



# San Luis Obispo Local Agency Formation Commission

## COMMISSIONERS

Chair

DEBBIE ARNOLD  
County Member

Vice-Chair

MARSHALL OCHYLSKI  
Special District Member

JIMMY PAULDING  
County Member

ROBERT ENNS  
Special District Member

ED WAAGE  
City Member

STEVE GREGORY  
City Member

HEATHER JENSEN  
Public Member

## ALTERNATES

DAWN ORTIZ-LEGG  
County Member

Ed Eby  
Special District Member

CHARLES BOURBEAU  
City Member

David Watson  
Public Member

## STAFF

ROB FITZROY  
Executive Officer

IMELDA MARQUEZ-VAWTER  
Analyst

MORGAN BING  
Clerk Analyst

BRIAN A. PIERIK  
Legal Counsel

**TO: MEMBERS OF THE COMMISSION**

**FROM: ROB FITZROY, EXECUTIVE OFFICER**

**DATE: AUGUST 17, 2023**

**SUBJECT: POLICIES, PROCEDURES & BY-LAWS MANUAL UPDATES**

## RECOMMENDATION

---

**Action 1:** Motion to approve the proposed updates to the Policies, Procedures & By-Laws Manual.

### Other Options:

The Commission may provide direction to include the proposed clarifying language to Policy 3.2.2(c) described in the staff report.

The Commission may also wish to provide additional feedback on the Policy & Procedures Manual. Depending on the complexity of the comments, staff can take direction and make the changes accordingly, or if warranted staff can return at a later date with revisions for further Commission review.

## CONTINUED ITEM

---

The Commission continued this item on May 18, 2023, to allow for additional time for review. Since the item's continuance, Nipomo Community Services District provided comment on the proposed updates to the Policies, Procedures and By-Laws document, see Attachment B. Further discussion and recommendations related to this comment are included in this report.

## BACKGROUND

---

The Fiscal Year 2022-2023 Budget and Work Plan prioritized a work effort to update the Policies & Procedures Manual and By-Laws. The primary purpose of the update was to address policies that relate to LAFCO's indemnification policies as a result of the decision of the Court of Appeal in the case of San Luis Obispo Local Agency

Formation Commission et. al. v. *City of Pismo Beach, et.al.* 61 Cal. App. 5<sup>th</sup> 595., a lawsuit which initially began in 2013 and fully concluded in 2023.

In this case, the City of Pismo Beach and Central Coast Development Company (“Central”) applied to the San Luis Obispo LAFCO to annex a parcel of real property to the city. LAFCO denied the application and the City and Central brought an action to challenge that decision. LAFCO prevailed and brought an action to recover attorney fees under an indemnity agreement contained in the annexation application. The trial court granted the city and developer judgment on the pleadings because the Court found that LAFCO has no authority to require such fees. LAFCO and the Special District Risk Management Authority filed an appeal.

The Court of Appeal affirmed the trial court judgment holding that: (1) the agreement was not supported by consideration, as required for a contract; (2) The Cortese-Knox-Hertzberg Act authorizing LAFCO to charge fees does not apply to post-administrative matters and (3) LAFCO had no authority under the Cortese-Knox-Hertzberg Act to require the agreement.

The results of this case necessitated various changes related to LAFCO’s proposal application packets and the Policy & Procedures Manual. The LAFCO application packets have been updated accordingly, and the final necessary update to address the results of the case was to update the Policy and Procedures Manual among other updates to streamline and modernize the document. Similarly, in an effort to modernize and enhance usability, we have merged the By-Laws manual with the Policies & Procedures manual to create one document. No substantive changes to the By-Laws were made.

## KEY CHANGES

---

The most substantive change to the Policy & Procedures Manual was specifically related to the aforementioned indemnification issue. Any policies related to indemnification in context to the application packet or cost accounting agreement have been permanently removed. Specifically, policies under Section 2.11.6 have been modified, and Policies 2.11.7, 2.11.8 (a-d) have been fully removed. Policy 2.11.6 retains some language related to indemnification because it still remains the policy of the Commission to indemnify when appropriate and allowed by law. Again however, LAFCOs are no longer allowed to require indemnification as a prerequisite for submitting an application.

The policy changes are shown below, underlined shows additions and strike-through shows permanent removals. Changes specific to indemnification can be found beginning on Page 25 of Attachment A. In addition, any substantive changes within Attachment A are shown in red for ease, and similarly, underlined shows additions and strike-through shows permanent removals.

2.11.6. To the extent allowed by law, it is the policy of this Commission that applicants for LAFCO actions shall defend, indemnify and hold harmless LAFCO, ~~to the fullest extent allowed by law,~~ at the sole expense of the applicant, against any and all claims, demands, actions

~~and/or lawsuits that may be filled against LAFCO which challenges any Commission action including, but not limited to, action on an application or proposal. (“Claims”). The application shall also include an agreement by the applicant to defend, indemnify and hold harmless LAFCO to the fullest extent allowed by law, at the sole expense of the applicant, against any and all Claims (“Indemnification Agreement”). The Agreement must be signed by the applicant(s) for the application to be deemed complete.~~

~~2.11.7. Prior to the Executive Officer deeming an application complete, the applicant(s) shall submit a signed Cost Accounting and Indemnification Agreement.~~

~~2.11.8. The following policy shall be applied to any applicant and/or jurisdiction that is not in compliance with an existing LAFCO Cost Accounting and Indemnification Agreement as determined by the Executive Officer and Legal Counsel:~~

~~a. The LAFCO Executive Officer (EO), in consultation with Legal Counsel, shall determine, on review of an application, whether an applicant and/or jurisdiction has previously failed to comply with the LAFCO Indemnification Policy and/or the LAFCO Cost Accounting and Indemnification Agreement.~~

~~b. Prior to acceptance for processing of an application from an applicant and/or jurisdiction, which the EO determines to have failed to comply with the Policy and Agreement referenced in paragraph a. of this policy above, the LAFCO Executive Officer shall advise the Commission at a regularly scheduled meeting regarding the applicant’s prior breach of the obligations of the Policy, Agreement, or both. The Executive Officer, in consultation with Legal Counsel, shall make a recommendation to the Commission regarding the amount of a bond or other commercially reasonable undertaking to be required of the applicant before the application will be accepted.~~

~~c. On the basis of the Executive Officer’s recommendation, the Commission shall establish a bond or other commercially reasonable undertaking as a condition for acceptance of the application. The purpose of this security requirement is secure the obligation of the applicant to indemnify LAFCO from future liability in connection with the application. In addition, the applicant shall be required to satisfy any past due obligation owed to LAFCO from previous applications, prior to processing any new application.~~

~~d. Compliance with this policy does not relieve the applicant of responsibility to submit other information as requested by LAFCO to process the application, to otherwise comply with applicable law and these policies, and cure any outstanding non-compliance with the Policy and Indemnification Agreement referenced in paragraph 8 a. of this policy above.~~

Additional changes were made to the Procedures section titled “Preliminary Steps” Section 3.1.1, to align with the adopted Comprehensive Application and Minor Fee Schedule Updates that were approved by the Commission at the LAFCO April 20, 2023, meeting.

## **OTHER CHANGES**

---

Other changes to the Policy & Procedures Manual generally relate to rearranging content to make the document easier to read and other formatting changes to match the new standard of LAFCO.

We have also included LAFCO’s By-Laws in the Policy & Procedures Manual. No changes have occurred to any of the By-Laws, they have simply been merged into this document for ease of use and to better connect our policies with our procedures and modes of operation as required by the Cortese, Knox, Hertzberg Act.

## **AGENCY COMMENT**

---

As noted above, Nipomo Community Services District provided comment on the proposed Policy, Procedures, and By-Laws document, see Attachment B. The comment was regarding Policy 3.2.2(c), which currently states:

*A satisfactory exchange of property tax has taken place. Master property tax agreements may be applicable or separate property tax exchange resolutions may be required. If negotiations leading to adoption of separate resolutions are required, either the County or any affected municipality must agree to a tax exchange, or the County negotiates a property tax exchange on behalf of any Special District (Revenue and Taxation Code Section 99).*

In context, Policy 3.2.2(c) relates to a list of items the Executive Officer must have for any annexation application. Policy 3.2.2(c) relates to any tax exchange agreement necessary for LAFCO action. This includes tax exchanges for cities, districts or county service areas. The comment from Nipomo Community Services District requests clarification to Policy 3.2.2(c) to note that special districts may also negotiate on their own behalf under certain circumstances, consistent with the provisions of Revenue & Taxation Code Section 99.01.

Revenue & Taxation Code 99 provides extensive detail as to how tax negotiations and agreements are to take place. Depending on the circumstance and whether the proposal involves a city or a district, certain procedures must be followed. Generally speaking, when a tax exchange

involves a city, the affected county and city must come to an agreement prior to LAFCO action, and each agency negotiates on its own behalf. With regard to districts, under certain circumstances, the County may negotiate on behalf of the district (Revenue & Taxation Code 99(b)(5). Additionally, under certain circumstances, a district may negotiate on its own behalf if it so chooses (Revenue & Taxation Code 99.01(a)(3). A district may negotiate on its own behalf when there is a “jurisdictional change that will result in a special district providing one or more services to an area where those services have not been previously provided by any local agency” (Revenue & Taxation Code 99.01(a).

