

**LOCAL AGENCY FORMATION  
COMMISSION**

**OF**

**KINGS COUNTY**

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**POLICIES AND PROCEDURES MANUAL**

Revised

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Prepared by:

LAFCO of Kings County  
LAFCO Executive Officer and Staff  
1400 W. Lacey Blvd., Bldg. 6  
Hanford, CA 93230

(559) 582-3211, ext. 2670  
Website: [www.kingslafco.com](http://www.kingslafco.com)

# LOCAL AGENCY FORMATION COMMISSION OF KINGS COUNTY

## POLICIES AND PROCEDURES MANUAL

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# LOCAL AGENCY FORMATION COMMISSION OF KINGS COUNTY

## MISSION STATEMENT

**For the social, fiscal, and economic well-being of the County of Kings and the State of California, encourage the orderly formation, development, and reorganization of local governmental agencies; preserve open-space and prime agricultural land; and discourage urban sprawl.**

### I. INTRODUCTION

#### A. HISTORY OF LAFCOs

California has experienced a tremendous increase in population over the past 60 years, result in sporadic formation of cities and special service districts as the development boom converted more and more of California's agricultural land to urban uses. Premature and unplanned development created inefficient, expensive systems of delivering public services using various small of local government.

Governor Edmund G. Brown, Sr., responded to this problem in 1959 by appointing the *Commission on Metropolitan Area Problems*. The Commission's charge was to study and make recommendations on the "misuse of land resources" and the growing complexity of overlapping, local governmental jurisdictions. The Commission's recommendations on local government reorganization were introduced in the Legislature by the *Knox-Nisbet Act of 1963*, resulting in the creation of the Local Agency Formation Commissions, or LAFCOs, with regulatory authority over local agency boundary changes.

Since then various acts have been added to the statutes including the *District Reorganization Act of 1965* and the *Municipal Organization Act of 1977* which consolidated all of the separate laws that previously governed boundary changes into single laws. The *Cortese-Knox-Hertzberg Local Government Act of 2000* consolidated those three major laws into a single, unified law.

Then in 2000 the Speaker of the Assembly, Robert Hertzberg, introduced AB 2838 which comprehensively revised the *Cortese-Knox-Hertzberg Local Government Act of 2000* to incorporate many of the recommendations of the *Commission on Local Governance in the 21<sup>st</sup> Century* in its report "Growth within Bounds." Minor changes have been made since.

#### B. CURRENT LEGISLATIVE ACT ESTABLISHING LAFCOs AUTHORITY

The *Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000*, beginning at Section 56000 of the California Government Code, provides LAFCO with its powers, procedures and functions (note: all references to code sections in these procedures are to the California Government Code unless otherwise specified). This law gives LAFCO power to "approve or disapprove with or without amendment, wholly, partially or conditionally" proposals concerning the formation of cities and special districts, and other changes in jurisdictional boundaries of cities and special districts, and other changes in jurisdiction or organization of local governmental agencies.

LAFCO is also given authority to make studies of existing governmental agencies in an effort to improve the efficiency of urban services, including initiating certain proceedings on their own.

## **C. LAFCO PROFILE**

LAFCO was established by state law as an independent regulatory agency with county-wide jurisdiction. Its mandates and responsibilities are:

### **1. General Purpose and Responsibilities**

The Commission's efforts are directed to seeing that services are provided efficiently and economically while agricultural and open-space lands are protected. It is responsible for coordinating logical and timely changes in local governmental boundaries, conducting special studies that review ways to reorganize, simplify and streamline governmental structure and preparing a Sphere of Influence for each city and special district within each county. This includes annexations and detachments of territory; incorporations of cities; formations of special districts; and consolidations, mergers, and dissolutions of districts. In addition, LAFCO is charged with reviewing ways to reorganize, simplify, and streamline governmental structure. In 1994, LAFCO was given the authority to initiate proposals involving district consolidation, dissolution, establishment of subsidiary districts, mergers, and reorganizations (combinations of the above jurisdictional changes). In addition, LAFCO is responsible for reviewing contractual service agreements between property owners and service providers.

The Commission is also charged with developing Municipal Service Reviews (Section 56430) and developing and updating spheres of influence (S/I) for each city and special district within the county (Section 56425). S/Is are planning tools used to provide guidance for individual proposals involving jurisdictional changes, and are intended to encourage efficient provision of organized community services and prevent duplication of service delivery. Territory must be within a city or district's sphere in order to be annexed.

### **2. Membership and Meetings**

Section 56325 specifies the LAFCO membership. It consists of five regular members: two members from the Board of Supervisors, two city representatives, and one public member. There are three alternates to the regular members. Commissioners are appointed to four-year terms. The two county members, and the county member alternate, are appointed by the Board of Supervisors from their own membership. The city members, and city member alternate, are appointed by the City Selection Committee (the mayors of all the cities within the County) and must be either mayors or council members. The public member and public member alternate are appointed by the other four members of the Commission.

Independent special districts may have two seats on LAFCO. However, a majority of the districts declined to request independent special district representation when polled in 2001. Most stated they did not want to contribute one-third of the annual LAFCO budget.

As set by the Commissioners by resolution regular LAFCO meetings are scheduled for 3:30 p.m. on the fourth Wednesday of each month. Meetings are held in the Board of Supervisors Chambers, in the Administration Building (Bldg. No. 1) of the Kings County Government Center, 1400 West Lacey Blvd., Hanford, CA. The length of the meetings varies depending on the complexity of the items on the agenda and the amount of public testimony.

Meeting notices and agendas are mailed through the U.S. Mail, prepaid first class, and are posted on LAFCO's web-site. The web-site address is: [www.kingslafco.com](http://www.kingslafco.com)

### 3. Disclosures

Pursuant to Section 56100.1, a commission may require, through the adoption of written policies and procedures, the disclosure of contributions, as defined in Section 82015, expenditures, as defined in Section 82025, and independent expenditures, as defined in Section 82031, made in support of or opposition to a proposal. Disclosure shall be made to the Executive Officer who will post it on the commission's website. This disclosure requirement is in addition to any disclosure required by Title 9 (commencing with Section 81000) or by local ordinance (See Appendix G for definition of contributions and expenditures).

A Commissioner is not automatically disqualified from voting on items that affect the agency he or she represents; however, a Commissioner may voluntarily disqualify himself or herself. Commissioners must disqualify themselves if they have received contributions of more than \$250 from any person or entity involved in a proposal under consideration by LAFCO. This disqualification requirement is determined through completion of a Fair Political Practices Commission disclosure form previously submitted by the proposal's applicant.

Application forms for proposed changes in organizations or reorganizations have been changed to include such an applicant's disclosure form. If an application is made by resolution from a city of special district, the resolution of application must be accompanied by such a disclosure form from the real party of interest if such contribution or expenditure payments have been made to any of the LAFCO Commissioners.

Both regular and alternate Commissioners, except supervisors, file Statements of Economic Interest Form 700 when assuming office and annually thereafter.

## **D. OBJECTIVES OF LAFCO**

### 1. Encourage the Orderly Formation of Local Governmental Agencies

LAFCOs review proposals for the formation of new local governmental agencies and changes of organization in existing agencies. In California there are 58 LAFCOs working with nearly 4,000 governmental agencies in 58 counties, 500+ cities and 3,000+ special districts. Agency boundaries are often unrelated to one another and sometimes overlap at random, often leading to higher service costs to the taxpayer and general confusion regarding service area boundaries. LAFCO decisions strive to balance the competing needs in California for affordable housing, economic opportunity, and conservation of natural resources.

### 2. Preserve Agricultural Land Resources

LAFCO must consider the effects that any proposal will produce on existing agricultural lands. By guiding development toward vacant urban land and away from agricultural preserves, LAFCO assists with the preservation of our valuable agricultural resources. Section 56377 guides this objective by requiring that LAFCO must consider the following when reviewing and approving or disapproving proposals which could reasonably be expected to induce, facilitate, or lead to the conversion of existing open-space lands to uses other than open-space uses. The commission shall consider all of the following policies and priorities:

- (a) 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 nonprime agricultural lands, unless that action would not promote the planned, orderly, efficient development of an area.
- (b) Development of existing vacant or nonprime agricultural lands for urban uses within the existing jurisdiction of a local agency or within the sphere of influence of a local agency should be encouraged before any proposal is approved which would allow for or lead to the development of existing open-space lands for non-open-space uses which are outside of the existing jurisdiction of the local agency or outside of the existing sphere of influence of the local agency.

3. Discourage Urban Sprawl

Urban sprawl can best be described as irregular and disorganized growth occurring without apparent design or plan. This pattern of development is characterized by the inefficient delivery of urban services (police, fire, water and sanitation) and the unnecessary loss of agricultural land. By discouraging sprawl, LAFCO limits the misuse of land resources and promotes a more efficient system of local governmental agencies.

**E. AUTHORITY OF LAFCO**

1. Boundary Changes

LAFCO regulate boundary changes proposed by public agencies or individuals through approval or denial. LAFCO does not have the power to initiate boundary changes on their own, except for proposals involving small island annexations, the dissolution or consolidation of special districts, and the merging of subsidiary districts.

Typical applicants might include:

- ◆ Individual homeowners requesting annexation to a sewer district due to a failing septic tank.
- ◆ Developers seeking annexation to cities in order to obtain more favorable development and urban services extended to new housing or commercial development.
- ◆ Cities and the County wishing to annex pockets or “islands” of unincorporated land located within the borders in order to avoid duplication of services with the county.
- ◆ Special Districts or cities seeking to consolidate two or more governmental agencies into one, thereby streamlining their services and reducing the cost to local taxpayers.
- ◆ LAFCO itself concerning the dissolutions of inactive districts or consolidation of special districts.

2. Municipal Service Reviews and Spheres of Influence Studies

One of the most important charges given LAFCO was the adoption of “Spheres of Influence” for local governments (Section 56425). A “Sphere of Influence” is the physical boundary and service area that a governmental agency is expected to serve. Establishment of this boundary is based on the results of the Municipal Service Review study (Section 56430), and is necessary to determine which governmental agencies can provide services in the most efficient way to the people and property in any given area. The “Sphere of Influence” requirement also works to discourage urban sprawl by preventing overlapping jurisdictions and duplication of services.



Commissioners cannot tell counties or cities what their planning goals should be. Rather, LAFCOs coordinate the orderly development of a community through reconciling differences between city and county plans so the most efficient urban service arrangements are created for the benefit of area residents and property owners.

3. Special Studies

Through special studies, LAFCO encourages governments to evaluate their current operations and options for reorganization. Local agencies often overlap and have the potential of duplicating services. LAFCOs conduct service studies and consolidation feasibility studies. These studies provide general information about local governments and present alternatives for improving services and reducing operational costs.

4. Initiation of Special District Consolidations

As of July 1, 1994, LAFCOs have had the authority to initiate proposals that include the dissolution or consolidation of special districts, or the merging of an existing subsidiary district (Section 56375(a)). Prior to initiating such an action, LAFCO must determine that the district's customers would benefit from the proposal through adoption of a sphere of influence or other special study.

