 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.
- 6.7.20.6 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.
- 6.7.20.7 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.
- 6.7.21 **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 §56886.
- 6.7.22 **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.
- 6.7.23 **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.
- 6.7.24 **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

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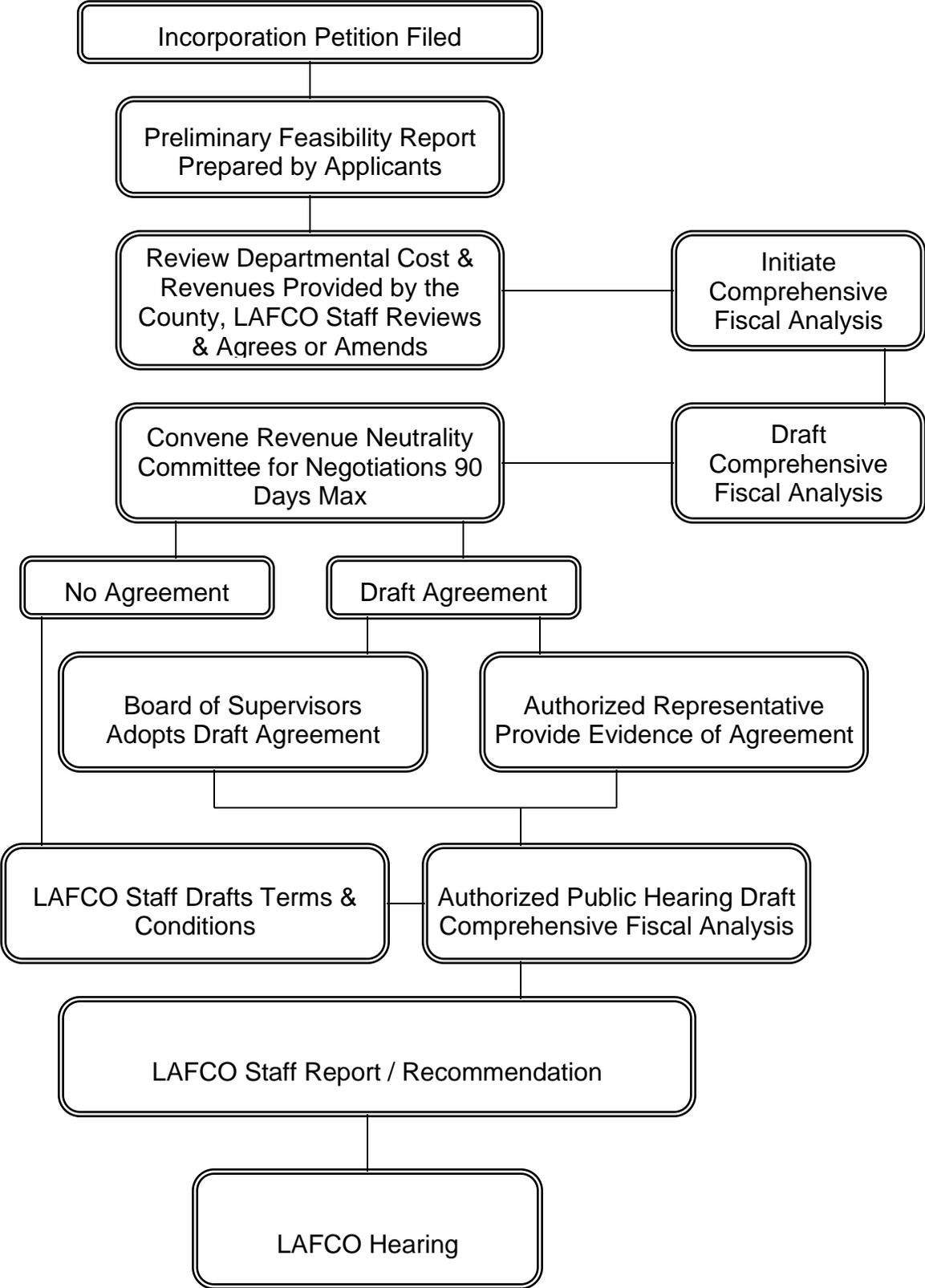
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the new city as it assumes service responsibilities, but should not otherwise conflict with the intent of fiscal neutrality or exacerbate County revenue losses.