Policy 3.2.2(C) was not proposed to change as it was not included in the scope of work directed by the Commission. Though the existing policy as it exists above is consistent with Revenue & Taxation Code Section 99 and 99.01, additional clarification on this distinction would be beneficial to those agencies involved in tax negotiations that include special districts.

Should the Commission wish to add this clarification, LAFCO staff and legal counsel have proposed the revisions below. If the Commission wishes to add this language, it will be added to the proposed changes to the Policy, Procedures, & By-Laws document as contained in Attachment A in addition to other changes as proposed therein. Changes to Policy 3.2.2(c) are shown in red underline and strikethrough.

*3.2.2 (C) A satisfactory exchange of property tax has taken place (Revenue and Taxation Code Section 99). Master property tax agreements may be applicable or separate property tax exchange resolutions may be required. ~~If negotiations leading to adoption of separate resolutions are required, either the County or any affected municipality agency must agree to a tax exchange (Revenue and Taxation Code Section 99), or~~ When a property tax exchange involves a district, the County may negotiates a property tax exchange on behalf of the ~~any~~ Special District, or when a Special District that will provide one or more services to the area where those services have not been previously provided, the Special District may negotiate with the County on its own behalf if it so chooses (Revenue and Taxation Code Section 99.01).*

## STAFF RECOMMENDATION

---

### Recommended Action and Options

**Action 1:** Motion to approve the proposed updates to the Policies, Procedures & By-Laws Manual. (Attachment A)

### Other Options:

The Commission may provide direction to include the proposed clarifying language to Policy 3.2.2(c) described above in the staff report.

The Commission may also wish to provide additional feedback on the Policy & Procedures Manual. Depending on the complexity of the comments, staff can take direction and make the changes accordingly, or if warranted staff can return at a later date with revisions for further Commission review.

---

**Attachment A:** Policies, Procedures & By-Laws 2023

**Attachment B:** Nipomo Community Services District Correspondence

# Attachment A

Policies, Procedures & By-Laws  
2023



# San Luis Obispo Local Agency Formation Commission

## **DRAFT** Policies, Procedures and Bylaws

Adopted \_\_\_\_\_, 2023

# TABLE OF CONTENTS

<b>Chapter 1</b>	<b>4</b>
Introduction	4
Authority and Mandate	4
<del>San Luis Obispo LAFCO Members</del>	<del>5</del>
San Luis Obispo LAFCO Staff	6
<b>Chapter 2</b>	<b>7</b>
Commission Policies	7
2.1 General Policies	7
2.2 City Annexation Policies	9
2.3 Special District Annexation Policies	11
2.4 City Incorporation Policies	12
2.5 Special District Formation Policies	14
2.6 Sphere of Influence Policies	14
2.7 Municipal Service Review Policies	19
2.8 Memorandum of Agreement Policies	19
2.9 Agricultural Policies	20
2.10 California Environmental Quality Act Policies	22
Commission Administrative Policies	24
2.11 Application <del>and Indemnification</del> Policies	24
2.12 Budget Policies	26
2.13 Credit Card Policies	27
2.14 Legislative Process Participation	30
2.15 Document Retention & Destruction Policy	31
2.16 Social Media Policy	33
<b>Chapter 3</b>	<b>36</b>
Procedures	36

3.1 Preliminary Steps	36
3.2 LAFCO Proceedings	40
3.3 Conducting Authority Proceedings	45
3.4 Completion and Effective Date	46
3.5 Municipal Service Review Guidelines	47
3.6 Agricultural Goals & Guidelines	50
<b>Chapter 4</b>	<b>57</b>
Bylaws	57
ARTICLE I - GENERAL PROVISIONS	57
ARTICLE II – ORGANIZATION	57
ARTICLE III – MEETINGS	60
ARTICLE IV - COMMISSION RECORDS	62

## CHAPTER 1

### Introduction

Local Agency Formation Commissions (LAFCOs) were created to help organize, manage, and regulate the provision of public services to development. LAFCOs were created in 1963 in response to the post World War II development boom and the proliferation of development and local agencies providing public services to California’s fast-growing communities. The results of this development boom became evident as more of California’s agricultural land was converted to urban uses. This premature and unplanned development pattern created inefficient and expensive systems of delivering public services using multiple small units of local government and private companies. Over the years legislation has been passed to help manage this situation. The most recent legislation is the Cortese-Knox-Hertzberg Act of 2000 (CKH Act). The Act has been amended numerous times since 2000 and is reviewed and amended each year.

### Authority and Mandate

State law provides for the basic purposes of the Commission powers and duties, establishment of policies, procedures, and regulations, in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code sec. 56000 et seq., also “CKH”), as amended. Other sections of the Government Code (hereafter “GC”) also describe the Commission responsibilities. In many cases, the pertinent GC sections are cited in this Manual to explain the authority for a particular policy, standard, and procedure.

San Luis Obispo (SLO) LAFCO’s Policies & Procedures document is broken into three different sections: (1) Policies, (2) Procedures, and (3) LAFCO Bylaws. These policies and procedures reflect the legislative intent of the CKH Act and provide for its consistent implementation based upon local conditions and circumstances.

**~~San Luis Obispo LAFCO Members~~**

~~The Commission is comprised of seven regular members (two County Board of Supervisors, two City Council Members, two Special District Members, and one Public Member) and four Alternate Commissioners (one County Board of Supervisor, one City Council Member, one Special District Member, and one Public Member). The County Board of Supervisors appoints two regular representatives and one alternate representative from the County. The cities convene a special committee composed of the mayors from each city to appoint two regular and one alternate representative. The Special Districts elect representatives through a process implemented by the Executive Officer pursuant to the CKH Act. The LAFCO Commission appoints the public member representatives to serve on the Commission. The CKH Act calls upon members to use their “independent judgment” when considering LAFCO decisions. Current membership is shown below:~~

<b><del>Regular Members</del></b>	<b><del>Type</del></b>	<b><del>Term Expiration</del></b>
<del>Robert Enns</del>	<del>Special District Member</del>	<del>December 2024</del>
<del>Marshall Ochylski</del>	<del>Special District Member</del>	<del>December 2022</del>
<del>Debbie Arnold</del>	<del>County Member</del>	<del>December 2025</del>
<del>Lynn Compton</del>	<del>County Member</del>	<del>December 2023</del>
<del>Heather Jensen</del>	<del>Public Member</del>	<del>December 2024</del>
<del>Ed Waage</del>	<del>City Member</del>	<del>December 2023</del>
<del>Steve Gregory</del>	<del>City Member</del>	<del>December 2025</del>
<b><del>Alternate Members</del></b>	<b><del>Type</del></b>	<b><del>Term Expiration</del></b>
<del>Ed Eby</del>	<del>Special District Member</del>	<del>December 2021</del>
<del>Dawn Ortiz-Legg</del>	<del>County Member</del>	<del>December 2023</del>
<del>David Watson</del>	<del>Public Member</del>	<del>December 2024</del>
<del>Charles Bourbeau</del>	<del>City Member</del>	<del>December 2022</del>

## San Luis Obispo LAFCO Staff

The Commission’s staff serves in an administrative capacity reviewing proposals, preparing special studies, and acting as the liaison with state and local agencies as well as the public. Staff may be contacted by phone at (805) 781-5795, through the Commission’s website at [slo.lafco.ca.gov](http://slo.lafco.ca.gov), or by the e-mail addresses listed below:

Rob Fitzroy, Executive Officer

[rfitzroy@slo.lafco.ca.gov](mailto:rfitzroy@slo.lafco.ca.gov)

Imelda Marquez-Vawter, Analyst

[imarquez@slo.lafco.ca.gov](mailto:imarquez@slo.lafco.ca.gov)

Morgan Bing, Clerk Analyst

[mbing@slo.lafco.ca.gov](mailto:mbing@slo.lafco.ca.gov)

Brian Pierik, Legal Counsel

Burke, Williams & Sorensen

DRAFT

## CHAPTER 2

### Commission Policies

State law requires the Commission to review and make determination on all changes of organization or reorganization, determinations of spheres of influence, city protests to land conservation contracts; review general plans for cities and county; and to do studies of local agencies, recommending governmental reorganizations. The following policies have been adopted by the Commission to assist in the review of proposals and plans, and preparation of studies as necessary. The policies are addressed by issue topic. The Commission has existing policies, standards and procedures. Therefore, to the extent that CKH requires the Commission to adopt policies and procedures, the Commission already is in compliance with CKH. In furtherance of CKH, these policies, standards and procedures have been further amended as provided herein to allow the Commission to continue to exercise its powers in a manner that encourages and provides planned, well-ordered, efficient urban development patterns with appropriate consideration of preserving open-space lands within those patterns (Code sec. 56300(a)(b)).

#### 2.1 General Policies

- 2.1.1. The Commission shall endeavor to balance the need to efficiently provide public services with the sometimes-competing interests of discouraging urban sprawl, preserving prime agriculture land and open space (CKH Act 56001 and 56301).
- 2.1.2. While serving on the Commission, all members shall exercise their independent judgment on behalf of the interests of residents, property owners, and the public as a whole, to implement the CKH Act (CKH Act 56325.1).
- 2.1.3. Cities and Special Districts are discouraged from annexations outside of their Sphere of Influence unless the need for services is clearly demonstrated (CKH 56375.5).