5. Out of Agency Service Agreements

Cities and districts are required to obtain LAFCO's approval prior to entering into contracts with private individuals to provide services outside of the agency's boundaries (Section 56133).

## **F. LAFCO'S POWERS**

The Legislature, in Section 56375, as of January 1, 2006, has given LAFCO the following powers:

**56375.** The commission shall have all of the following powers and duties subject to any limitations upon its jurisdiction set forth in this part:

- (a) To review and approve or disapprove with or without amendment, wholly, partially, or conditionally, proposals for changes of organization or reorganization, consistent with written policies, procedures, and guidelines adopted by the commission. The commission may initiate proposals for (1) consolidation of districts, as defined in Section 56036, (2) dissolution, (3) merger, or (4) establishment of a subsidiary district, or a reorganization that includes any of these changes of organization. A commission shall have the authority to initiate only a (1) consolidation of districts, (2) dissolution, (3) merger, (4) establishment of a subsidiary district, or (5) a reorganization that includes any of these changes of organization, if that change of organization or reorganization is consistent with a recommendation or conclusion of a study prepared pursuant to Section 56378, 56425, or 56430 and the commission makes the determinations specified in subdivision (b) of Section 56881. However, a commission shall not have the power to disapprove an annexation to a city, initiated by resolution, of contiguous territory that the commission finds is any of the following:
  - (1) Surrounded or substantially surrounded by the city to which the annexation is proposed or by that city and a county boundary or the Pacific Ocean if the territory to be annexed is substantially developed or developing, is not prime agricultural land as defined in Section 56064, is designated for urban growth by the general plan of the annexing city, and is not within the sphere of influence of another city.
  - (2) Located within an urban service area that has been delineated and adopted by a commission, which is not prime agricultural land, as defined by Section 56064, and is designated for urban growth by the general plan of the annexing city.
  - (3) An annexation or reorganization of unincorporated islands meeting the requirements of Section 56375.3.

As a condition to the annexation of an area that is surrounded, or substantially surrounded, by the city to which the annexation is proposed, the commission may require, where consistent with the purposes of this division, that the annexation include the entire island of surrounded, or substantially surrounded, territory.

A commission shall not impose any conditions that would directly regulate land use density or intensity, property development, or subdivision requirements. When the development purposes are not made known to the annexing city, the annexation shall be reviewed on the basis of the adopted plans and policies of the annexing city or county. A commission shall require, as a condition to annexation, that a city prezone the territory to be annexed or present evidence satisfactory to the commission that the existing development entitlements on the territory are vested or are already at buildout, and are consistent with the city's general plan. However, the commission shall not specify how, or in what manner, the territory shall be prezoned. The decision of the commission with regard to a proposal to annex territory to a city shall be based upon the general plan and pre zoning of the city.

- (b) With regard to a proposal for annexation or detachment of territory to, or from, a city or district or with regard to a proposal for reorganization that includes annexation or detachment, to determine whether territory proposed for annexation or detachment, as described in its resolution approving the annexation, detachment, or reorganization, is inhabited or uninhabited. (c) With regard to a proposal for consolidation of two or more cities or districts, to determine which city or district shall be the consolidated, successor city or district.
- (d) To approve the annexation of unincorporated, noncontiguous territory, subject to the limitations of Section 56742, located in the same county as that in which the city is located, and that is owned by a city and used for municipal purposes and to authorize the annexation of the territory without notice and hearing.
- (e) To approve the annexation of unincorporated territory consistent with the planned and probable use of the property based upon the review of general plan and pre zoning designations. No subsequent change may be made to the general plan for the annexed territory or zoning 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 for the city makes a finding at a public hearing that a substantial change has occurred in circumstances that necessitate a departure from the pre zoning in the application to the commission.
- (f) With respect to the incorporation of a new city or the formation of a new special district, to determine the number of registered voters residing within the proposed city or special district or, for a landowner-voter special district, the number of owners of land and the assessed value of their land within the territory proposed to be included in the new special district. The number of registered voters shall be calculated as of the time of the last report of voter registration by the county elections official to the Secretary of State prior to the date the first signature was affixed to the petition. The executive officer shall notify the petitioners of the number of registered voters resulting from this calculation. The assessed value of the land within the territory proposed to be included in a new landowner-voter special district shall be calculated as shown on the last equalized assessment roll.
- (g) To adopt written procedures for the evaluation of proposals, including written definitions not inconsistent with existing state law. The commission may adopt standards for any of the factors enumerated in Section 56668. Any standards adopted by the commission shall be written.
- (h) To adopt standards and procedures for the evaluation of service plans submitted pursuant to Section 56653 and the initiation of a change of organization or reorganization pursuant to subdivision (a).
- (i) To make and enforce regulations for the orderly and fair conduct of hearings by the commission.
- (j) To incur usual and necessary expenses for the accomplishment of its functions.
- (k) To appoint and assign staff personnel and to employ or contract for professional or consulting services to carry out and effect the functions of the commission.
- (l) To review the boundaries of the territory involved in any proposal with respect to the definiteness and certainty of those boundaries, the nonconformance of proposed boundaries with lines of assessment or ownership, and other similar matters affecting the proposed boundaries.
- (m) To waive the restrictions of Section 56744 if it finds that the application of the restrictions would be detrimental to the orderly development of the community and that the area that would be enclosed by the annexation or incorporation is so located that it cannot reasonably be annexed to another city or incorporated as a new city.
- (n) To waive the application of Section 25210.90 or Section 22613 of the Streets and Highways Code if it finds the application would deprive an area of a service needed to ensure the health, safety, or welfare of the residents of the area and if it finds that the waiver would not affect the ability of a city to provide any

service. However, within 60 days of the inclusion of the territory within the city, the legislative body may adopt a resolution nullifying the waiver.

- (o) If the proposal includes the incorporation of a city, as defined in Section 56043, or the formation of a district, as defined in Section 2215 of the Revenue and Taxation Code, the commission shall determine the property tax revenue to be exchanged by the affected local agencies pursuant to Section 56810.
- (p) To authorize a city or district to provide new or extended services outside its jurisdictional boundaries pursuant to Section 56133.
- (q) To enter into an agreement with the commission for an adjoining county for the purpose of determining procedures for the consideration of proposals that may affect the adjoining county or where the jurisdiction of an affected agency crosses the boundary of the adjoining county.

## **G. PUBLIC INVOLVEMENT**

Citizens are welcome and encouraged to attend regular LAFCO meetings and state their views during public hearings on proposals before the Commission. In addition, the meetings provide an excellent opportunity for citizens to familiarize themselves with the growth, development and inter-jurisdictional issues facing their county. Copies of the minutes, meeting agendas, and staff reports are available by contacting the LAFCO offices, and on LAFCO's web-site at [www.kingslafco.com](http://www.kingslafco.com).

## **II. LAFCO POLICIES FOR REVIEWING PROPOSALS**

### **A. INTRODUCTION**

State law, beginning at Section 56000 of the California Government Code, requires LAFCO to review and make determinations on all changes of organization and reorganization, and to develop spheres of influences for each city and special district which are located within Kings County.

State law also requires that LAFCO adopt written procedures for the evaluation of proposals and requires that any standards for this purpose be in writing [Government Code Section 56375(g)]. Pursuant to this requirement the following standards and policies have been adopted by the Commission in order to assist in the review of proposals and preparation of studies.

### **B. ORDERLY FORMATION AND DEVELOPMENT OF AGENCIES**

1. The sphere of influence determined by the Commission shall consider the provision of an adequate level and type of services, as described in the city or districts Municipal Service Review, for each community within the county.
2. Any proposal for a change of organization or reorganization shall contain adequate information to determine that adequate services, facilities and improvements can be provided and financed by the agencies responsible for the provision of such services, facilities and improvements.
3. To reduce and minimize the number of agencies providing services, proposals for the formation of new agencies shall be discouraged unless the proponents provide clear and substantial evidence of the following:
  - a. A need for the agency's services,
  - b. There are no other existing agencies that are able to annex and provide similar services; and
  - c. The new agency has the capabilities to provide and finance the new service.

### **C. CONSISTENCY WITH SPHERES OF INFLUENCE**

1. All proposals approved by the Commission shall be consistent with the adopted sphere of influence and Commission policies. A proposal should not be approved solely because the

territory lies within the sphere of influence of an agency. The sphere of influence is one factor among other major factors taken into consideration when reviewing a proposal.

2. Cities should provide urban services to areas within their sphere of influence.
3. All developed urban land inside a city's sphere of influence shall be encouraged to annex to the city. The city shall develop plans to annex such developed urban areas. All islands of incorporated territory located within the city's sphere of influence shall be encouraged to annex to the city.

#### **D. ORDERLY DEVELOPMENT AND PRESERVATION OF OPEN SPACE**

1. The Commission encourages orderly, well planned and compact urban development for all developing areas. Additionally, the Commission encourages the county, cities and special districts to develop and implement plans and policies to insure orderly, well planned and compact development, with consideration of preserving open space within the urban patterns.
2. Development of existing vacant non-open space and non-prime agricultural land within an agency's boundaries is encouraged prior to further annexation and development.
3. Annexation proposals of undeveloped or agricultural land shall exhibit that urban development is imminent in the proposed area; that urban development will be contiguous with existing or proposed development; and that orderly, well planned, compact development will result. Proposals resulting in leap frog, non-contiguous development patterns shall be discouraged.

#### **E. CONSERVATION OF AGRICULTURAL LAND**

1. Annexation and development of existing vacant non-open space land and non-prime agricultural land within an agency's sphere of influence is encouraged prior to development outside the sphere of influence.
2. Proposal involving the conversion of prime agricultural land shall be contiguous to existing city boundaries, designated for urbanization in the city and county general plans and consistent with the sphere of influence.
3. The Commission shall consider proposals for development of territory under California Land Conservation Contract if the contract was protested by the city and protest was upheld by LAFCO.

However, as of January 1, 1991, Government Code Section 51243 went into effect which eliminated the city protest provision of the California Land Conservation Act. Cities may still annex Agricultural Preserve property and have the contract terminated if the contract was protested, and the protest was upheld, before 1991. New applications for Agricultural Preserve contracts may not be protested by the city and Protest Hearings before LAFCO are not necessary. Annexation of Agricultural Preserve property established after 1991 would not cancel the contract outright as in the past. Development could only occur if a Notice of Non-renewal is filed and the ten year contract is allowed to expire.

4. Pursuant to Section 51243.5, LAFCO shall determine whether a city may exercise its option to not succeed to the rights, duties, and powers of a "Williamson" Act land conservation contract, and so state in its resolution approving such an annexation or reorganization. City annexation of contracted land will be subject to requirements as set forth in Section 56889.

## **F. INDEMNIFICATION AND REIMBURSEMENT FOR EXTRAORDINARY COST AGREEMENT.**

LAFCO of Kings County requires that each application submitted for consideration of a change of organization or reorganization to be accompanied by a signed copy of the “Indemnification and Reimbursement for Extraordinary Costs” agreement.