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**Revenue Neutrality Negotiation & Fiscal Analysis Process**



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**6.8 SERVICE OUTSIDE OF AGENCY BOUNDARIES** *(Approved January 6, 2000)*

- 6.8.1 A city or district may provide new or extended services outside its jurisdictional boundaries only if it requests and receives written approval by LAFCO (§56133). Such service is permitted on parcels within the sphere of influence of an agency in anticipation of annexation.
- 6.8.2 Service may be permitted outside the sphere of influence of the agency if the agency provides documentation of a threat to the health and safety of the public or the affected residents and notice is given to corporate service providers as specified in §56133(c)(2) (chaptered Oct.10,1999).
- 6.8.3 Contracts or agreements solely involving two or more public agencies are not subject to LAFCO review.
- 6.8.4 Contracts or agreements for the transfer of non-potable or non-treated water and for provision of surplus water to agricultural lands for projects that serve conservation purposes or that directly support agricultural industries are not subject to LAFCO review.
- 6.8.5 Service extensions providing surplus water to any project that will support or induce development require written approval from the Commission.
- 6.8.6 Extra-territorial services provided by agencies prior to January 1, 2001 are not subject to LAFCO review.
- 6.8.7 The agency requesting LAFCO approval shall submit an *Application for Contractual Agreement Approval*, other information as needed, maps, a copy of the Agreement or Contract, fees and the appropriate environmental document (Notice of Determination or Notice of Exemption).
- 6.8.8 As a condition of approval the Commission may require the completion of the annexation within a specified time frame.
- 6.8.9 Written approval for emergency connections may be authorized by the Executive Officer and service may be provided prior to review by the Commission only under all of the following circumstances.
  - (a) The agency or landowners provides documentation of a threat to the health and safety of the public or the affected residents, such as a failing well or septic system; and
  - (b) El Dorado County Environmental Management Department reviews health and safety documentation; and

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- (c) The territory is within the Sphere of Influence of the agency; and
- (d) An application to annex the territory has been previously or is concurrently submitted.

6.8.10 Emergency connections authorized by the Executive Officer will be reviewed by the Commission at the next regularly scheduled LAFCO meeting.

**6.9 CONDUCTING AUTHORITY PROCEEDINGS** *(Approved April 25, 2001)*

All functions and duties of the conducting Authority as specified in §57000 et. seq., shall be delegated to the Executive Officer. The Executive Officer is designated as the hearing officer for conducting authority proceedings.

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**6.10 EXTENSION OF TIME TO COMPLETE PROCEEDINGS** *(Approved June 28, 2017)*

- 6.10.1 Government Code section 57001 sets forth the Commission's authority to grant an extension of time and reads as follows: "If a certificate of completion for a change of organization or reorganization has not been filed within one year after the commission approves a proposal for that proceeding, the proceeding shall be deemed terminated unless prior to the expiration of that year the commission authorizes an extension of time for that completion. The extension may be for any period deemed reasonable to the commission for completion of necessary prerequisite actions by any party. If a proceeding has not been completed because of the order or decree of a court of competent jurisdiction temporarily enjoining or restraining the proceedings, this shall not be deemed a failure of completion and the one-year period shall be tolled for the time that order or decree is in effect."
- 6.10.2 Prior to the date of expiration, staff will notify the proponent of the pending termination of the proceedings. The failure of staff to notify the project proponent of the pending expiration will not relieve the proponent of its obligation to request an extension if desired or otherwise excuse any requirement of the proponent.
- 6.10.3 The proponent may request an extension of time to be considered by the Commission at a public hearing. The request for an extension of time shall be comprised of the following, including any additional information deemed necessary by the executive officer:
- a) Written request for an extension of time.
  - b) Reason(s) why an extension of time should be granted, including a description of any changed circumstances that have delayed completion of proceedings.
  - c) An explanation of the project's feasibility and what progress will be made to complete all outstanding conditions of approval and necessary prerequisite actions by any party.
  - d) The payment of any outstanding fees or costs incurred by LAFCO to fully reimburse LAFCO for staff and legal expenses and other costs incurred from the time of approval to the time when an application for the extension of time is submitted.
- 6.10.4 At staff's recommendation, the Commission may also require the following from the proponent:

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- a) Written communication from the city or district representative to which annexation is proposed supporting the extension request
  - b) An evaluation of whether any additional environmental review is necessary under the California Environmental Quality Act due to the passage of time. This analysis shall be conducted by the Lead Agency. If the Lead Agency is unwilling to do the analysis, the Commission may require the project proponent to fund a Commission-hired environmental consultant for this purpose.
  - c) Proof of compliance with any regulations regarding disadvantaged communities
- 6.10.5 The Commission has the discretion to place conditions on the time extensions.
- 6.10.6 The Commission may deny an extension without prejudice for any of the following reasons, or any other reason the Commission determines apply.
- a) Annexations to EID sometimes require simultaneously submitting an application to the federal Bureau of Reclamation (“BOR”) for a right to use letter. As the BOR process is time-consuming, LAFCO encourages project applicants requiring BOR approval to submit annexation applications to EID as soon as possible. The failure of an applicant to apply to EID for annexation within four (4) months of LAFCO’s approval may be a sufficient reason for the Commission to deny an extension request.
  - b) Failure of the proponent to conduct its due diligence with the compliance of any condition of approval.
  - c) Failure of proponent to submit the materials specified in 6.10.3 and 6.10.4, if applicable.
  - d) Failure to sign a Post Commission Action Indemnity Agreement.
- 6.10.7 The Commission may rescind an extension of time if it finds that the proponent has not fulfilled one or more of the conditions of approval placed on the time extension.

## **7 DEFINITIONS**

Pages two to thirteen of Chapter 2 of the Cortese-Knox-Hertzberg Act, Sections 56010-56081, contain a list of definitions most commonly referenced therein. This document does not reproduce that list. However, interested parties may obtain a copy of the list by contacting the Commission office. The following definitions are specific to local circumstances and operations.

### **AGRICULTURAL AREAS OR LANDS**

Those lands defined as agricultural lands in §56016 and §56064 (*Approved April 2, 1998*). In El Dorado County, agricultural lands are generally identified with one of the following designations:

- |                           |                                   |
|---------------------------|-----------------------------------|
| (a) Exclusive Agriculture | (e) Residential-Ag                |
| (b) Planned Agriculture   | (f) Rural Residential             |
| (c) Timber Preserve Zone  | (g) Natural Resource              |
| (d) Rural Estates-Ag      | (h) Agricultural District Overlay |

### **AGRICULTURAL PRESERVE**

An area devoted to either agricultural, recreational, or open space and compatible uses as defined in the Williamson Act, and established and made subject to a land conservation contract by resolution of a city or county after a public hearing (§51201(d)).

### **COST AVOIDANCE**

Actions to eliminate unnecessary costs derived from, but not limited to, duplication of service efforts, higher than necessary administration/operation cost ratios, use of outdated or deteriorating infrastructure and equipment, underutilized equipment or buildings or facilities, overlapping/inefficient service boundaries, inefficient purchasing or budgeting practices, and lack of economies of scale.

### **DEEMED FILED**

A term referring to the time at which an application is determined by the Executive Officer to include all required elements, including fees and completed CEQA documentation, is accepted as complete, and begins to be subject to processing time lines contained in the Cortese/Knox-Hertzberg and California Environmental Quality Acts.

### **DE MINIMIS PROJECT** (*Approved September 4, 1997*)

The term refers to projects which include requests for minor administrative or corrective actions. Projects are found "De Minimis" for application processing and fee collection purposes if staff determines that the project:

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- (a) is consistent with §56668, factors to be considered, and LAFCO policies and procedures;
- (b) will not cause significant adverse impacts upon any agency or individual;
- (c) does not involve any new extension of service;
- (d) is proceeding with the consent of all affected landowners; and
- (e) is defined as ministerial under, or qualifies for an Exemption from, the requirements of the California Environmental Quality Act.

**DIRECT COSTS**

Those costs incurred as an immediate result of an action or a proposal before LAFCO.

**INFRASTRUCTURE NEEDS AND DEFICIENCIES**

The term, “infrastructure” is defined as public services and facilities, such as sewage-disposal systems, water-supply systems, other utility systems, and roads (General Plan Guidelines). Any area needing or planned for service must have the infrastructure necessary to support the provision of those services. The term, “infrastructure needs and deficiencies,” refers to the status of existing and planned infrastructure and its relationship to the quality and levels of service that can or need to be provided.