2.1.4. Jurisdictions are encouraged to create places to live that integrate various land uses as a way of providing for a diverse social and economic community.

2.1.5. The Commission prefers urban development within Cities and the Urban Reserve Line of unincorporated communities as opposed to development in the unincorporated area (CKH 56001).

2.1.6. The Commission will recognize and preserve clearly defined, long-term agricultural and open space areas established by the County or other jurisdictions to preserve critical environmental areas and to bolster local economies (CKH 56001). This may be accomplished using agricultural easements, open space easements, conservation easements, or other mechanisms, that preserve agricultural or open space lands in perpetuity.

2.1.7. The Commission discourages special districts from extending services by agreement without annexation. A municipality or district may provide new or extended services by contract or agreement outside its boundaries only if it requests and receives written approval from LAFCO (CKH 56133).

2.1.8. The Commission normally will require annexation to a municipality rather than annexation to a sanitation, sanitary, community service or water district in the unincorporated area (CKH 56001).

2.1.9. The Commission prefers the merger of a special district with a municipality upon incorporation, whenever possible, as being in the best interest of the local citizens.

2.1.10. In any proposal, the impacts on affordable housing must be considered. The Commission will consider the impact of the creation of new jobs on affordable housing stock, not only in the jurisdiction to which the annexation is proposed, but also in neighboring jurisdictions. The

agency to which the annexation is proposed should demonstrate to the Commission that the effects of the proposed project on affordable housing have been mitigated (CKH 56001).

The Commission recognizes that providing a range of housing opportunities for persons and families of all incomes is an important factor in promoting orderly development.

2.1.11. In any proposal requiring water service, the Commission requires that the agency to which the annexation is proposed should demonstrate the availability of an adequate, reliable and sustainable supply of water. In cases where a phased development is proposed, the agency should demonstrate that adequate service capacity will be provided as needed for each phase. In cases where a proposed annexation will be served by an onsite water source, the proponent should demonstrate its adequacy (CKH 56668 (k)).

2.1.12. The Commission shall review and update the spheres of influence for all applicable jurisdictions in the County every five years, or as necessary, pursuant to the CKH Act and an approved annual local work plan. (CKH 56425 (g))

2.1.13. A municipal service review shall be prepared to update the SOIs using the guidelines adopted by San Luis Obispo LAFCO and in accordance with the CKH Act.

2.1.14. The Commission shall give “great weight” to a proposal that is supported by a community’s long-range vision for its growth and development. This may include a Memorandum of Agreement that has been approved by the County and another jurisdiction regarding a Sphere of Influence or other proposal.

## **2.2 City Annexation Policies**

2.2.1. Cities are encouraged to annex unincorporated islands as well as land that is mostly surrounded by a jurisdiction. (CKH 56001, & 56375.3).

- 2.2.2. The Commission encourages development of vacant land within a municipality over development in fringe areas and discourages strip or noncontiguous annexations to Cities (CKH 56301).
- 2.2.3. The Commission will require, as a condition to city annexation, detachment of the annexed territory from the special district where appropriate (CKH 56001).
- 2.2.4. Prior to annexation of territory within an agency's Sphere of Influence, the Commission encourages development on vacant or underutilized parcels already within the boundaries of a jurisdiction. The agency should provide LAFCO with a build-out estimate or inventory and document how it was prepared.
- 2.2.5. The boundaries of a proposed annexation must be definite and certain and must conform to lines of assessment whenever possible.
- 2.2.6. The boundaries of an area to be annexed will not result in any areas difficult to serve.
- 2.2.7. There is a demonstrated need for governmental services and controls in the area proposed for annexation.
- 2.2.8. The municipality has the resources capable of meeting the need for services in the area proposed for annexation and has submitted studies and information documenting its ability to serve.
- 2.2.9. There is a mutual social and economic community of interest between the residents of the municipality and the proposed territory.
- 2.2.10. The proposed annexation is compatible with the municipality's general plan. The proposed annexation represents a logical and reasonable expansion of the annexing municipality.

2.2.11. The Commission shall determine if a disadvantaged unincorporated community is associated with an application. If a disadvantaged unincorporated community does exist, the procedures for processing the annexation as outlined in the CKH Act shall be implemented.

2.2.12. That the City Prezone the area to be annexed and complete CEQA as the Lead Agency for the proposal and/or project. LAFCO should in most instances act as the Responsible Agency with regard to an annexation and CEQA.

### **2.3 Special District Annexation Policies**

2.3.1. Special districts are encouraged to annex unincorporated islands as well as land that is mostly surrounded by a jurisdiction. (CKH 56001, & 56375.3).

2.3.2. Prior to annexation of territory within an agency's Sphere of Influence, the Commission encourages development on vacant or underutilized parcels already within the boundaries of a jurisdiction. The agency should provide LAFCO with a build-out estimate or inventory and document how it was prepared.

2.3.3. A demonstrated need exists for the required services and there is no reasonable alternative manner of providing these services.

2.3.4. The proposed annexation represents a logical and reasonable expansion of the district.

2.3.5. The proposed annexation reflects the plans of the adjacent governmental agencies.

2.3.6. The proposed annexation does not represent an attempt to annex only revenue producing property.

2.3.7. The proposed boundaries must be definite and certain and conform to lines of assessment whenever possible.

2.3.8. The district has the capability of meeting the need for services and has submitted studies and information documenting its capabilities.

## **2.4 City Incorporation Policies**

2.4.1. The Commission favors annexation to an existing agency over creation of a new agency. When the formation of a new government entity is proposed, the Commission shall make a determination as to whether existing agencies can feasibly provide the service in a more efficient manner (CKH 56301).

2.4.2. Incorporation will be discouraged where a municipal government already exists adjacent to the area. Existing jurisdictional boundaries of other agencies shall be recognized and evaluated.

2.4.3. When other municipalities are adjacent, the Commission will consider as preferable, in the order listed, the following actions:

- a. Annexation to an existing municipality.
- b. Reorganization, consolidating one or more of the municipalities and the unincorporated area.
- c. Incorporation.

2.4.4. Incorporation will be given more favorable consideration if:

- a. A community is geographically located some distance from any other municipality.
- b. There is a demonstrated public need for additional governmental services and controls or a need for a higher level of some or all of those services being provided.
- c. The needed governmental services can be shown to be most quickly and economically provided by incorporation.

- d. The area to be incorporated is compact, contiguous, possesses a community identity and includes a variety of land uses that provides for a balanced community.
- e. The proposed incorporation must reflect and consider the general plan of the County and affected Cities.
- f. The proposed incorporation must not conflict with the logical growth of adjacent cities as reflected in Commission approved spheres of influence.
- g. The proposed incorporation does not represent an attempt to incorporate only revenue-producing territories to preempt neighboring cities from receiving those revenues.
- h. The proposed boundaries do not create or result in areas that are difficult to serve.
- i. The proposed boundaries must be definite and certain and wherever possible, should conform to lines of assessment and consider topographic, geographic, and historic boundaries.
- j. The effect of incorporation on a special district must be considered.
- k. Within the proposal there must be a cost-versus-benefits justification of the proposed incorporation.
- l. Sufficient revenue to supply required municipal services is evident in the incorporation proposal.
- m. Consideration will be given to the effect of incorporation upon adjacent landowners, governmental agencies, and the County.
- n. A Comprehensive Fiscal Analysis (CFA) must be completed pursuant to CKH Act 56800 and the LAFCO incorporation guidelines prepared by the State Office of Planning and Research.
- o. The incorporation would result in a similar exchange of both revenue and responsibility for service delivery between the County, the proposed municipality and other involved agencies (CKH 56815).
- p. The incorporation proposal shall fully consider the State Guidelines for incorporation. These guidelines are advisory to the Commission in the review of an incorporation proposal and should be used in preparing any incorporation proposal.

## 2.5 Special District Formation Policies

- 2.5.1. The Commission favors annexation to an existing agency over creation of a new agency. When the formation of a new government entity is proposed, the Commission shall make a determination as to whether existing agencies can feasibly provide the service in a more efficient manner (CKH 56301).
- 2.5.2. There is a demonstrated need for services or controls which can be provided by a special district.
- 2.5.3. There is no alternative which would provide for the required service in a more reasonable manner.
- 2.5.4. There will be sufficient revenue to adequately finance the required services or controls.
- 2.5.5. The proposal does not represent a conflict with the reasonable and logical expansion of adjacent governmental agencies.
- 2.5.6. The boundary configuration will not create or result in areas difficult to serve.
- 2.5.7. The boundaries of the proposed formation must be definite and certain and must conform to lines of assessment whenever possible. The boundaries must not conflict with boundaries of other public agencies possessing the same powers unless properly justified.

## 2.6 Sphere of Influence Policies

The CKH Act provides the legislative authority and intent for establishing a Sphere of Influence and is included by reference in these policies. A Sphere of Influence is the probable 20-year growth boundary for a jurisdiction's physical development. These policies are intended to be consistent with the CKH Act and take into consideration local conditions and circumstances. All procedures and definitions in the CKH Act are incorporated into these policies by reference.