In the event a change in organization or reorganization application requires, or appears likely to require, processing in excess of ordinary time and resource allocation, additional fees will be charged to cover the costs of such extraordinary processing. The applicant shall be responsible for all extraordinary costs in connection with application processing and all necessary environmental review processing and for all extraordinary costs associated with change in organization or reorganization approvals or denials, appeals arising therefrom and litigation arising therefrom. In the event that an applicant refuses to make deposits or to pay amounts incurred and invoiced for such extraordinary costs, LAFCO may close the project application processing and may recover from the applicant the costs incurred to that date.

The following are examples of extraordinary events which shall give rise to the applicant's obligation to pay for extraordinary costs under the terms of the “Indemnification Agreement”:

1. Incomplete or inaccurate information provided by the applicant.
2. A change in an application by means of an amendment, correction or similar circumstance.
3. Significant opposition to a project by any person, group, organization or entity.
4. An appeal of a project decision.
5. Non-compliance in whole or in part by the applicant with a condition of an application, the project approval, or LAFCO request.
6. Significant delays in processing caused by the applicant or the applicant's agents.
7. Unique, novel or irregular applications or requests by the applicant.
8. Litigation involving or challenging the project, or arising in any way from the project's consideration, review, negotiation or approval by LAFCO.
9. Other circumstances or events which significantly increase the workload of LAFCO staff to process an application.
10. Preparation of an environmental impact report or mitigated negative declaration under CEQA, which may or may not include the employment of outside consultants and legal counsel by LAFCO or applicant for the preparation of such environmental documents.

The determination by LAFCO that an extraordinary event has occurred and that an applicant shall thereafter be responsible for the payment of extraordinary costs shall be in the sole and absolute discretion of LAFCO of Kings County.

## **III. STANDARDS FOR REVIEW OF PROPOSALS**

### **A. INTRODUCTION**

The following standards were adopted by the Commission. These standards to review proposals are developed from a list of factors to be considered contained in Section 56668 of the California Government Code. The standards shall be considered within the scope of the preceding policy statements.

Standards are provided for review of all changes of organization or reorganization of cities and special districts. Both favorable and unfavorable factors are listed. The existence of favorable or unfavorable factors should not decide approval or denial; however a substantial number of favorable, or unfavorable, factors may be the determining factor of approval or denial of the proposal.

## **B. STANDARDS FOR ANNEXATION TO CITIES AND SPECIAL DISTRICTS PROVIDING URBAN SERVICES**

1. Favorable Factors:
  - a. Proposal would eliminate or reduce in size, islands, near islands or other gross distortions of existing city and district boundaries.
  - b. The proposed area is urban in character and should be provided with municipal or urban type services.
  - c. The proposed area is close to urban development and municipal type services and would enhance its potential of full development.
  - d. The proposal is requested by a governmental agency for annexation of its publicly owned property.
  - e. The proposed annexation conforms to the adopted general plan.
  - f. The boundaries are definite and certain.
  - g. The proposed area is consistent with the sphere of influence.
  - h. Request for annexation comes with the consent of all land owners, as shown on the last assessment roll.
2. Unfavorable Factors:
  - a. The proposed annexation would create extensive corridors or peninsulas extending into an unincorporated area, and would cause further distortion of existing city boundaries.
  - b. The proposed annexation would result in a premature intrusion of urbanization into an agricultural area.
  - c. Extension of city services is financially infeasible for the foreseeable future.
  - d. The area is presently rural or agricultural and no urban development appears to be imminent.
  - e. The proposed annexation is motivated by land speculation or other motives not in the public's best interest.
  - f. Boundaries of the proposal do not include appropriate area or are otherwise improperly drawn.
  - g. The proposal is inconsistent with adopted sphere of influence and adopted general plan.

## **C. STANDARDS FOR ANNEXATION TO SPECIAL DISTRICTS PROVIDING RURAL SERVICES**

1. Favorable Factors:
  - a. Services provided by the district are needed by residents and landowners, and district annexation is the most economical and logical way of supplying the same.
  - b. The proposal is consistent with the sphere of influence.
  - c. Boundaries are definite and certain.
2. Unfavorable Factors:
  - a. The proposal is inconsistent with the sphere of influence.
  - b. Extension of district services is financially infeasible for the foreseeable future.

**D. STANDARDS FOR DETACHMENT FROM SPECIAL DISTRICT PROVIDING RURAL SERVICE**

1. Favorable Factors:
  - a. Detachment will eliminate territory not receiving, thus not benefiting from district service.
  - b. The boundaries are definite and certain.
  - c. Detachment is consistent with the sphere of influence.
  - d. Detachment of territory will not cause a change in land use.
  
2. Unfavorable Factors:
  - a. Detachment will remove territory which still benefits from district services.
  - b. Detachment is inconsistent with the sphere of influence.
  - c. Detachment of territory will cause a change in land use.

**E. STANDARDS FOR DETERMINING “SUBSTANTIALLY SURROUNDED” AREAS**

The Commission adopted Resolution No. 05-02, in February 23, 2005, establishing the criteria for determining whether a partially surrounded unincorporated area is eligible for city annexation under Senate Bill 1266/Chapter 96, Statutes of 2004 (Section 56375.3). The following criterion was added to the LAFCO Procedures and state:

- “An area considered for annexation is determined as “Substantially Surrounded” if that area:
1. Borders the annexing city on at least three contiguous sides or parts thereof; and
  2. The length of the area’s contiguous boundary with the annexing city constitutes at least 60 percent or more of the total annexation area perimeter.”

## **IV. EVALUATION OF PROPOSALS**

### **A. INTRODUCTION**

State law allows LAFCO thirty (30) days to review an application for completeness. Within that 30 day period, LAFCO may request any additional information from the applicant, which is necessary to complete the application. Once the application is deemed complete, the Executive Officer will issue either a Certificate of Filing (applications submitted by resolution) or a Certificate of Sufficiency (applications submitted by petition). LAFCO is then required to set a public hearing date within ninety (90) days of issuance of the Certification of Filing or Sufficiency to hear the proposal.

### **B. PRE-APPLICATION REVIEW OF THE PROPOSAL**

Applicants are encouraged to schedule a pre-application review meeting of the proposal with LAFCO staff to determine the level of detail needed in the application and to help insure that the proposal will comply with LAFCO's policies and standards.

### **C. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) REQUIREMENTS**

All proposals submitted to LAFCO are subject to environmental review pursuant to CEQA Guidelines. LAFCO may act as either the Lead Agency or Responsible Agency in this process.

1. LAFCO will primarily function as the Lead Agency when:
  - a. LAFCO initiates the proposal.
  - b. The applicant is unable to act as the Lead Agency.
  - c. There are no underlying land use approvals involved.
  - d. When 100 percent of the land owners request that LAFCO proceed with the action and waive the notice and hearing requirements.
2. As the Lead Agency, LAFCO is required to determine whether or not a project qualifies for categorical exemption or requires an initial study to determine if the proposal will cause any significant adverse impact to the environment. When a Negative Declaration proposed, state law requires the Lead Agency to distribute the document for a twenty-one (21) day review to all agencies affected by the proposal. If no significant adverse impacts will result, a Negative Declaration is issued. If significant adverse impacts will result, an environmental impact report (EIR) will be prepared. The review and comment period for a draft EIR shall not be less than thirty (30) days.
3. In the role of the Responsible Agency, LAFCO shall:
  - a. Comment on the Notice of Preparation, informing the Lead Agency of specific areas which LAFCO requests to be addressed in the environmental documentation
  - b. Review and comment on the environmental document during the public review period
  - c. Utilizes the environmental document in its decision on the proposal
4. If LAFCO finds that the environmental documentation prepared by the Lead Agency is insufficient and fails to adequately address the environmental issues relevant to LAFCO's jurisdiction, LAFCO will take one of the following actions, pursuant to CEQA:
  - a. File suit challenging the adequacy of the environmental document filed by the Lead Agency
  - b. Prepare a subsequent EIR.
  - c. Assume the Lead Agency role and correct deficiencies of the document.



- d. Waive objectives if it determines that none of the above courses of action are practicable, and that LAFCO possesses substantially all of the environmental information necessary to make a decision.
5. LAFCO will use its authority to comment on the Notice of Preparation and the proposed environmental documents to insure that the documents prepared by another agency are in compliance with CEQA's Guidelines and LAFCO's policies and standards.

If the Lead Agency fails to notify LAFCO through Notice of Preparation or provide substantially equivalent notification, LAFCO may refuse to accept the application as complete, and may require the preparation of supplemental environmental documentation.

LAFCO will NOT act upon any proposal for a change of organization until environmental documentation has been completed which adequately addresses the statutory requirements of CEQA and the policies and standards adopted by LAFCO.

6. Applicants of proposals requiring LAFCO approval are encouraged to consult with LAFCO early in the regulatory process.
7. **MITIGATION MONITORING AND REPORTING PROGRAM:** When mitigation measures are made as a condition of approval to avoid the significance of impacts, a mitigation monitoring program plan, designed to ensure compliance during project implementation, shall be included with the proposal (Public Resources Code Section 21081.6)
  - a. When LAFCO is the lead agency for the project, the Commission shall adopt a mitigation monitoring and reporting program at the time of adoption of the Negative Declaration or Environmental Impact Report. The Executive Officer shall be responsible for ensuring compliance with all mitigation measures or project changes.
  - b. When LAFCO is the responsible agency, the commission shall require the adoption of a mitigation monitoring and reporting program for all mitigation measures and project changes, prior to any consideration of the project by the Commission. Compliance with the monitoring and reporting program shall be the responsibility of the lead agency, not LAFCO.

## **V. REGULATION FOR CONDUCT OF HEARING AND COMMISSION BUSINESS**

### **A. INTRODUCTION**

The following regulations were adopted by the Commission to comply with Section 56375(g) of the California Government Code and to establish procedures for Commission hearing, selection of Commissioners and other Commission business.

### **B. MEETINGS**

1. Regular Meetings: The Commission shall hold its regular meetings at 3:30 p.m. on the fourth Wednesday of each month in the Board of Supervisors Chambers, Administration Building, Building No. 1 at the Kings County Government Center, 1400 W. Lacey Boulevard, Hanford, California. All public hearings are scheduled for 3:30 p.m., and are heard as close to that time as possible in the order which they appear on the agenda. The Commission may change the order of the agenda at the beginning of the meeting. On occasion, the Commission's regular meeting

date may be changed to accommodate conflicts in the Commissioner's schedule or other scheduling conflicts.

2. Special Meetings: Special meetings may be called at any time by the Chairperson of the Commission or by two of the members of the commission by serving notice of the time, place, and purpose of the meeting upon each member of the Commission. Such notice shall be served at least twenty-four (24) hours before the time set for the meeting. No other business shall be considered.
3. Adjourned Meeting: Any regular or special meeting may be adjourned to a time and place specified in the order of adjournment. Less than a quorum may make an order for adjournment.