**ISLAND**

An area of land that is not contiguous according to §56301 or according to the standards for contiguity of the State Board of Equalization (*Approved April, 2, 1998*).

**LIMITED SERVICE SPHERE OF INFLUENCE**

Territory included within the boundaries of a limited purpose district that LAFCO has included within the Sphere of Influence of a multi-service district (*Approved November 5, 1998*).

**LOCAL ACCOUNTABILITY AND GOVERNANCE**

The term, “local accountability and governance,” refers to public agency decision making, operational and management styles that include an accessible staff, elected or appointed decision-making body and decision making process, advertisement of, and public participation in, elections, publicly disclosed budgets, programs, and plans, solicited public participation in the consideration of work and infrastructure plans; and regularly evaluated or measured outcomes of plans, programs or operations and disclosure of results to the public.

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**MANAGEMENT EFFICIENCY**

The term, “management efficiency,” refers to the organized provision of the highest quality public services with the lowest necessary expenditure of public funds. An efficiently managed entity:

- (a) promotes and demonstrates implementation of continuous improvement plans and strategies for budgeting, managing costs, training and utilizing personnel, and customer service and involvement;
- (b) has the ability to provide service over the short and long term;
- (c) has the resources (fiscal, manpower, equipment, adopted service or work plans) to provide adequate service;
- (d) meets or exceeds environmental and industry service standards, as feasible considering local conditions or circumstances; and
- (e) maintains adequate contingency reserves.

**MUNICIPAL SERVICES**

The full range of services that a public agency provides, or is authorized to provide, except general county government functions such as courts, special services and tax collection.

Municipal service reviews are triggered by requirements to create or update SOIs for public agencies. Therefore, a LAFCO will review services that are provided by public agencies that have, or are required to have, SOIs with review and consideration of the operations of other providers that service the same region.

**PENINSULA**

An area of land with a relatively small line of boundary contiguity, surrounded on three or more sides by lands that are outside that boundary (*Approved April 2, 1998*).

**PRE-SUBMITTAL**

An application provided to LAFCO for initial review purposes but not yet deemed filed.

**RATE RESTRUCTURING**

Rate restructuring does not refer to the setting or development of specific rates or rate structures. During a service review, LAFCO may compile and review certain rate related data, and other information that may affect rates, as that data applies to the intent of the CKH Act (§56000, §56001, §56301), factors to be considered (§56668), SOI determinations (§56425) and all required service review determinations (§56430). The objective is to identify opportunities to positively impact rates without adversely affecting service quality or other factors to be considered.

**RESPONSIBLE AGENCY**

A public agency which proposes to carry out or approve a project for which a Lead Agency is preparing or has prepared an Environmental Impact Report or Negative Declaration. For the purpose of CEQA, the term refers to any public agency other than the Lead Agency which has discretionary authority over a project.

**SERVICE UNIT**

A measure used to calculate the exact service status, or capacity to provide services, of a service provider such as number of households, parcels, meters, equivalent dwelling units, or residential, commercial, agricultural or industrial units that are, can, will be or are proposed to be served.

**SUBSTANTIAL SOI AMENDMENT**

An amendment to an SOI which causes the SOI to be internally inconsistent, is inconsistent with provisions of the CKH Act, has the potential to cause significant adverse social, economic, environmental or other consequences, or has substantial adverse regional planning implications. A substantial amendment to an SOI prior to a service review is inconsistent with §56430.

**URBAN AREAS OR LANDS**

Lands within an incorporated city and those lands in community regions which are developed, or planned for development within the next ten years, for industrial, commercial, medium density residential or more intensive uses (*Approved April 2, 1998*).

**8 APPENDICES**

**RULES FOR CONDUCT OF A MEETING ([Appendix A](#))**

**CONFLICT OF INTEREST CODE ([Appendix B](#))**

**FEE SCHEDULE ([Appendix C](#))**

**SAMPLE PETITION FORM ([Appendix D](#))**

**SAMPLE APPLICATION FORMS ([Appendix E](#))**

**LAFCO PERSONNEL P&P GUIDELINES ([Appendix F](#))**

**LAFCO POSITION DESCRIPTIONS ([Appendix G](#))**

**PUBLIC RECORDS REQUEST ([Appendix H](#))**

**CODE OF ETHICS ([Appendix X](#))**