- 2.6.1. LAFCO intends that its Sphere of Influence determination will serve as a master plan for the future organization of local government within the County. The spheres shall be used to discourage urban sprawl and the proliferation of local governmental agencies and to encourage efficiency, economy, and orderly changes in local government.
- 2.6.2. The Sphere of Influence lines shall be a declaration of policy which shall be a primary guide to LAFCO in the decision on any proposal under its jurisdiction. Every determination made by the Commission shall be consistent with the spheres of influence of the agencies affected by those determinations.
- 2.6.3. No proposal which is inconsistent with an agency's adopted Sphere of Influence shall be approved until the Commission, at a noticed public hearing, has considered an amendment or revision to that agency's Sphere of Influence.
- 2.6.4. The adopted Sphere of Influence shall reflect city and county general plans, growth management policies, annexation policies, resource management policies, and any other policies related to ultimate boundary area of an affected agency unless those plan or policies conflict with the legislative intent of the CKH Act (Government Code Section 56000 et seq.).

Where inconsistencies between plans exist, LAFCO shall rely upon that plan which most closely follows the legislature's directive to discourage urban sprawl, direct development away from prime agricultural land and open space lands, and encourage the orderly formation and development of local governmental agencies based upon local conditions and circumstances.

In accordance with the CKH Act a municipal service review shall be conducted prior to the update of a jurisdiction's Sphere of Influence. The service review is intended to be a basis for updating a jurisdiction's Sphere of Influence.

2.6.5. LAFCO will designate a Sphere of Influence line for each local agency that represents the agency's probable physical boundary and includes territory eligible for annexation and the extension of that agency's services within a zero to twenty-year period.

2.6.6. LAFCO shall consider the following factors in determining an agency's Sphere of Influence:

- a. Present and future need for agency services and the service levels specified for the subject area in applicable general plans, growth management plans, annexation policies, resource management plans, and any other plans or policies related to an agency's ultimate boundary and service area (CKH 56425 (e)(1)).
- b. Capability of the local agency to provide needed services, taking into account evidence of resource capacity sufficient to provide for internal needs and urban expansion (CKH 56425 (e)(2)).
- c. The existence of agricultural preserves, agricultural land and open space lands in the area and the effect that inclusion within a Sphere of Influence shall have on the physical and economic integrity of maintaining the land in non-urban use (CKH 56426.5 (a)).
- d. Present and future cost and adequacy of services anticipated to be extended within the Sphere of Influence.
- e. Present and projected population growth, population densities, land uses, and area, ownership patterns, assessed valuations, and proximity to other populated areas.
- f. The agency's capital improvement or other plans that delineate planned facility expansion and the timing of that expansion.
- g. Social or economic communities of interest in the area (CKH 56425 (e)(4)).
- h. For an update of a Sphere of Influence of a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection, a written determination regarding the present and probable need for those public facilities and services of any disadvantaged unincorporated communities within the existing Sphere of Influence shall be prepared.

2.6.7. LAFCO may adopt a zero Sphere of Influence encompassing no territory for an agency. This occurs if LAFCO determines that the public service functions of the agency are either nonexistent, no longer needed, or should be reallocated to some other agency of government. The local agency which has been assigned a zero Sphere of Influence should ultimately be dissolved.

2.6.8. Territory not in need of urban services, including open space, agriculture, recreational, rural lands, or residential rural areas shall not be assigned to an agency's Sphere of Influence unless the area's exclusion would impede the planned, orderly and efficient development of the area.

2.6.9. LAFCO may adopt a Sphere of Influence that excludes territory currently within that agency's boundaries. This occurs where LAFCO determines that the territory consists of agricultural lands, open space lands, or agricultural preserves whose preservation would be jeopardized by inclusion within an agency's Sphere of Influence. Exclusion of these areas from an agency's Sphere of Influence indicates that detachment is appropriate.

2.6.10. Where an area could be assigned to the Sphere of Influence of more than one agency providing needed service, the following hierarchy shall apply dependent upon ability to serve:

- a. Inclusion within a municipality Sphere of Influence.
- b. Inclusion within a multipurpose district Sphere of Influence.
- c. Inclusion within a single-purpose district Sphere of Influence.

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

- 2.6.11. Sphere of Influence boundaries shall not create islands or corridors unless it can be demonstrated that the irregular boundaries represent the most logical and orderly service area of an agency.
- 2.6.12. Nonadjacent publicly owned properties and facilities used for urban purposes may be included within that public agency's Sphere of Influence if eventual annexation would provide an overall benefit to agency residents.
- 2.6.13. At the time of adoption of a city Sphere of Influence LAFCO may develop and adopt in cooperation with the municipality, an urban area boundary pursuant to policies adopted by the Commission in accordance with Government Code Section 56080. LAFCO shall not consider any area for inclusion within an urban service area boundary that is not addressed in the general plan of the affected municipality or is not proposed to be served by urban facilities, utilities, and services within the first five years of the affected city's capital improvement program.
- 2.6.14. LAFCO shall review Sphere of Influence determinations every five years or when deemed necessary by the Commission consistent with an adopted work plan. If a local agency or the County desires amendment or revision of an adopted Sphere of Influence, the local agency, by resolution, may file such a request with the LAFCO Executive Officer. Any local agency or county making such a request shall reimburse the Commission for the actual and direct costs incurred by the Commission. The Commission may waive such reimbursement if it finds that the request may be considered as part of its periodic review of spheres of influence.
- 2.6.15. LAFCO shall adopt, amend, or revise Sphere of Influence determinations following the procedural steps set forth in CKH Act 56000 et seq.

## 2.7 Municipal Service Review Policies

The following policies are meant to guide San Luis Obispo LAFCO in the preparation of the municipal service review for jurisdictions:

- 2.7.1. The Commission shall use the Municipal Service Review Guidelines found in Chapter 3 as a framework for preparing a municipal service review for a jurisdiction.
- 2.7.2. In order to prepare an update of spheres of influence in accordance with Section 56425, the Commission shall conduct a municipal service review of the municipal services provided by the local agency or service jurisdiction.
- 2.7.3. LAFCO shall complete a municipal service reviews consistent with the provisions contained in the CKH Act including identification of disadvantaged unincorporated communities located contiguous to the Sphere of Influence of a jurisdiction.

## 2.8 Memorandum of Agreement Policies

- 2.8.1. LAFCO shall work together with the affected jurisdictions and facilitate a constructive dialogue of the issues related to a service review with the goal of achieving an agreement which can be given “great weight” by the Commission in its deliberations. The following steps shall be taken to encourage such discussions and develop a memorandum of agreement (MOA) between a city (or district if applicable) and the County regarding a jurisdiction’s Sphere.
  - a. Prepare agendas and facilitate initial meetings between representatives of the City, District and the County to identify potential Sphere of Influence areas and possible land use development standards. The County Agriculture Commissioner’s Office and the property owners should be included in these discussions as appropriate.
  - b. The negotiation period shall begin when the preparation of the Municipal Service Review is initiated prior to adoption of the resolution of application.

- c. LAFCO staff shall prepare a draft memorandum of agreement that includes a map of the proposed Sphere of Influence along with provisions which address development processes and/or zoning requirements.
- d. Conduct a series of meetings to discuss issues and agree to specific language provisions and SOI boundaries, if possible.
- e. Provide the jurisdictions and County with a final memorandum of agreement for a public hearing and consideration by the respective legislative bodies.
- f. If the jurisdiction and County Board of Supervisors approve the memorandum of agreement, the Commission is required to give the agreement “great weight” in making a decision regarding the Sphere of Influence.
- g. If the Sphere of Influence approved by the Commission is consistent with the agreement, the city and the county shall implement the provisions of the agreement by amending their respective general plans.
- h. If the Commission changes the Sphere of Influence agreed upon by the city and the County, the agreement shall not be implemented; however, it may be renegotiated if both parties agree to further discussions.

## 2.9 Agricultural Policies

The policies in this section are designed to assist LAFCO in making decisions that achieve the Goals stated in the previous section. A policy is a statement that guides decision making by indicating a clear direction on the part of LAFCO. The following policies support the goals stated above and shall be used by San Luis Obispo LAFCO when considering a proposal that would involve agricultural resources:

- 2.9.1. Vacant land within urban areas should be developed before agricultural land is annexed for non-agricultural purposes.
- 2.9.2. Land substantially surrounded by existing jurisdictional boundaries should be annexed before other lands.

- 2.9.3. In general, urban development should be discouraged in agricultural areas. For example, agricultural land should not be annexed for nonagricultural purposes when feasible alternatives exist. Large lot rural development that places pressure on a jurisdiction to provide services and causes agricultural areas to be infeasible for farming should be discouraged.
- 2.9.4. The Memorandum of Agreement between a city and the County should be used and amended as needed to address the impacts on and conversion of Agricultural Lands on the fringe of a city.
- 2.9.5. The continued productivity and sustainability of agricultural land surrounding existing communities should be promoted by preventing the premature conversion of agricultural land to other uses and, to the extent feasible, minimizing conflicts between agricultural and other land uses. Buffers should be established to promote this policy.
- 2.9.6. Development near agricultural land should not adversely affect the sustainability or constrain the lawful, responsible practices of the agricultural operations.
- 2.9.7. In considering the completeness and appropriateness of any proposal, the Executive Officer and this Commission may require proponents and other interested parties to provide such information and analysis as, in their judgment, will assist in an informed and reasoned evaluation of the proposal in accordance with these policies.
- 2.9.8. No change of organization, as defined by Government Code 56021, shall be approved unless it is consistent with the Spheres of Influence of all affected agencies.
- 2.9.9. Where feasible, and consistent with LAFCO policies, non-prime land should be annexed before prime land.
- 2.9.10. The Commission will consider feasible mitigation (found in the following guidelines) if a proposal would result in the loss of agricultural land.