### **C. CHAIRPERSON**

1. Election: The Chairman of the commission shall be elected by the members thereof by a majority vote of all the members.
2. Term: The term of office of the Chairman shall be one year and until the election of his or her successor.
3. Duties: The Chairman shall be the presiding officer of the Commission. He, or she, shall preserve strict order and decorum at all meetings of the Commission, state questions directed to the Commission, announce the Commission's decision on proposals and decide all questions of order, subject to an appeal to the Commission as a whole, in which event, a majority vote shall govern and conclusively determine such question of order. He, or she, shall sign all directives and contracts approved by the Commission, and sign the Commission's resolution.

### **D. VICE CHAIRPERSON**

1. Term and Duties: There shall be a Vice Chairman whose term of office will coincide with that of the Chairman. The Vice Chairman shall fulfill all of the functions and duties of the Chairman in his or her absence.
2. Election: The Vice Chairman of the Commission shall be elected by the members thereof by a majority vote of all the members.

### **E. CALL TO ORDER**

The Chairman shall take the chair at the time and place designated for the meeting and shall call the Commission to order. In the absence of the Chairman and the Vice Chairman, the Executive Officer of the Commission shall call the Commission to order, at which time a temporary chairman will be elected by the members present. Upon the arrival of the Chairman or the Vice Chairman, the temporary chairman shall relinquish the chair at the conclusion of the item of business before the Commission.

### **F. QUORUM**

A majority of the Commission shall constitute a quorum for the transaction of business. Unless otherwise provided, the Commission shall take no action except upon the affirmative vote of three members.

Less than quorum may make an order for adjournment.

### **G. MINUTES**

1. Preparation: The minutes of the Commission shall be kept by the Executive Officer or his, or her, designee and shall be typewritten in a book kept for that purpose, with a record of each

particular type of business transacted set off in paragraphs with proper subheads. The Executive Officer shall be required to keep record only of such business which was actually passed by a vote of the Commission. The Executive Officer shall not be required to record any remarks of members or any other person, except at the special request of a member

2. Distribution: After each meeting, the Executive Officer shall provide a copy of the minutes to each Commission member.
3. Reading: Unless the reading of the minutes of a meeting is requested by a member, such minutes may be approved without reading if each member has been previously provided with a copy thereof.

## **H. RESOLUTIONS**

A resolution shall be prepared for each proposal indicating the action and determination of the Commission as required by law. The resolution shall be signed by the Chairman and certified by the Executive Officer. In the case where the Chairman was absent from a meeting where a Resolution was adopted the Vice Chairman or Temporary Chair shall sign the resolution.

## **I. ORDER OF PROCEDURE**

The order of procedure in conducting a public hearing shall be as follows:

1. The Chairperson shall request the Executive Officer or such designated person to inform the Commission of the nature of the proposal, to summarize the Executive Officer's Report and recommendations, and discuss any new information or correspondence not included in the staff report.
2. All proponents shall be heard.
3. All opponents shall be heard.
4. Proponent shall be given the opportunity to a rebuttal. New matters shall not be disclosed except by specific direction by the Chairman. If new matters are introduced, the opponents shall again be given the opportunity to be heard concerning only the new matters.
5. The Chairman shall ask for any additional information of the Executive Officer or staff.
6. The public hearing shall be closed and the matter referred to the Commission for discussion and debate.

## **J. RULES OF DEBATE**

1. Chairman May Debate and Vote: The Chairman may move, second and debate from the chair, subject only to the limitations of debate as are by these rules imposed on all other members, and shall not be deprived of any of the right and privileges of a member by reason of his or her acting as Chairman.
2. Getting the Floor/Improper References: Each member desiring to speak shall address the chair and upon recognition by the Chairman, limit himself, or herself, to the question under debate, avoiding all personal and indecorous language.
3. Interruptions: A member once recognized shall not be interrupted when speaking unless it shall be to call him/her to order or as otherwise provided. If a member, while speaking, shall be called to order, he/she shall cease speaking until the question of order has been determined and, if in order, he/she shall be permitted to proceed.

## **K. REQUEST TO AMEND/RECONSIDER COMMISSION RESOLUTION:**

Pursuant to Section 56895 of the California Government Code and the powers of the Commission, a request to amend or reconsider any resolution adopted by the Commission, must be in writing, accompanied by information stating the reasons for such reconsideration, and received within 30 days of the Commission's decision. The reasons for reconsideration may include, but are not limited to:

1. An error in the proceedings which may have affected the decision of the Commission.
2. A mistake or misunderstanding of fact or law substantially affecting the decision.
3. The existence of new information not considered by the Commission, which may have affected the decision.

The request shall be submitted in the manner prescribed in Section 56895(a). The Executive Officer shall give notice of the reconsideration in the same manner as for the original proposal.

## **L. REVISION OF PROPOSAL BOUNDARIES:**

1. Request for Revision: Any request by an agency, property owner, or other interested party to revise the boundaries to adjacent territory must be received by the Executive Officer at least fifteen (15) days prior to the public hearing. The request shall give reasons which clearly justify the requested revision and shall be accompanied by a map of the proposed revision and a legal description. Request to include territory not adjacent to the original proposal will not be considered for such revision by the Commission.
2. Review of Revision: Notice of the revision will be sent to all affected agencies and property owners at least ten (10) days prior to the public hearing. Request for revision shall be reviewed in the same manner as the original proposal by the Executive Officer and the Commission. The request may be continued by the Commission if necessary information or adequate notice has not been provided.
3. Approval of Revision: When a revision of boundaries is approved by the Commission, a revised map shall be prepared and submitted to the Executive Officer, subject to approval of the Kings County Surveyor's Office.

## **M. RULE OF ORDER**

Except as otherwise specifically provided, in this resolution, Robert's Rules of Order, as last revised, shall govern the proceedings of the Commission in the conduct of meetings thereof.

## **N. VOTING**

Roll Call Vote: A roll call vote shall be taken and recorded. When a roll call vote is in order, the Executive Officer, or the Secretary of the Executive Officer, shall call the names of the members in the following order; the mover, the second, other members, providing that the name of the Chairman be called last except where the Chairman has made or seconded the motion.

## **O. ADDRESSING THE COMMISSION**

1. General: Any person desiring to address the Commission shall do so with the permission of the Chairman. The person shall step up to the microphone and state his/her name and address in an audible tone of voice.
2. Time: Each person addressing the Commission shall limit his/her address to a reasonable amount of time as may be directed by the Chairman.

3. Spokesperson for Groups: Whenever any group of persons wishes to address the Commission on the same subject matter, it shall be proper for the Chairman to request that the spokesperson be chosen by the group to address the Commission and in the event additional matters are to be presented by other persons in the group, to limit the number of persons so addressing the Commission so as to avoid unnecessary repetition.
4. Discussions: No person, other than a member and the person addressing the Commission shall be permitted to enter into any discussion with the person addressing the Commission without the permission of the Chairman.

## **P. DECORUM**

1. By Members: When the Commission is in meeting, the members shall preserve order and decorum and no member shall, by conversation otherwise, delay or interrupt the proceedings or the peace of the Commission not disturb any members while speaking or refuse to obey the orders of the Commission or the Chairman, except as provided in this resolution.
2. By Other Persons: Any person making personal, impertinent, or slanderous remarks, or who shall become boisterous while addressing the Commission shall be forthwith, by the Chairman, barred from further audience at such meeting, unless permission to continue shall be granted by majority vote of the Commission.

## **Q. REIMBURSEMENT OF EXPENSES**

The Commission members shall be compensated for each meeting they attend at the rate of \$20.00 per meeting. Commissioners shall also be reimbursed for their actual and necessary expenses incurred in connection with their attendance at the meeting of the Commission and in connection with other official Commission business. Such reimbursement shall be at the rates and subject to the conditions established by the Kings County Board of Supervisors for officers and employees of the County of Kings, and the Commissioners shall submit their claims for such reimbursement to the Executive Officer who will process the same for payment by the Kings County Department of Finance.

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# APPENDICIES

APPENDIX A

**KINGS COUNTY LOCAL AGENCY FORMATION COMMISSION  
APPLICATION CHECKLIST**

The following is a checklist of the items necessary for a completed application.

<u>ITEM</u>	<u>COMPLETED</u>
1. Pre-filing conference with LAFCO staff (optional)	
2. Petition or legislative resolution of application initiating proposal	
3. Complete Plan for Services Form that includes: a. Enumeration and description of services to be extended to affected territory. b. Level and range of those services. c. Indication of when those services can feasibly be extended to affected territory. d. Indication of improvements or upgrading of structures, roads, sewer or water facilities. e. Information on how those services will be financed.	
4. Metes and bounds legal description and draft recordable map of the subject territory that meets State Board of Equalization Standards.	
5. Site map, including the surrounding area, which indicates general plan designations of the subject area. The boundary of existing and proposed city and /or district boundaries should be shown on map	
6. List of affected Assessor Parcel Numbers	
7. Copies of resolutions pertaining to general plan amendments and/or rezoning of subject area (Only required if city has completed such action)	
8. Environmental documentation (required unless LAFCO is the Lead Agency), or an environmental review fee if LAFCO is the lead Agency	
9. Terms of conditions of the proposal, including proposed mitigation and any expected adverse impact resulting from the project	
10. A specific response to any LAFCO standard or policy as it pertains to the proposal	
11. LAFCO filing fee deposit of \$1000.00	



**APPENDIX B**

**SAMPLE LAFCO PETITION FORM**

**KINGS COUNTY LOCAL AGENCY FORMATION COMMISSION**

**CASE NO. \_\_\_\_\_**

**PETITION**

**FOR PROCEEDINGS PURSUANT TO  
THE CORTESE-KNOX-HERTZBERG LOCAL GOVERNMENT REORGANIZATION ACT  
OF 2000**

The undersigned hereby petitions the Kings County Local Agency Formation Commission for approval of a proposed change in organization or reorganization, and stipulates as follows:

1. The proposal is made pursuant to Part 3, Division 3, Title 5 of the California Government Code (commencing with Section 56000).
2. The specific change(s) of organization proposed (i.e., annexation, detachment, reorganization, etc.) is/are:

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3. The boundaries of the territory, or territories, included in the proposal are as described in EXHIBIT "A" attached hereto and by this reference incorporated herein.

4. The territory, or territories, included in this proposal is/are generally described as

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5. The proposal \_\_\_\_\_ is, or \_\_\_\_\_ is not, consistent with the sphere of influence of the affected city and/or district(s).