2.9.11. The Commission encourages local agencies to adopt policies that result in efficient, coterminous and logical growth patterns within their General Plan and Sphere of Influence areas and that encourage protection of prime agricultural land in a manner that is consistent with this Policy.

2.9.12. The Commission may approve annexations of prime agricultural land only if mitigation that equates to a substitution ratio of at least 1:1 for the prime land to be converted from agricultural use is agreed to by the applicant (landowner), the jurisdiction with land use authority. The 1:1 substitution ratio may be met by implementing various measures:

- a. Acquisition and dedication of farmland, development rights, and/or agricultural conservation easements to permanently protect farmlands within the annexation area or lands with similar characteristics within the County Planning Area.
- b. Payment of in-lieu fees to an established, qualified, mitigation/conservation program or organization sufficient to fully fund the acquisition and dedication activities stated above in 12a.
- c. Other measures agreed to by the applicant and the land use jurisdiction that meet the intent of replacing prime agricultural land at a 1:1 ratio.

2.9.13. Property owners of agricultural lands adjacent to a LAFCO proposal shall be notified when an application is submitted to LAFCO.

## 2.10 California Environmental Quality Act Policies

The following policies shall be used to guide LAFCO with regard to implementing the California Environmental Quality Act (CEQA) for proposals evaluated by LAFCO.

2.10.1 The Commission shall take actions that maintain a high-quality and healthful environment for the people of San Luis Obispo County now and in the future.

- 2.10.2 The Commission shall take actions necessary to protect and enhance the environmental quality of San Luis Obispo County.
- 2.10.3 The Commission shall take actions that will provide the people of San Luis Obispo County with clean air and water, a vibrant and diverse economy, and enjoyment of aesthetic, natural, scenic, and historic environmental qualities.
- 2.10.4 The Commission shall carry out the environmental review process in an efficient, expeditious manner in order to conserve the available financial and governmental resources with the objective that these resources may be better applied toward the mitigation and avoidance of significant effects on the environment.
- 2.10.5 The Commission shall organize and write environmental documents in such a manner that they will be meaningful and useful to decision-makers and the public and consistent with CEQA guidelines.
- 2.10.6 The Commission shall consider the involvement of the public in actions affecting the environment as an essential and indispensable element of the decision-making process.
- 2.10.7 The Commission shall prefer avoidance of adverse impacts over mitigation. If, however, mitigation is necessary onsite or offsite mitigation should be fully implemented.
- 2.10.8 The Commission shall help prevent the elimination of the County's fish and wildlife species and preserve for future generation's sustainable representations of the County's native plant and animal communities.
- 2.10.9 The Commission shall balance preventing negative environmental effects while providing a decent home and satisfying living environment for every San Luis Obispo County resident.

## Commission Administrative Policies

This section includes general policies, requirements and criteria, regarding the preparation and submission of an application to San Luis Obispo LAFCO.

### 2.11 Application and Indemnification Policies

- 2.11.1. No proposal shall be deemed complete that does not include a completed San Luis Obispo LAFCO application form accompanied by the required fees, supporting documentation, and maps as specified in the LAFCO filing requirements found in the application.
- 2.11.2. The Executive Officer or designee may, prior to deeming an application complete, require additional information, including but not limited to, complete details for plans for service, property tax redistribution agreements, and similar information necessary for the San Luis Obispo LAFCO to make informed decisions on the factors and determinations required by law.
- 2.11.3. Applications to the Commission must contain all the information and materials required by the CKH Act (G.C. §56652 and 56653), including a plan for services, as well as the applicable fees or deposit toward fees as specified by the LAFCO Fee Schedule.
- 2.11.4. Except when the Commission is the Lead Agency pursuant to the CEQA (as defined in Public Resources Code §21067) an application must also contain complete documentation of the Lead Agency's environmental determination.
- 2.11.5. Tax Exchange Agreement
  - a. No application for a change of organization or reorganization will be deemed complete and scheduled for public hearing until proof of a property tax exchange agreement, in the form of adopted resolutions, is provided by the local agencies whose service area or service responsibility will be altered by the proposed jurisdictional change pursuant to Revenue and Taxation Code Section 99(b)(6).

- b. To facilitate the tax exchange process, upon receipt of applications requiring the tax exchange agreement, LAFCO staff will provide notification of the application to the County CEO, Auditor and Assessor, the Board of Supervisors, and all affected agencies.
- c. LAFCO may request information or studies regarding the property tax exchange agreement and/or process to support the processing of the any proposal that requires such an agreement. Studies or additional information may include, but are not limited to: revenue analysis and projections, future land use studies, buildout projections, and/or other fiscal analysis.

2.11.6. ~~To the extent allowed by law, it is the policy of this Commission that applicants for LAFCO actions shall defend, indemnify and hold harmless LAFCO to the fullest extent allowed by law, at the sole expense of the applicant, against any and all claims, demands, actions and/or lawsuits that may be filled against LAFCO which challenges any Commission action including, but not limited to, action on an application or proposal (“Claims”). The application shall also include an agreement by the applicant to defend, indemnify and hold harmless LAFCO to the fullest extent allowed by law, at the sole expense of the applicant, against any and all Claims (“Indemnification Agreement”). The Agreement must be signed by the applicant(s) for the application to be deemed complete.~~

~~2.11.7. Prior to the Executive Officer deeming an application complete, the applicant(s) shall submit a signed Cost Accounting, and Indemnification Agreement.~~

~~2.11.8. The following policy shall be applied to any applicant and/or jurisdiction that is not in compliance with an existing LAFCO Cost Accounting and Indemnification Agreement as determined by the Executive Officer and Legal Counsel:~~

- ~~a. The LAFCO Executive Officer (EO), in consultation with Legal Counsel, shall determine, on review of an application, whether an applicant and/or jurisdiction has previously failed to comply with the LAFCO Indemnification Policy and/or the LAFCO Cost Accounting, and Indemnification Agreement.~~
- ~~b. Prior to acceptance for processing of an application from an applicant and/or jurisdiction, which the EO determines to have failed to comply with the Policy and~~

~~Agreement referenced in paragraph a. of this policy above, the LAFCO Executive Officer shall advise the Commission at a regularly scheduled meeting regarding the applicant's prior breach of the obligations of the Policy, Agreement, or both. The Executive Officer, in consultation with Legal Counsel, shall make a recommendation to the Commission regarding the amount of a bond or other commercially reasonable undertaking to be required of the applicant before the application will be accepted.~~

~~c. On the basis of the Executive Officer's recommendation, the Commission shall establish a bond or other commercially reasonable undertaking as a condition for acceptance of the application. The purpose of this security requirement is secure the obligation of the applicant to indemnify LAFCO from future liability in connection with the application. In addition, the applicant shall be required to satisfy any past due obligation owed to LAFCO from previous applications, prior to processing any new application.~~

~~d. Compliance with this policy does not relieve the applicant of responsibility to submit other information as requested by LAFCO to process the application, to otherwise comply with applicable law and these policies, and cure any outstanding non-compliance with the Policy and Indemnification Agreement referenced in paragraph 8 a. of this policy above.~~

## 2.12 Budget Policies

Government code 56381, et seq., and the following procedures guide the LAFCO Budget process:

2.12.1. The Commission shall consider and adopt annually following noticed public hearings, a proposed budget by May 1 and if necessary, a final budget by June 15.

2.12.2. The Executive Officer shall transmit the Proposed and Adopted Budgets to the various jurisdictions (Cities, County, and Special Districts) as required in the Cortese-Knox-Hertzberg Act.

2.12.3. LAFCO will annually review and adopt a work plan to fulfill the purposes and programs of state law and local policy.

2.12.4. The Executive Officer shall submit quarterly budget reports to the Commission at LAFCO's regular meetings. A Year-End Budget Report shall be prepared and submitted to the Commission for its review. All reports shall be submitted to the County Auditor.

2.12.5. The LAFCO Executive Officer shall serve as budget administrator to prepare, present, transmit, review and monitor the LAFCO Budget.

2.12.6. The annual budget shall endeavor to include a contingency fund of at least 15% of total operating expense.

## **2.13 Credit Card Policies**

The following conditions must be met when using the Credit Card:

2.13.1. Each single purchase may be comprised of multiple items, but the total cannot exceed the single purchase dollar limit on the Credit Card. Use of the Credit Card shall be reflected in the quarterly financial reports to the Commission.

2.13.2. The Credit Card must not be used for purchases when the Cardholder has a personal interest, or knowledge, regarding any vendor which would create a conflict of interest. An example is buying from a relative or close friend.

2.13.3. Intentional use of the Card for other than official LAFCO purposes is not allowed and such use will result in immediate cancellation of your Credit Card, possible referral to the District Attorney, disciplinary action as authorized by applicable LAFCO procedures, and personal liability to LAFCO for the amount of the purchase.