6. The reason(s) for the proposed change in organization or reorganization is/are:

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7. The proposed change in organization or reorganization is requested subject to the following terms and conditions:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

8. The persons signing this petition have signed as:

\_\_\_\_\_Registered voters  
\_\_\_\_\_Owners of land

9. If the formation of a new district, or districts, is proposed:

(a) The principal act(s) under which said district(s) is/are proposed to be formed is/are:

\_\_\_\_\_

(b) The proposed name(s) of the new districts(s) is/are:

\_\_\_\_\_

10. If an incorporation is included in the proposal:

(a) The name proposed for the new city is: \_\_\_\_\_

(b) Provisions are requested for appointment of:

- (i) City Manager: \_\_\_\_\_YES \_\_\_\_\_NO
- (ii) The City Clerk and City Treasurer: \_\_\_\_\_YES \_\_\_\_\_NO

11. If the proposal includes the consolidation of special districts, the proposed name of the consolidated district is:

\_\_\_\_\_

Wherefore, petitioner(s) request(s) that proceedings be taken in accordance with the provisions of Section 56000, et seq. of the Government Code and herewith affix signature(s) as follows:

Chief Petitioners (not to exceed three):

DATE                      PRINTED NAME                      SIGNATURE                      RESIDENCE ADDRESS

1. \_\_\_\_\_  
2. \_\_\_\_\_  
3. \_\_\_\_\_

Date Received \_\_\_\_\_ by \_\_\_\_\_

## **APPENDIX C**

### **SAMPLE RESOLUTION OF APPLICATION**

- A. Resolution of Application by a City Council**
- B. Resolution of Application by a Special District**

**A. SAMPLE RESOLUTION OF APPLICATION FOR A CITY COUNCIL**

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

A RESOLUTION OF APPLICATION BY THE  
CITY COUNCIL OF THE (INSERT NAME OF CITY)  
REQUESTING THE LOCAL AGENCY FORMATION COMMISSION TO  
INITIATE PROCEEDINGS FOR THE REORGANIZATION OF TERRITORY

**RESOLVED** by the City Council of the *(insert name of city)*, that,

**WHEREAS**, the *(insert name of city)* desires to initiate proceedings pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, commencing with Section 56000 of the California Government Code, for a reorganization which would concurrently annex territory to the *(insert name of city)* and detach territory from *(insert name of agency)*; and,

**WHEREAS**, notice of intent to adopt this resolution of application has been given, and this Council has conducted a public hearing based upon this notification; and

**WHEREAS**, the principal reasons for the proposed reorganization are as follows: *(State principal reasons)*; and,

**WHEREAS**, the following agency or agencies would be affected by the proposed jurisdictional changes:

**Agency**

*(Insert agency name)*

**Nature of Change**

*(i.e., annexation, detachment)*

**WHEREAS**, the territory proposed to be reorganized is Inhabited/Uninhabited *(use one)*, and a map and description of the boundaries of the territory are attached hereto as Exhibits A & B and by this reference incorporated herein; and,

**WHEREAS**, it is desired to provide that the proposed reorganization be subject to the following terms and conditions: *(List of terms and conditions or insert "None")*; and,

**WHEREAS**, this proposal is consistent with the adopted spheres of influence for all of the agencies which would be affected by reorganization; and,

**WHEREAS**, this Council certifies that: *(Insert findings pursuant to CEQA)*...

*(Insert if applicable)* **WHEREAS**, this Council has determined that this proposal meets that criteria for waiver of Conducting Authority proceedings as set forth in Government Code Section 57002(d);

**NOW, THEREFORE**, this Resolution of Application is hereby adopted and approved by the City Council of the *(insert name of city)*, and the Local Agency Formation Commission of *(Insert)*

County is hereby requested to take proceedings of the annexation of territory as authorized and in the manner provided by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, by the City Council of the (*insert name of city*), County of (*Insert*), State of California, by the following vote:

**AYES:**

**NOES:**

**ABSTAIN:**

**ABSENT:**

---

(*Insert Name*), Mayor  
City Council  
(*Insert name of district*)

**ATTEST:**

---

(*Insert Name*)  
City Clerk

**B. SAMPLE RESOLUTION OF APPLICATION FOR A SPECIAL DISTRICT**

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

**A RESOLUTION OF APPLICATION BY THE (INSERT NAME OF DISTRICT) REQUESTING THE LOCAL AGENCY FORMATION COMMISSION TO INITIATE PROCEEDINGS FOR THE REORGANIZATION OF TERRITORY**

**RESOLVED** by the Board of Directors of the (*insert name of district*), that,

**WHEREAS**, the (*insert name of district*) desires to initiate proceedings pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, commencing with Section 56000 of the California Government Code, for a reorganization which would concurrently annex territory to the (*insert name of district*) and detach territory from the Kings River Conservation District, and Excelsior-Kings River Resource Conservation District; and,

**WHEREAS**, notice of intent to adopt this resolution of application has been given, and this Board has conducted a public hearing based upon this notification; and,

**WHEREAS**, the principal reasons for the proposed reorganization are as follows: (*State principal reasons*); and,

**WHEREAS**, the following agency or agencies would be affected by the proposed jurisdictional changes:

<u>Agency</u>	<u>Nature of Change</u>
( <i>Insert agency name</i> )	( <i>i.e., annexation, detachment</i> )

**WHEREAS**, the territory proposed to be reorganized is Inhabited/Uninhabited (use one), and a map and description of the boundaries of the territory are attached hereto as Exhibits A & B and by this reference incorporated herein; and,

**WHEREAS**, it is desired to provide that the proposed reorganization be subject to the following terms and conditions: (*List of terms and conditions or insert "None"*); and,

**WHEREAS**, this proposal is consistent with the adopted spheres of influence for the agencies subject to this reorganization; and,

**WHEREAS**, this proposal is not consistent with one or more of the adopted sphere of influence for the agencies which would be affected by reorganization, therefore, it is proposed that spheres of influence be concurrently amended; and,

**WHEREAS**, this Board of Directors certifies that: (*Insert findings pursuant to CEQA*)...

*Or...*

**WHEREAS**, this Board desires that the Local Agency Formation Commission assume Lead Agency status responsible for compliance with the California Environmental Quality Act; and,

*(Insert if applicable)* **WHEREAS**, this Board has determined that this proposal meets the criteria for waiver of Conducting Authority proceedings as set forth in Government Code Section 57002(d);

**NOW, THEREFORE**, this Resolution of Application is hereby adopted and approved by the board of Directors of the *(insert name of district)*, and the Local Agency Formation Commission of *(Insert)* County is hereby requested to take proceedings for the annexation of territory as authorized and in the manner provided by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by the Board of Directors of the *(insert name of district)*, County of *(insert)*, State of California, by the following vote:

**AYES:**

**NOES:**

**ABSTAIN:**

**ABSENT:**

\_\_\_\_\_  
*(Insert Name)*, Chairman  
Board of Directors  
*(Insert name of district)*

**ATTEST:**

\_\_\_\_\_  
*(Insert Name)*  
Board Clerk

## **APPENDIX D**

### **SAMPLE PLAN FOR SERVICE FORM**

For annexations to cities and special districts, LAFCO requires that a completed Plan for Services form accompany the application. The Plan for Services form shall contain information regarding the services currently provided and services to be extended to the area, cost of new city/district services and improvements, the service level capacity of the city/district systems and any other pertinent information relating to the provision of services to the proposed area. The Plan for Services infrastructure improvements portion must be certified by the City Engineer or District's Engineer.



# SAMPLE PLAN FOR SERVICE FORM

CITY OF \_\_\_\_\_ ANNEXATION

KINGS COUNTY LAFCO CASE NUMBER \_\_\_\_\_  
 FORMAT FOR PLAN FOR PROVIDING SERVICES

**I. DESCRIBE THE CHANGES IN LAND USES AND LAND USE CONTROLS WHICH WOULD OCCUR UPON COMPLETION OF PROCEEDINGS:**

- (1) Present land use:
- (2) County zoning:
- (3) City rezoning:

**II. SUMMARY OF SERVICES AND SERVICES TO BE EXTENDED**

Code:           A - Applicant City                   C - County                   D - Special District  
                   F - Franchise                         N - No Service

SERVICES	SERVICES PROVIDED	AREA	COST OF NEW CITY SERVICES OR IMPROVEMENTS	
----------	-------------------	------	---	--

	Present (1)	On Completion of Annexation (2)	All of Area (3)	Portion of Area (4)	(5)
--	----------------	------------------------------------	--------------------	------------------------	-----

**PUBLIC WORKS**

**STREETS**

Construction	_____	_____	_____	_____	_____
Sweeping	_____	_____	_____	_____	_____
Lighting	_____	_____	_____	_____	_____
Drainage	_____	_____	_____	_____	_____

**UTILITIES**

SEWAGE	_____	_____	_____	_____	_____
WATER	_____	_____	_____	_____	_____
REFUGE	_____	_____	_____	_____	_____
OTHER	_____	_____	_____	_____	_____

**III. FOR EACH DESCRIBE OF THE NEW SERVICES IDENTIFIED IN COLUMN 2 TO BE PROVIDED BY THE APPLICANT CITY/DISTRICT UPON COMPLETION OF THE ANNEXATION:**

- (1) The nature of the service to be provided.

- (2) The location from which each service is to be provided (e.g. nearest present or proposed utility line, etc.).
- (3) The service level capacity from that location. Reference should be made to service level standards, such as frequency of street sweeping, water service pressure, etc.
- (4) The service level to be provided.
- (5) If the service level capacity exceeds the existing service level capacity, describe what actions will be taken to increase the existing capacity, and estimate the cost of increasing such capacity (column 5).
- (6) If any service is not to be provided throughout the affected territory, describe where the service will and will not be provided and the justification thereof.
- (7) If any service is not to be provided upon completion of proceedings, describe when the service will be provided and the justification thereof.
- (8) If the estimated cost of extending the service to the affected territory is negligible, so indicate; a precise projection need not be made in that event.

**IV. DESCRIBE ANY CONDITIONS WHICH WOULD BE IMPOSED OR REQUIRED WITHIN THE AFFECTED TERRITORY, SUCH AS, BUT NOT LIMITED TO, IMPROVEMENT OR UPGRADING OF STRUCTURES, ROADS, SEWER OR WATER FACILITIES, AND THE ESTIMATED COST THEREOF:**

**V. DESCRIBE HOW THE SERVICES IDENTIFIED IN SECTION III AND IV ABOVE WILL BE FINANCED:**

**VI. IF THE PROPOSAL IS FOR CITY ANNEXATION OF AN UNINCORPORATED ISLAND WITHOUT AN ELECTION**

- (1) Attach a map showing the exterior boundaries of the unincorporated island, indicating the boundaries of the city bordering on the affected territory.
- (2) Attach a map or overlay to the above map showing all parcels within the affected territory, indicating the presence or absence of physical improvements on each parcel and locating the availability of public utility services and other public improvements.
- (3) Attach a map or overlay to the above map indicating existing zoning in the affected territory.
- (4) Attach a map or overlay to the above map indicating rezoning in the affected territory.
- (5) Submit or reference sufficient information, including citations where appropriate, to enable the Commission to ascertain the presence or absence within the affected territory of "prime agricultural land" defined as follows:

56064. "Prime agricultural land" means an area of land, whether a single parcel or contiguous parcels, that has not been developed for a use other than an agricultural use and that meets any of the following qualifications:

- (a) Land that qualifies, if irrigated, for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not land is actually irrigated, provided that irrigation is feasible.
- (b) Land that qualifies for rating 80 through 100 Storie Index Rating.
- (c) Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States

Department of Agriculture in the National Handbook on Range and Related Grazing Lands, July, 1967, developed pursuant to Public Law 46, December 1935.