### ***Authorized Uses***

2.13.4. The Credit Card may be used to pay for authorized purchase transactions, up to \$5,000, and are made through any legal means: over the counter, by telephone, or online.

2.13.5. The Credit Card may be used to pay for purchases that are certain high value (over \$1,000) equipment (e.g. business computing devices or software); leased equipment; fixed assets; maintenance services; professional services, etc.

2.13.6. Authorized uses may be limited by the Executive Officer to specific categories or merchant types, single purchase dollar limit, and monthly spending limits.

2.13.7. The Credit Card must not be used in a manner intended to circumvent the formal procurement process or other limits imposed on the Card.

### **Responsibilities**

2.13.8. ~~Individual~~ Authorized staff cardholders ~~s, Executive Officer, Senior Analyst, Commission Clerk,~~ are responsible for:

- a. Maintaining proper documentation and supporting receipts for all transactions.
- b. Reviewing and certifying the correctness and the business necessity of transactions listed on the monthly statements.
- c. Resolving exceptions and disputes directly with the vendors.
- d. Notifying the Executive Officer of any suspicious transactions.
- e. Establishing internal controls to ensure the proper use of Credit Cards within LAFCO, including additional restrictions on the types of purchases and dollar limits that apply to individual cardholders, and other review procedures.
- f. Reviewing monthly transaction reports to ensure overall compliance with policy, including proper disposition of exceptions.
- g. Selecting the financial institution (the bank) which provides the most cost-effective purchase card services and maintaining optimal relations with such institution. This responsibility includes regular communication and proper follow up with the bank.
- h. Administering the Credit Card Program to ensure that it is fully used and results in efficiencies in procurement and spending.

- i. Prescribing and maintaining adequate internal control over the Credit Card Program to ensure accountability. This responsibility includes setting LAFCO criteria for proper usage and regular monitoring of usage to ensure compliance with policies.

***Emergency Use***

2.13.9. The Credit Card may provide a mechanism for procuring goods and/or services during an emergency, disaster response, or other unforeseen events.

2.13.10. An emergency purchase may be warranted to prevent a hazard to life, health, safety, welfare, property, or to avoid undue additional cost to LAFCO, and/or disruption of service.

2.13.11. Emergency purchases of goods and services should not exceed the scope or duration of the emergency.

2.13.12. In view of the potential use of the purchase card during emergency conditions, the Executive Officer may authorize higher limits and wider purchasing scope for certain LAFCO staff who may be called on during emergencies.

2.13.13. Failure to plan for normal operations does not constitute an emergency use. Failure to plan refers to circumstances in which LAFCO personnel, in the normal course of their activities, have reasonable knowledge of a need but did not take the proper action to procure for the needs. This does not refer to unforeseen circumstances that are clearly beyond their control or knowledge.

***Suspension and Revocation***

2.13.14. Upon the discovery of an unusual spending pattern, the Executive Officer may temporarily suspend a cardholder's privilege until investigations are complete or exceptions are resolved.

2.13.15. LAFCO Staff are notified of all cases of suspension or revocation.

2.13.16. In addition to the revocation, the Executive Officer may authorize the referral of the case to Internal Audit or the District Attorney for investigation and/or other actions as appropriate.

***List of Prohibited Purchases***

2.13.17. These items are prohibited:

- Wire Transfer-Money Orders
- Cash Advances
- Convenience Checks
- Non-Financial Institutions-Foreign Currency, Money Orders, Travelers Checks
- Digital Currency
- Security Brokers/Dealers
- Savings Bonds
- Timeshares
- Betting, Casino Gaming Chips, Off Track Betting
- Fines
- Bail and Bond Payments
- Ammunition and weapons
- Hazardous materials (other than gasoline for business use)

***Restricted Uses***

2.13.18. The Credit Card is restricted from being used to purchase the following items:

- Splitting of purchases to circumvent the dollar limitation
- Payment of existing invoices
- The Credit Card may never be used for personal purchases

**2.14 Legislative Process Participation**

- 2.14.1. In situations when a legislative bill affecting LAFCO cannot be considered by the full Commission due to timing, the Executive Officer, in consultation with Legal Counsel, is authorized to provide written or email comments communicating the Commission's position.
- 2.14.2. The Chair and Legal Counsel would review the letter or email prior to it being submitted for consideration.
- 2.14.3. The Executive Officer will forward the email or letter to the Commissioners as soon as possible.
- 2.14.4. The item will be discussed at the Commission's next regular meeting.

## **2.15 Document Retention & Destruction Policy**

### **2.15.1. Document Retention:**

- a. Except as otherwise provided herein, and subject to the conditions contained in this policy, all original records and documents maintained by LAFCO will be retained for a period of five (5) years. A true copy of all documents shall be kept in a safe and separate place for security purposes.
- b. As used in this policy, the term "record" (or "record of proceedings") is defined to mean documents that show decisions or actions taken by the Commission in fulfillment of its statutory responsibilities. Records maintained by the Commission include the following: Records of proceedings (LAFCO application, petition or other initiating documents; statement of property valuation; statement of tax rate area assignment; indemnification and agreements to pay; Certificates of Filing and Completion; copies of public hearing notice; environmental review documents prepared for purposes of complying with the California Environmental Quality Act ("CEQA"); plan for service; map and legal description; staff reports; impartial analysis; order for change of organization/reorganization; documentation of election and results; Statement of Boundary Change; State Board of Equalization acknowledgement letter, LAFCO meeting minutes, Municipal Service Reviews) ; and Administrative/Financial documents (budgets,

accounts payable, accounts receivable, audits, invoices, ledgers, registers, reimbursements, Commissioner policies and procedures, agreements, contracts, leases, purchase orders, requisitions, recruitment/selection/resumes, claims).

2.15.2. Limited Exceptions to Five Year Retention Period:

- a. Original statements of economic interest (Form 700) will be retained by the Commission for a period of seven (7) years. Environmental review documents that are prepared by a lead agency other than LAFCO (i.e., Environmental Impact Reports and other CEQA documents that are approved or adopted by LAFCO but are not prepared by LAFCO as the lead agency for the project), will be retained by the Commission for a period of two (2) years. Environmental review and CEQA documents prepared by LAFCO as the lead agency for the environmental review of the project will be retained for a period of (5) five years.

2.15.3. Destruction Authorized Following Required Retention Period:

- a. At the conclusion of the applicable required retention period, the Executive Officer is authorized to destroy records as needed, provided that a photographic or electronic copy of the original record is first made and preserved in the manner specified in Government Code section 56382. The reproductions must be made as accessible for public reference as the original records were.

2.15.4. Social Media Records Retention Period:

- a. Social media site content is not (1) “kept”, (2) required to be kept by law, and (3) is not necessary to be kept in discharge of a public official’s duties or made/retained for the purposes of preserving content for future reference. If SLOLAFCO as a public agency is using social media for public input (for example, to solicit public input on LAFCO issues) SLOLAFCO will capture the input provided for the administrative record.

## 2.16 Social Media Policy

### 2.16.1. Purpose:

- a. To establish guidelines for the Commission's use of social media sites as a means of conveying information, including information concerning mission, meetings, activities, events, services, and current issues.

### 2.16.2. Definitions:

- a. The following words have the meaning as described:
  - i. "Social media sites" refers to online platforms used to create accessible, expandable, and upgradable publishing technologies through and on the internet.
  - ii. "Commission" means the San Luis Obispo Local Agency Formation Commission.
  - iii. "Commission social media sites" means social media sites including the Facebook page and Twitter page that the Commission will use to convey information.
  - iv. "Posts" or "postings" mean information, articles, pictures, videos or any other form of communication posted on Commission social media sites.
  - v. "Comment" or "Comments" mean and include any information, articles, words, pictures, videos or any other form of communicative content posted by others on Commission social media sites.

### 2.16.3. General Guidelines:

- a. The Commission's website (slo.lafco.ca.gov) will continue to serve as the Commission's primary location of electronic information. When possible, Commission social media sites will link to the official Commission website for documents, online services, and other necessary information.
- b. The establishment of a social media site is subject to approval by the Executive Officer, consistent with this policy. Social media site accounts will be created using an official Commission email account and will bear the name and official seal of the Commission

as applicable to the social media site. All Commission social media sites will use authorized Commission contact information for account set-up, monitoring, and access. Use of personal email accounts or phone numbers by Commission employees for the purpose of setting-up or administering a Commission social media site is prohibited.

- c. Content posted on City social media sites is subject to oversight by the Executive Officer or his designee(s).
- d. All Commission social media sites must adhere to applicable federal and state laws, and Commission regulations and policies. This includes but not limited to the California Public Records Act, the Ralph M. Brown Act, and laws and policies regarding records retention, conflicts of interest and copyright. Any content maintained on Commission social media sites that is related to Commission business, including a list of subscribers and posted communication may be considered a public record and subject to public disclosure.
- e. Commission social media sites must comply with usage rules and regulations required by the site provider, including privacy policies.
- f. Rules applicable to the use of Commission social media sites, as determined appropriate by the Executive Officer, must be made available to all Commission social media site users on each Commission social media site and on the Commission's website.

#### 2.16.4. Content Standards and Guidelines:

- a. Any employee authorized by the Executive Officer to post items on Commission social media sites must review, be familiar with, and comply with the social media site's use policies and terms and conditions.
- b. Any employee authorized by the Executive Officer to post items on Commission social media sites must not express his or her own personal views or concerns through such postings. Postings on Commission social media sites by an authorized Commission employee must only present factual information regarding the Commission's policies and programs.

- c. Content posted to Commission social media sites should contain hyperlinks directing users to the Commission's official website for in-depth information, forms, documents or online services whenever possible.
- d. Postings may be made primarily during normal business hours. After-hours or weekend postings may be made when the news or information is relevant to an event or activity occurring, or as otherwise authorized by the Executive Officer.
- e. Postings must not contain information that is confidential as defined by any Commission policy, state law, or federal law.
- f. Postings must not contain any employee's personal information, except for the names of employees whose job duties include being available for contact by the public.

2.16.5. Comment Guidelines:

- a. Commission social media sites are intended to disseminate information and direct viewers to more in-depth information or resources on the Commission's website. Commission social media sites are not intended to provide a public forum for comments or discussion by the public.
- b. The Commission reserves the right to implement or remove any functionality of Commission social media sites, when directed by the Executive Officer. This includes, but is not limited to, the posting of information, articles, pictures, videos, comments, or any other form of communication in Commission social media sites.
- c. The Commission will continue to encourage members of the public to contact the Commission directly via phone, email or in person with questions or concerns related to Commission business. Commission social media sites will provide the public with instructions on contacting the Commission via phone, email or website.

## CHAPTER 3

### Procedures

The following is a general step-by-step guide to the basic procedures followed by San Luis Obispo LAFCO in considering proposed changes in local government organization. More detailed procedures can be found in the CKH Act and “A Guide to LAFCO Procedures for City and Special Districts Change of Organization and Reorganization” which are incorporated by reference into this policy document. All references in this section are to the Government Code unless otherwise specified.

### 3.1 Preliminary Steps

3.1.1. The four LAFCO application packets provide extensive details on submittal requirements. The four specific applications are 1) Change of Organization – Landowner Petition 2) Change of Organization – Resolution of Agency Application 3) Sphere of Influence Amendment – Includes proposals by both landowner or by resolution of agency application 4) Outside Agency Agreement – may be initiated by landowner or agency. Even though there are 4 separate applications, due to the different submittal requirements specified in CKH, the most critical distinction is whether it was submitted through a Resolution of Application or a Landowner Petition of Application. A pre-application is encouraged because it can help to expedite processing time, but this step is not required. The following are the general steps of the process for Resolution of Application and Landowner Petition of Application:

#### General Step by Step Process – Resolution of Application Route

1. Applicant Gathers Application Materials and Meets with Staff for a Pre-Application Meeting
2. Applicant Submits Their Application to LAFCO Through Resolution of Application
3. LAFCO Review Period Begins
4. Property Tax Negotiations between the County & Affected Agency (not applicable to Activation/ Divestiture of Power)
5. 30-Day Review – Information Hold Letter or Deemed Sufficient for Filing

6. Certificate of Filing stating when the item will be taken to the Commission
7. LAFCO Hearing. LAFCO has the authority to approve, conditionally approve or deny a proposal.
8. 30-Day Reconsideration Period
9. If Conducting Authority (Protest) Proceedings are not waived then LAFCO will conduct the protest pursuant to Part 3, Section 57000 et seq. of the Cortese-Knox-Hertzberg Act
10. Notification of Commission Action Form
11. After Condition Compliance a Certificate of Completion shall be filed with the Clerk Recorder
12. Filing With the State Board of Equalization (not applicable to Activation/ Divestiture of Power)
13. Final Notice of Completion with Affected Agencies / Interested Parties
14. LAFCO GIS Boundary Updates

General Step by Step Process – Petition of Application Route

1. When applicable, before circulating any petition for change of organization, the Applicant shall file a notice of intention with the Executive Officer.
2. Applicant Gathers Application Materials and Meets with Staff for a Pre-Application Meeting
3. Applicant Submits Their Application to LAFCO Through Petition of Application
4. LAFCO Review Period Begins
5. Notice To Commission at Next Available Commission Meeting for Applications Not Filed by Agency
6. Property Tax Negotiations between the County & Affected Agency (not applicable Activation/ Divestiture of Power)
7. 30-Day Review – Information Hold Letter or Deemed Sufficient for Filing
8. Certificate of Filing stating when the item will be taken to the Commission
9. LAFCO Hearing. LAFCO has the authority to approve, conditionally approve or deny a proposal.

10. 30-Day Reconsideration Period
11. If Conducting Authority (Protest) Proceedings are not waived then LAFCO will conduct the protest pursuant to Part 3, Section 57000 et seq. of the Cortese-Knox-Hertzberg Act
12. Notification of Commission Action Form
13. After Condition Compliance a Certificate of Completion shall be filed with the Clerk Recorder
14. Filing With the State Board of Equalization (not applicable Activation/ Divestiture of Power)
15. Final Notice of Completion with Affected Agencies / Interested Parties
16. LAFCO GIS Boundary Updates

~~Proponent reviews proposal with LAFCO staff. Although this step is not required, a brief discussion with LAFCO staff before application submittal could save the proponent time. These following steps are suggested:~~

- ~~a. Call for an appointment.~~
- ~~b. Submit the following information:
  - ~~i. Assessor's parcel numbers (APNs) for individual lots or project maps for complex proposals.~~
  - ~~ii. General plan and zoning designations.~~
  - ~~iii. Development plans, if applicable. LAFCO generally requires approved development plans, such as tentative maps, specific plans, etc., when vacant territory is proposed for annexation to a municipality or district. A key consideration of LAFCO's review of annexation requests is the timing of the action. LAFCO discourages the annexation of vacant land until it can be demonstrated that services are required. Approved development plans also provide the information necessary to evaluate a proposal. The plans show what land uses are planned, the level of services required, how services will be provided, and the conditions under which service will be extended. They also enable LAFCO to evaluate the impact of a jurisdictional change on adjacent areas.~~~~

- ~~c. LAFCO staff will review procedures, information requirements, and fees.~~
- ~~d. Proponent should obtain application forms and ascertain what environmental documentation will be necessary.~~

~~3.1.2. Proponent prepares application material for proposal. More complex proposals may need additional information, but all proposals must include the following:~~

- ~~a. A certified resolution or petition of landowners/registered voters making the application. A petition or resolution of application shall include all of the following (56700):~~
  - ~~i. State that the proposal is made pursuant to the CKH Act.~~
  - ~~ii. State the nature of the proposal and list all proposed changes of organization.~~
  - ~~iii. Set forth a legal description of the boundaries of the affected territory accompanied by a map showing the boundaries.~~
  - ~~iv. Set forth any proposed terms and conditions.~~
  - ~~v. State the reason(s) for the proposal.~~
  - ~~vi. State whether the petition is signed by registered voters or landowner(s). (Not applicable to a resolution of application.)~~
  - ~~vii. Designate not more than three persons as chief petitioners, setting forth their names and mailing addresses. (Not applicable to a resolution of application.)~~
  - ~~viii. State whether the proposal is consistent with the spheres of influence of any affected municipality or district.~~
  - ~~ix. Request that proceedings be taken for the proposal pursuant to this part.~~
  - ~~x. A resolution of application shall include a plan for services prepared according to CKH 56653.~~
- ~~b. One copy of a metes and bounds legal description of the perimeter of the subject proposal and a surveyed map that is consistent with the State's Tax and Fee Administration's requirements. A minimum of three copies should be provided and additional maps as requested.~~
- ~~c. Two copies of a vicinity map of the subject property~~

- ~~d. One copy of any environmental documents (pursuant to CEQA) associated with the proposal if, however, an environmental impact report (EIR) associated with the subject proposal was prepared, 15 hard copies of the certified EIR must be submitted with the application along with one digital copy. Only one copy of the EIR appendices is required.~~
- ~~e. One large scale topographical map of the subject property and a clear 8.5 by 11 inch map of the property.~~
- ~~f. If the proposal includes annexation to a municipality, indicate that the annexing municipality has rezoned the property, such as a city council resolution approving the rezoning.~~
- ~~g. Processing fees.~~

3.1.3. As with other public agencies, San Luis Obispo LAFCO is required to comply with the California Environmental Quality Act (CEQA) for purposes of considering the environmental impact of its actions. Each proposal must receive the appropriate environmental review for consideration by the Commission in making its decision. For a detailed discussion of environmental requirements, please refer to Section IV of these Guidelines.

## 3.2 LAFCO Proceedings

3.2.1. Proponent delivers a complete application to the LAFCO Executive Officer (Section 56652).

3.2.2. The LAFCO Executive Officer determines if:

- a. The application is sufficient as required by law and issues a determination on its sufficiency within 30 days of submittal.
- b. If LAFCO is to be the lead agency, then the environmental review is undertaken by LAFCO.
- c. A satisfactory exchange of property tax has taken place. Master property tax agreements may be applicable or separate property tax exchange resolutions may be required. If negotiations leading to adoption of separate resolutions are required, either the County or any affected municipality must agree to a tax exchange, or the County

negotiates a property tax exchange on behalf of any Special District (Revenue and Taxation Code Section 99).