- (d) Land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre.
- (e) Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four hundred dollars (\$400) per acre for three of the previous five calendar years.

- (6) Submit sufficient information to enable the Commission to make a finding whether the affected territory will benefit from such annexation or is now receiving benefits from the annexing city. Conclusive, indisputable data are preferred to unsubstantiated, unquantified assertions.

## APPENDIX E

### **REQUIREMENTS FOR METES AND BOUNDS LEGAL DESCRIPTION**

1. Every description must be self-sufficient within itself and without the necessity of reference to any extraneous document. When a description refers to a deed of record, the deed should be used only as a secondary reference.
2. When writing a metes and bounds description of a contiguous annexation, all details of the contiguous annexation, all details of the contiguous portion(s) of the boundary may be omitted. The points of departure from the existing boundary must be clearly established.
3. A specific parcel description in sectionalized land (e.g., The SW 1/4 of Section 22, T1N, R1W) is permissible without a metes and bounds description of the perimeter boundary.
4. A parcel description making a reference only to a subdivision is not acceptable, unless all dimensions needed to plot the boundaries are given on an accompanying plat. The relationship of lot lines with street right-of-ways must be clearly indicated.

#### **State Board of Equalization Requirements for Written Geographic Description(s) of the Project Area(s)**

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

1. Every written 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. The TASS cartographic staff must be able to plot the boundaries from the written description alone.
2. The written description shall be of the project area only. If a complete description of the special district is filed, the project area shall be clearly identified in a separate document.
3. The geographic description shall:
  - a. State the township and range, section number(s) or rancho(s).
  - b. Have a **point of beginning** (POB) referenced to a known major geographic position (e.g., section corners, intersection of street centerlines, or the intersection of 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 boundary (when applicable).

- c. Be expressed as a specific parcel description in sectionalized land (e.g., “The SW 1/4 of Section 22, T1N, R1W”) or by bearings and distances. When the description is by bearings and distances, **all courses shall be numbered and listed individually** in a consistent clockwise direction. The description shall not be written in a narrative format. All courses required to close the traverse of the project area must be stated. All curves must be described by direction of concavity. Delta, arc length, chord, and radius shall be listed, including radial bearings for all points of non-tangency.

Following are examples of unacceptable and acceptable descriptions:

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

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

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

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

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

## **APPENDIX F**

### **REQUIREMENTS FOR RECORDED MAP**

The annexation/detachment map which will be recorded in the Kings County Licensed Surveyors Plats must conform to the following provisions:

1. Every map must clearly indicate all existing streets, roads and highways within and adjacent to the subject territory, together with the current names of these thoroughfares.
2. Every map shall bear a scale and a north point.
3. The point of beginning of the legal description must be shown on the map. The boundaries of the subject territory must be distinctively shown on the map without obliterating any essential geographic or political features.
4. The map shall be legibly drawn, printed or reproduced by a process guaranteeing a permanent record in black on tracing cloth or polyester base film. If ink is used on polyester base film, the ink surface shall be coated with a suitable substance to assure permanent legibility.
5. The size of each sheet shall be 18 by 26 inches. A marginal line shall be drawn completely around each sheet, leaving an entirely blank margin of 1 inch. The scale of the map shall be large enough to show all details clearly and enough sheets shall be used to accomplish this end. The particular number of the sheet and the total number of sheets comprising the map shall be stated on each of the sheets, and its relation to each adjoining sheet shall be clearly shown.

#### **State Board of Equalization Requirements for Map(s)**

It is strongly recommended that all maps submitted to the Board be filed in electronic/digital form. Digital information will not be shared without the permission of the applicant.

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

#### **Map Documents:**

1. All maps shall be professionally and accurately drawn or copied. Rough sketches or pictorial drawings will not be accepted. Assessor's parcel maps will not be accepted as a substitute for the project map.
2. Original or copies of the same size project map must be submitted. Reduced maps are not acceptable and will be rejected.
3. A vicinity map shall be included. The vicinity map shall show the location of the project area in relationship to a larger geographic area that includes major streets and highways or other physical features.
4. Any portion of an existing district boundary in close proximity to the project area shall be shown and identified.

5. Every map must clearly show all existing streets, roads and highways with their current names that are within and adjacent to the project area. Additionally, every map shall indicate each township and range, section lines and numbers, or ranchos that are in proximity of the project area.
6. Every map shall bear a scale and a north arrow. The point of beginning shall be clearly shown and match the written 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 delineate the boundary is not acceptable.
8. All dimensions needed to plot the boundaries must be given on the map of the project area. Each map shall have numbered courses matching the written geographic description. Index tables may be utilized.
9. All parcels within the project area that touch the new boundary shall be clearly labeled with the assessor's parcel number. Interior parcels that do not touch the boundary need not be identified on the map.
10. If the project area has an interior island(s) of exclusion or the boundary has a peninsula of exclusion (or inclusion), that area(s) should be shown in an enlarged drawing. This drawing should be of sufficient size and scale to allow TASS to plot the boundary without difficulty.
11. When it is necessary to use more than one map sheet to show the boundaries of the project area, the sheet size should be uniform. A small key map giving the relationship of the several sheets shall be furnished. Match lines between adjoining sheets must be used. While the geography on adjoining sheets may overlap, the project boundaries must stop at the match lines. TASS has standardized the D size (24" x 36") map sheet, but will accept larger or smaller map sizes depending on the size and complexity of the individual single area(s).

## APPENDIX G

### **DISCLOSURE REQUIREMENTS FOR LAFCO COMMISSIONERS:**

#### **California Government Code Section 82015:**

- (a) "Contribution" means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment except to the extent that full and adequate consideration is received, unless it is clear from the surrounding circumstances that it is not made for political purposes.
- (b) (1) A payment made at the behest of a committee as defined in subdivision (a) of Section 82013 is a contribution to the committee unless full and adequate consideration is received from the committee for making the payment.
- (2) A payment made at the behest of a candidate is a contribution to the candidate unless the criteria in either subparagraph (A) or (B) are satisfied:
  - (A) Full and adequate consideration is received from the candidate.
  - (B) It is clear from the surrounding circumstances that the payment was made for purposes unrelated to his or her candidacy for elective office. The following types of payments are presumed to be for purposes unrelated to a candidate's candidacy for elective office:
    - (i) A payment made principally for personal purposes, in which case it may be considered a gift under the provisions of Section 82028. Payments that are otherwise subject to the limits of Section 86203 are presumed to be principally for personal purposes.
    - (ii) A payment made by a state, local, or federal governmental agency or by a nonprofit organization that is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.
    - (iii) A payment not covered by clause (i), made principally for legislative, governmental, or charitable purposes, in which case it is neither a gift nor a contribution. However, payments of this type that are made at the behest of a candidate who is an elected officer shall be reported within 30 days following the date on which the payment or payments equal or exceed five thousand dollars (\$5,000) in the aggregate from the same source in the same calendar year in which they are made. The report shall be filed by the elected officer with the elected officer's agency and shall be a public record subject to inspection and copying pursuant to the provisions of subdivision (a) of Section 81008. The report shall contain the following information: name of payor, address of payor, amount of the payment, date or dates the payment or payments were made, the name and address of the payee, a brief description of the goods or services provided or purchased, if any, and a description of the specific purpose or event for which the payment or payments were made. Once the five thousand dollars (\$5,000) aggregate threshold from a single source has been reached for a calendar year, all payments for the calendar year made by that source must be disclosed within 30 days after the date the threshold was reached or the payment was made, whichever occurs later. Within 30 days after receipt of the report, state



agencies shall forward a copy of these reports to the Fair Political Practices Commission, and local agencies shall forward a copy of these reports to the officer with whom elected officers of that agency file their campaign statements.

- (C) For purposes of subparagraph (B), a payment is made for purposes related to a candidate's candidacy for elective office if all or a portion of the payment is used for election-related activities. For purposes of this subparagraph, "election-related activities" shall include, but are not limited to, the following:
- (i) Communications that contain express advocacy of the nomination or election of the candidate or the defeat of his or her opponent.
  - (ii) Communications that contain reference to the candidate's candidacy for elective office, the candidate's election campaign, or the candidate's or his or her opponent's qualifications for elective office.
  - (iii) Solicitation of contributions to the candidate or to third persons for use in support of the candidate or in opposition to his or her opponent.
  - (iv) Arranging, coordinating, developing, writing, distributing, preparing, or planning of any communication or activity described in clauses (i), (ii), or (iii), above.
  - (v) Recruiting or coordinating campaign activities of campaign volunteers on behalf of the candidate.
  - (vi) Preparing campaign budgets.
  - (vii) Preparing campaign finance disclosure statements.
  - (viii) Communications directed to voters or potential voters as part of activities encouraging or assisting persons to vote if the communication contains express advocacy of the nomination or election of the candidate or the defeat of his or her opponent.
- (D) A contribution made at the behest of a candidate for a different candidate or to a committee not controlled by the behesting candidate is not a contribution to the behesting candidate.

- (c) The term "contribution" includes the purchase of tickets for events such as dinners, luncheons, rallies, and similar fundraising events; the candidate's own money or property used on behalf of his or her candidacy other than personal funds of the candidate used to pay either a filing fee for a declaration of candidacy or a candidate statement prepared pursuant to Section 13307 of the Elections Code; the granting of discounts or rebates not extended to the public generally or the granting of discounts or rebates by television and radio stations and newspapers not extended on an equal basis to all candidates for the same office; the payment of compensation by any person for the personal services or expenses of any other person if the services are rendered or expenses incurred on behalf of a candidate or committee without payment of full and adequate consideration.
- (d) The term "contribution" further includes any transfer of anything of value received by a committee from another committee, unless full and adequate consideration is received.
- (e) The term "contribution" does not include amounts received pursuant to an enforceable promise to the extent those amounts have been previously reported as a contribution. However, the fact that those amounts have been received shall be indicated in the appropriate campaign statement.
- (f) The term "contribution" does not include a payment made by an occupant of a home or office for costs related to any meeting or fundraising event held in the occupant's home or office if the costs for the meeting or fundraising event are five hundred dollars (\$500) or less.

(g) Notwithstanding the foregoing definition of "contribution," the term does not include volunteer personal services or payments made by any individual for his or her own travel expenses if the payments are made voluntarily without any understanding or agreement that they shall be, directly or indirectly, repaid to him or her.

**California Government Code Section 82025:**

"Expenditure" means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, unless it is clear from the surrounding circumstances that it is not made for political purposes. "Expenditure" does not include a candidate's use of his or her own money to pay for either a filing fee for a declaration of candidacy or a candidate statement prepared pursuant to Section 13307 of the Elections Code. An expenditure is made on the date the payment is made or on the date consideration, if any, is received, whichever is earlier.

**California Government Code Section 82031:**

"Independent expenditure" means an expenditure made by any person in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate or the qualification, passage or defeat of a clearly identified measure, or taken as a whole and in context, unambiguously urges a particular result in an election but which is not made to or at the behest of the affected candidate or committee.

## APPENDIX H

### **PROCEDURAL STEPS FOR BOUDARY CHANGES**

#### **Preliminary Steps Before Applying to LAFCO**

City rezoning or other entitlement  
Property tax agreement R&T Code 99, 99.01

#### **Step 1 -- Application to LAFCO**

- Submit resolution of application by affected local agency, or submit a petition of landowners or registered voters
- LAFCO initiation, special provisions

#### **Step 2 -- LAFCO review and approval/denial**

- Accept resolution or certify petition,
- Technical review of maps and legal descriptions
- Issue a certificate of filing; this starts the clock running
- Comply with public notice requirements
- Consistency with spheres of influence
- Plan for Services, other relevant information
- Consider environmental document or decision
- Prepare Executive Officer's report and recommendation including factors LAFCO must consider
- Purpose of LAFCO hearing is not to count protests or judge "popularity"
- Adopt LAFCO resolution making determinations
- LAFCO sets tax exchange for new cities and districts
- Permitted terms and conditions, including effective date provided there are no conditions that directly regulate land use
- Prepare notice of determination or exemption per CEQA
- Effect of LAFCO approval; effect of LAFCO denial
- Reconsideration of LAFCO decision within 30 days
- Proceedings lapse one year from LAFCO decision unless extended

#### **Step 3 -- LAFCO "conducting authority" hearing and action**

- Difference between "Inhabited" vs. "uninhabited" proposals
- Waiver of conducting authority proceedings may be permitted
- If a hearing is needed, provide public notice -- publish, post, mail
- At end of hearing calculate any written protests -- how and from whom
- Number of protests determines outcome of some types of changes
  - Less than 25% protest the change can proceed without election
  - 25% to 50% protest, the change is subject to election (if inhabited)
  - Majority protest (50% or more) terminates the proceeding

**Step 4 -- Election, when required**

- City or County calls and conducts the election
- Determine where the election will be held
- Vote results -- Majority vote needed for confirmation or termination.
- Election expenses – Payment shall be by agreement between Commission and Proponents (GC 57150)

**Step 5 -- Final filing by LAFCO staff**

- Staff reviews resolution for compliance
- Staff records Certification of Completion
- Staff files with State Board of Equalization and Assessor
- Staff notifies all affected parties

**APPENDIX I**

**INDEMNIFICATION AND REIMBURSEMENT FOR  
EXTRAORDINARY COSTS AGREEMENT FORM**

**AGREEMENT FOR INDEMNIFICATION AND  
REIMBURSEMENT FOR EXTRAORDINARY COSTS**

THIS AGREEMENT is entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between \_\_\_\_\_ (hereinafter referred to as “Applicant”) and the Local Agency Formation Commission of Kings County (hereinafter referred to as “LAFCO”) on the terms and conditions hereinafter set forth.

**RECITALS**

WHEREAS, Applicant has applied to LAFCO for \_\_\_\_\_  
\_\_\_\_\_  
(hereinafter referred to as “Project”) for the reorganization of certain Territory as described in Exhibit A attached hereto, associated with the proposed change in organization or reorganization of the cities and or special districts as described in Exhibit B attached hereto; and

WHEREAS, the consideration of the Project by LAFCO will involve the reorganization of boundaries and/or services of those agencies shown in Exhibit B, which may involve review under the California Environmental Quality Act (hereinafter referred to as "CEQA"); and

WHEREAS, LAFCO may incur extraordinary costs (hereinafter referred to as “Extraordinary Costs”) described in connection with the change of organization or reorganization approval process and the CEQA process for the Project; and

WHEREAS, the parties desire to allocate responsibility and liability for such extraordinary costs pursuant to the terms of this Agreement.

**TERMS AND CONDITIONS**

1. Conditions to the Project Approval and Processing: The processing of Project documents by LAFCO and the effectiveness of all approvals, permits and consents for the Project by LAFCO are expressly conditioned upon performance by the Applicant of the following terms and conditions:

1.1. Full performance of all conditions imposed in connection with the applicable change in organization or reorganization approval.

1.2. Full compliance with the terms, conditions, provisions and requirements of the change in organization or reorganization application process.

1.3. Posting of all applicable fees for CEQA review required by the provisions of California Fish & Game Code section 711.4, which at the time of execution of this Agreement are in the amount of \$1,250.00 for a negative declaration and \$850.00 for an environmental impact report.

1.4. Full performance of the terms and conditions of this Agreement.

1.5. Compliance with all required mitigation measures of an approved CEQA environmental document for the Project.

1.6. Payment of all Security Deposits, if required by the LAFCO, for fulfillment of any of the above-described terms and conditions.

1.7. Timely payment by Applicant of all amounts invoiced by LAFCO under Section 7 below and of all demands made by LAFCO for deposit of funds under Section 8 below.

2. Ordinary Costs. LAFCO is authorized to charge for the actual costs of processing the change in organization or reorganization, including all staff, administration, consultant, outside counsel and County Counsel time actually expended on the Project. In this regard, LAFCO has determined to establish flat fees for the usual and ordinary costs associated with normal permit processing. Unless one of the events set forth in Section 4 below arises or is reasonably foreseen by the LAFCO Executive Officer to be likely to arise, Applicant shall be charged only the flat normal application processing fee.

3. Obligation for Extraordinary Costs. In the event a change in organization or reorganization requires, or appears likely to require, processing in excess of ordinary time and resource allocation, additional fees will be charged to cover the costs of such extraordinary processing (hereinafter referred to as "Extraordinary Costs"). Applicant shall be responsible for all Extraordinary Costs in connection with application processing and all necessary environmental review processing and for all Extraordinary Costs associated with change in organization or reorganization approvals or denials, appeals arising therefrom and litigation arising therefrom. In the event that Applicant refuses to make deposits or to pay amounts incurred and invoiced for such Extraordinary Costs, LAFCO may close the Project application processing and may recover from the Applicant the costs incurred.

4. Extraordinary Events. The following are examples of Extraordinary Events which shall give rise to the Applicant's obligation to pay for Extraordinary Costs under the terms of this Agreement:

4.1. Incomplete or inaccurate information provided by the Applicant.

4.2. A change in an application by means of an amendment, correction or similar circumstance.

4.3. Significant opposition to a project by any person, group, organization or entity.

4.4. An appeal of a Project decision.

4.5. Non-compliance in whole or in part by the Applicant with a condition of an application, the Project Approval, or LAFCO request.

4.6. Significant delays in processing caused by the Applicant or the Applicant's agents.

4.7. Unique, novel or irregular applications or requests by the Applicant.

4.8. Litigation involving or challenging the Project, or arising in any way from the Project's consideration, review, negotiation or approval by LAFCO.

4.9. Other circumstances or events which significantly increase the workload of LAFCO staff to process an application.

4.10. Preparation of an environmental impact report or mitigated negative declaration under CEQA, which may or may not include the employment of outside consultants and legal counsel by LAFCO or Applicant for the preparation of such environmental documents.

The determination by LAFCO that an Extraordinary Event has occurred and that Applicant shall thereafter be responsible for the payment of Extraordinary Costs shall be in the sole and absolute discretion of LAFCO and shall not be reviewable in any court or administrative proceeding.

5. Charging for Extraordinary Costs. LAFCO shall charge Applicant for Extraordinary Costs as hereinafter set forth. Applicant shall pay for all Extraordinary Costs either through the Deposit Process described in Section 8 below or as and when invoiced by LAFCO under the provisions of Section 7 below. The determination as to whether to utilize the Deposit Process or the Invoice Process shall be at the sole and absolute discretion of LAFCO, after consultation with Applicant.

5.1. Extraordinary Cost Schedule. Extraordinary Costs shall include, but shall not be limited to, the following and shall be billed by LAFCO as set forth below:

5.1.1. All damages, costs and/or attorneys fees awarded against LAFCO or Applicant by a court in the course of litigation challenging the Project.

5.1.2. Costs incurred in preparation of CEQA documents by Consultants and outside counsel.

5.1.3. Costs incurred by LAFCO Staff, Consultants, County Counsel and outside counsel employed by LAFCO to defend litigation filed against LAFCO and/or Applicant.

5.1.4. Extraordinary Costs shall also include the total dollar amount of all Kings County employees' time (computed on the basis of hours spent multiplied by the salary and benefit rate paid by the County to such individual employees) assisting LAFCO Staff, all fees and costs charged by outside consultants and contract personnel, and all amounts expended by LAFCO for photocopies, telephone calls, FAX charges, postage, trip expenses (gas, meals, lodging, parking, transportation) and any and all other direct costs incurred or expended by LAFCO in connection with the Project.

5.2. Charges. The rates at which Applicant shall be billed for Extraordinary Costs shall be as follows:

LAFCO Staff	Gross salary per hour of each employee times hours billed
County Counsel	\$81 per hour
County Counsel Staff	\$20 per hour
Special Counsel	As billed to LAFCO



Consultants	As billed to LAFCO
Other Costs	As billed by LAFCO

6. Notice of Extraordinary Event. In the event that one or more Extraordinary Events arises, or is reasonably foreseen to arise, the LAFCO Executive Officer shall give written notice thereof to the Applicant together with either a request for deposit of Extraordinary Costs or a statement that LAFCO intends to utilize the Invoice Process described in Section 7 below. Deposits shall be made as set forth in this Section and in Section 8 below.

6.1. Submission of Initial Deposit. Upon receipt of a Notice of Extraordinary Event which demands deposit, Applicant shall within ten (10) days deposit the sums requested in the Notice. Failure to comply with a deposit demand shall be governed by Subsection 8.6 below.

6.2. Obligation After Deposit. In the event Applicant decides to proceed with the application and makes the initial deposit as requested, LAFCO shall proceed with application processing, and Applicant shall be responsible for all Extraordinary Costs incurred, whether or not the latter are covered by or included in the Initial Deposit and regardless of when such costs are incurred.

7. Invoices. As an alternative to the Deposit Process described in Sections 6 and 8 herein, LAFCO may in its sole and absolute discretion determine that it will directly invoice Applicant in arrears for Extraordinary Costs. LAFCO shall invoice Applicant for such costs within thirty days of LAFCO's receipt of invoice therefore, or, in the case of such costs for which an invoice would not ordinarily be submitted to LAFCO, within thirty days of the last day of the month in which such costs are actually incurred. Applicant agrees to make payment to LAFCO for such invoiced amounts. Applicant shall make payment for such reimbursement within thirty (30) days of the date on which LAFCO places the invoice in the mail to Applicant addressed as specified in Section 25.

8. Deposits. Deposits shall be made by Applicant and handled by LAFCO pursuant to the terms of this Section. All Deposits made by Applicant shall be deposited in an interest bearing account, and all interest shall accrue to the account of Applicant. Interest amounts shall either be applied to the payment of Extraordinary Costs or shall be credited to Applicant to be ultimately returned pursuant to the provisions of subsection 8.7 below at the conclusion of the Project.

8.1. Initial Deposit. Applicant shall provide funds in the amount set forth in the "Notice of Extraordinary Costs" in the form of a check made payable to the "Local Agency Formation Commission of Kings County" as set forth in Section 6.1 above.

8.2. Incremental Deposits. LAFCO may request deposits in advance of expenditures or obligations for expenditures. Except for requests for deposit on consulting or outside legal service contracts, individual deposit requests shall not exceed \$25,000 without Applicant's prior written authorization or assent.

8.3. Additional Deposits. If the deposit or any increase therein is inadequate to pay for costs actually incurred by LAFCO, Applicant will be notified of the need to supplement the deposit. Applicant shall make payments of additional deposits within thirty days of receipt of notice of the need to supplement the deposit. Further deposit will be required in the full amount of any contract or

contracts for consulting services. Any request for Applicant to make deposit or payment to LAFCO must be made in writing and mailed or telefaxed to Applicant, in accord with "Notices" set forth in Section 25.

8.4. Use Of Deposits. The Initial Deposit constitutes an initial estimate of Extraordinary Costs associated with processing the Application and the initial study. LAFCO may use the Initial Deposit funds and all future deposit funds to cover all Extraordinary Costs, including qualifying expenses incurred on the Project from its inception. Credit shall be given for any standard application permit fee paid by Applicant.

8.5. Draw Down Of Deposit. On a monthly basis, or on such other time intervals as the Executive Officer may deem necessary and appropriate, Costs incurred shall be deducted from the Deposit, and an accounting of the status of the Deposit shall be provided to the Applicant. In the case of Costs expended against billings from outside consultants, copies of such billing statements shall be provided to the Applicant. The Applicant shall not be entitled to any detail revealing the substantive contents or "detail of billings" pertaining to legal advisement to LAFCO by contract attorneys or County Counsel, but shall be entitled to an accounting of the total amounts paid to such attorneys or reimbursement to LAFCO, as the case pertains.

8.6. Failure To Make Deposits. In the event that Applicant does not make deposits as requested pursuant to the terms hereof, LAFCO may suspend the processing of the Application. The refusal or failure to make a requested deposit within thirty days after request shall constitute an abandonment of the Project by the Applicant and shall terminate all processing on the Application. LAFCO shall not be liable for such termination and Applicant hereby indemnifies and holds LAFCO harmless from any and all claims arising out of such termination, including those of Applicant.

8.7. Deposits In Excess Of Costs. At the conclusion of the Project, if the actual total of the Extraordinary Costs is less than the total of the Deposits plus interest accrued thereon, the excess amount will be returned to the Applicant or applied toward subsequent phases of environmental review on the Applicant's Project or any subsequent projects at the option of the Applicant, including the Costs of an environmental impact report, negative declaration or any other environmental reviews.

9. Project Accounting. LAFCO shall maintain books and records necessary to track all costs associated with the Project, and to account for all sums deposited and/or paid by the Applicant, which records may be inspected in the LAFCO Offices by the Applicant at any time, and a report of which shall be provided to Applicant on a monthly basis.

10. Right of Withdrawal and Termination of the Agreement. The Applicant has the right to withdraw its application or abandon the Project by filing written notice thereof with LAFCO. Notwithstanding the above provision, this Agreement shall survive such abandonment or withdrawal and remain in full force and effect until Applicant has fully complied with its obligation to reimburse and indemnify LAFCO for all Extraordinary Costs regardless of the date such costs are incurred. In addition, if the Project is pending before the LAFCO Commission at the time of receipt of such written notice, the matter shall not be considered withdrawn or abandoned until the withdrawal is approved by the LAFCO Commission.

11. Indemnification. Applicant shall indemnify, defend and hold LAFCO, its officers, Agents, and employees harmless from and against any and all costs, claims, damages, judgments, or payments in compromise and settlement, including therein all direct and administrative costs, attorneys' fees, including, but not limited to county counsel or special counsel fees incurred with respect to any action to attack, set aside, void, or annul any approvals or denials by LAFCO, arising out of or in connection with the Project, whether by way of court action or administrative proceeding. In the event that any action is filed, including, but not limited to, notice of administrative appeal, summons and complaint, or writ proceeding (collectively referred to as 'Action'), LAFCO may request and the Applicant shall make a deposit in the amount requested by the LAFCO Executive Officer in the initial amount which shall not exceed twenty-five thousand dollars (\$25,000) to cover initial cost and fees, and shall replenish the deposit on an ongoing basis as may be requested during the ongoing proceedings, if any. In the event that actual costs are less than the sums deposited, the unused balance shall be returned to the Applicant by warrant made payable to Applicant as they mutually advise in writing. Any special counsel hired to defend LAFCO under the provisions of this Section must be approved by the LAFCO. The litigation deposits provided for under the provisions of this Section are additional to and supplemental to any other deposit or deposits required under the terms of this Agreement. It is intended as security only and it is in no way intended to limit, and shall not be construed to limit, the obligations of Applicant to fully reimburse LAFCO for all Extraordinary Costs.

12. Waiver. A waiver by any party of any breach of any term, covenant or condition herein contained or a waiver of any right or remedy of such party available hereunder at law or in equity shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition herein contained or of any continued or subsequent right to the same right or remedy. No party shall be deemed to have made any such waiver unless it is express, in writing and signed by the party so waiving.

13. Assignment. This Agreement constitutes a personal contract and no party hereto shall assign or transfer this Agreement, or any part hereof, without the prior written consent of the other, unless such transfer is otherwise expressly permitted hereby.

14. Completeness of Instrument. This Agreement, together with its specific references and attachments, constitutes all of the agreements, understandings, representations, conditions, and covenants made and between the parties hereto. Unless set forth herein, neither party shall be liable for any representations made express or implied.

15. Supersedes Prior Agreements. It is the intention of the parties hereto that this Agreement shall supersede any prior agreements, discussions, commitments, representations, or agreements, written or oral, between the parties hereto.

16. Attorney's Fees. If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret provisions of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, which may be set by the Court in the same action or in a separate action brought for that purpose, in addition to any other relief which such party may be entitled.

17. Rules of Construction. Unless otherwise provided in this Agreement, or unless the context otherwise requires, the following definitions and rules of construction shall apply herein.

17.1. Captions. The captions of this Agreement are for convenience in reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

17.2. Number and Gender. In this Agreement, the neuter gender includes the feminine and masculine, and the singular includes the plural, the word "person" includes corporations, partnerships, firms or associations, wherever the context so requires.

17.3. Mandatory and Permissive. "Shall" and "will" and "agrees" are mandatory. "May" is permissive.

17.4. Term Includes Extensions. All references to the term of this Agreement or the Agreement Term shall include any extensions of such term.

18. Successors and Assigns. All representations, covenants and warranties specifically set forth in this Agreement, by or on behalf of or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

19. Modification. No modification or waiver of any provisions of this Agreement or its attachments shall be effective unless such waiver or modification shall be in writing, signed by all parties, and then shall be effective only for the period and on the condition, and for the specific instance for which given.

20. Counterparts. This Agreement may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

21. Other Documents. The parties agree that they shall cooperate in good faith to accomplish the object of this Agreement and to that end, agree to execute and deliver such other and further instruments and documents as may be necessary and convenient to the fulfillment of these purposes.

22. Partial Invalidity. If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provision and/or provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

23. Jurisdiction. It is agreed by the parties hereto that unless otherwise expressly waived by them, action brought to enforce any of the provisions hereof or for declaratory relief hereunder shall be filed and remain in a court of competent jurisdiction in the County of Kings, State of California.

24. Controlling Law. The validity, interpretation and performance of this Agreement shall be controlled by and construed under the laws of the State of California.

25. Notices. All notices and demands of any kind which either party may require or desire to serve on the other in connection with this Agreement must be served in writing either by personal service or by registered or certified mail, return receipt requested, and shall be deposited in the United States Mail, with postage thereon fully prepaid, and addressed to the party so to be served as follows:

To LAFCO:

Chairman, LAFCO  
LAFCO  
1400 W. Lacey Blvd.  
Hanford, California 93230

With a copy to:  
County Counsel  
LAFCO  
1400 W. Lacey Blvd.  
Hanford, California 93230

To Applicant:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

With a copy to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

26. Incorporation of Exhibits. All exhibits mentioned herein and attached hereto are specifically incorporated herein by this reference and made a part of this Agreement.

27. Time Is Of the Essence. Time is of the essence of this Agreement and of each covenant, term and condition herein.

28. Authority. All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, persons, estates or firms represented or purported to be represented by such entity(s), person(s), estate(s) or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Further, by entering into this Agreement, neither party hereto shall have breached the terms or conditions of any other contract or agreement to which such party is obligated, which such breach would have a material effect hereon.

THIS AGREEMENT is entered into by and between the parties as of the date and year first set forth above.

APPLICANT

LAFCO OF KINGS COUNTY

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
Chairman  
LAFCO of Kings County

\_\_\_\_\_  
(Type or print name)

ATTEST:

\_\_\_\_\_  
William R. Zumwalt, LAFCO Executive Officer

Revised: February 23, 2006

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**APPENDIX J**

**LAFCO'S RESOLUTION ADOPTING "POLICIES AND  
PROCEDURES MANUAL**

**BEFORE THE LOCAL AGENCY FORMATION COMMISSION  
COUNTY OF KINGS, STATE OF CALIFORNIA**

\*\*\*\*\*

<b>IN THE MATTER OF REVISING PROCEDURES</b>	)	<b>Resolution No. 06-03</b>
<b>FOR THE EVALUATION OF PROPOSALS BY</b>	)	
<b>THE LOCAL AGENCY FORMATION</b>	)	
<b>COMMISSION OF KINGS COUNTY (LAFCO)</b>	)	<b>Re: Procedures</b>

**WHEREAS**, Sections 56375 of the California Government Code identifies the Commission’s powers and responsibilities, which includes adoption of written procedures for the conduct of its business; and

**WHEREAS**, these procedures determine the method by which LAFCO evaluates proposals to reorganize the boundaries of cities and special districts, evaluates service plans, conducts hearings, reviews the definiteness and certainty of boundaries, etc., and the general conduct of the Commission’s business.

**NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**

The Local Agency Formation Commission of Kings County adopts the attached ***“POLICY AND PROCEDURE MANUAL”*** DATED March 22, 2006 in compliance with Section 56375(g) of the California Government Code.

The foregoing Resolution was adopted upon a motion by Commissioner Rachford, seconded by Commissioner Thompson, at a regular meeting held March 22, 2006, by the following vote:

**AYES:** Commissioners Rachford, Thompson, Neves  
**NOES:** None  
**ABSENT:** Commissioners Ayers, Wadsworth  
**ABSTAIN:** None

**KINGS COUNTY LOCAL AGENCY  
FORMATION COMMISSION**

/s/ Joe Neves  
**Joe Neves, Chairman**

**WITNESS**, my hand this 23<sup>th</sup> day of March, 2006.

/s/ William R. Zumwalt  
**William R. Zumwalt, Executive Officer**