- 3.2.3. The LAFCO Executive Officer reviews the proposal within 30 days of its receipt and either:
- a. Determines that the application is complete (if all required property tax agreements are on file) and issues a Certificate of Filing and sets the Commission hearing within 90 days; or
  - b. Determines that the application is not complete and notifies the proponent (56658).
- 3.2.4. The LAFCO Executive Officer requests review of any information for the proposal from affected County Departments, affected agencies, and other affected counties' LAFCOs (56378).
- 3.2.5. Proponents and/or LAFCO staff provides for a meeting with affected residents or landowners to give information and receive comments on the proposal (optional).
- 3.2.6. The LAFCO Executive Officer, at least 21 days prior to the date set for hearing, gives notice by:
- a. Publication in a newspaper of general circulation;
  - b. Posting near the door of the hearing room; and
  - c. Mailing/Emailing to each affected agency which contains territory or whose sphere of influence contains territory within the proposal, chief petitioner(s), persons requesting notice, each municipality within three miles, and the County in the case of incorporation or formation.
  - d. Posting on the LAFCO website at [slo.lafco.ca.gov](http://slo.lafco.ca.gov) ~~www.slolafco.com~~.
  - e. For proposals requiring a public hearing, mailing to each registered voter and landowner within the affected territory and within 300 feet of the exterior boundary of the property that is the subject of the hearing. (This requirement may be waived if individual notices have already been provided by the initiating agency.) If this would require that more than 1,000 notices should be mailed, notice may be provided pursuant to Section 56157.

- f. Note: Some Commission actions can be made without a noticed hearing, such as annexations and detachments with written consent of all landowners. Notice and opportunity to request a public hearing must be given to agencies whose boundaries are affected (56662 & 56663).

3.2.7. The LAFCO Executive Officer reviews the application and any comments received and prepare the written report and recommendation. The report reviews pertinent factors and policies, spheres of influence, and general and specific plans.

3.2.8. The Executive Officer shall furnish copies of ~~mails~~ the report at least five days prior to the hearing to each Commissioner, each person named in the application to receive a report, each affected local agency requesting a report, each agency whose boundaries or spheres of influence will be changed, and the Executive Officer of the LAFCOs of any other affected county (56665).

3.2.9. The Commission hears the proposal on the noticed date and time. The hearing may be continued for up to 70 days. The Commission must consider a number of factors and policies in compliance with state law. Among the factors considered by the San Luis Obispo LAFCO in making its determination are (56668):

- a. Population, density, land area and land use, assessed valuation, topography, natural boundaries, drainage basins, proximity to populated areas, likelihood of significant growth during the next ten years.
- b. Need for organized community services, present cost and adequacy of government services and controls, probable future needs, probable effect of change of organization and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas.
- c. The effect of the proposed action or alternative actions on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the County.

- d. Conformity of the proposal to Commission policies on providing planned, orderly, efficient patterns of urban development, and with state policies and priorities on conversion of open space uses.
- e. Effect of the proposal on maintaining the physical and economic integrity of lands in an agricultural preserve in open space uses.
- f. Definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment and ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.
- g. A regional transportation plan adopted pursuant to Section 65080 and consistency with appropriate City or County general and specific plans.
- h. The proposal's consistency with city or county general and specific plans.
- i. The Sphere of Influence of any agency which may be applicable to the proposal being reviewed.
- j. Comments of any affected local agency or other public agency.
- k. The ability of the newly formed or receiving entity to provide the services which are the subject of the application, including the sufficiency of revenues for those services following the proposed boundary change.
- l. Timely availability of water supplies adequate for projected needs as specified in Section 65352.5.
- m. The extent to which the proposal will assist the receiving entity in achieving its fair share of the regional housing needs as determined by the Council of Governments (COG).
- n. Any information or comments from the landowner or owners.
- o. Any information relating to existing land use.
- p. The extent to which the proposal promotes environmental justice as defined in the CKH Act
- q. Information contained in a local hazard mitigation plan, information contained in a safety element of a general plan, and any maps that identify land as a very high fire hazard zone pursuant to Section 51178 or maps that identify land determined to be in a

state responsibility area pursuant to Section 4102 of the Public Resources Code, if it is determined that such information is relevant to the area that is the subject of the proposal.

3.2.10. At the hearing or within 35 days of the hearing, the Commission will adopt a resolution of determination taking the following actions:

- a. Approve or deny with or without conditions or revisions to the proposal. If denied, no new proposal can be made for one year unless waived by LAFCO. If the proposal included incorporation or consolidation of a municipality, no new proposal can be made for two years unless waived by LAFCO (57090);
- b. Determine if the territory is inhabited or uninhabited (inhabited territory means territory within which there reside 12 or more registered voters);
- c. Designating the Executive Officer as the Conducting Authority (56029);
- d. Assign a short-term designation; and
- e. Authorize proceedings without notice, hearing, or an election if there is 100% consent and only annexations, detachments, and CSA formations.

3.2.11. The LAFCO Executive Officer sends the Commission's resolution to the proponents, if any, and each agency whose boundaries will be changed by the proposal (56882). In the case of uninhabited territory, the Commission may waive conducting authority proceedings entirely if all of the following conditions apply (56663):

- a. The owners of land (100%) that will gain or lose territory as a result of the change of organization or reorganization have consented in writing to a waiver of conducting authority proceedings.
- b. No agency has submitted written opposition to a waiver of protest proceedings.

3.2.12. In the case of inhabited city and district annexations or detachments, or both, the Commission may waive protest proceedings pursuant to Part 4 (commencing with Section 57000) entirely if both of the following conditions apply:

- a. The Commission has provided written notice of Commission proceedings to all registered voters and landowners within the affected territory and no opposition from registered voters or landowners within the affected territory is received prior to or during the Commission's meeting. The written notice shall disclose to the registered voters and landowners that unless opposition is expressed regarding the proposal or the Commission's intention to waive protest proceedings, that there will be no subsequent protest and election proceedings; and
- b. No affected local agencies have submitted written opposition to a waiver of protest proceedings.

### 3.3 Conducting Authority Proceedings

- 3.3.1. If Conducting Authority Proceedings are not waived, LAFCO (the EO) sets the proposal for protest hearing within 35 days of the Commission's resolution date and gives notice. If authorized by the Commission, the protest hearing may be held without notice and hearing.
- 3.3.2. The date of the hearing shall not be less than 21 days nor more than 60 days after the date the notice is given and shall be:
  - a. Published in a newspaper of general circulation;
  - b. Posted near the hearing room door; and
  - c. Mailed to each affected agency which contains territory or whose sphere of influence contains territory within the proposal, the Executive Officers of other affected LAFCOs, chief petitioners if any, persons requesting notice, and landowners within territory to be formed into or annexed to or detached (57001, 57002 and 57025).
- 3.3.3. The Executive Officer hears the proposal at the noticed time and date. The hearing may be continued for up to 60 days. Any written protests must be filed with the Executive Officer or Commission prior to the conclusion of the hearing and must be signed, have the signature date, and address or location of the property. The value of written protests must be determined, and

action taken by LAFCO resolution to order the change, with or without an election, or terminate proceedings.

3.3.4. The Executive Officer shall perform all Conducting Authority Proceedings in accordance with the provisions of the CKH Act.

3.3.5. The Commission delegates to the Executive Officer the authority to act on matters related to the implementation of the Conducting Authority responsibilities as applicable and appropriate.

### **3.4 Completion and Effective Date**

3.4.1. Immediately after completion of proceedings ordering a change of organization or reorganization without an election, conditions or confirming an order of a change of organization or reorganization after an election, the Executive Officer prepares a Certificate of Completion and makes the required filings (57200).

3.4.2. The Certificate of Completion is recorded with the County Recorder. If no effective date is specified in the Commission resolution, the recordation date is the effective date. A Statement of Boundary Change or Creation is issued by the Executive Officer and filed, with the appropriate fees, with the State Board of Equalization and County Assessor (57202, 57203, 57204). Property tax resolutions, if any, are forwarded to the County Auditor for property tax transfer (Revenue and Taxation Code, Section 99).

3.4.3. The Executive Officer distributes the Certificate of Completion to agencies whose boundaries are affected and affected County Departments. A Certificate of Completion may be filed after any adopted conditions of approval are met by the proponent.

3.4.4. The affected agencies recognize completion and implementation of the jurisdictional change, with regard to Property and sales tax transfers, police and fire protection responsibilities, planning and inspection controls, and other services.

### 3.5 Municipal Service Review Guidelines

The following questions are designated to help agencies and LAFCO compile information needed to complete municipal service reviews. Questions and Information sources will vary depending upon jurisdictions. Answers to these questions will be used by LAFCO to prepare service reviews and will be used to update jurisdictions' spheres of influence.

#### 3.5.1 Growth and Population projections for the affected area.

- a. How does the projected growth of the proposed sphere of influence areas compare with present County land use designations?
- b. How have surrounding County land use patterns evolved and what impacts have they caused on infrastructure, e.g., roads, water, sewer, fire, police?
- c. Will changes as proposed in the sphere of influence increase pressure to develop surrounding County lands causing an increase in growth potential?
- d. Information Sources: City and County general plans, EIRS, US Census website, State Department of Finance, planning departments, Council of Governments, and economic reports.

#### 3.5.2 For an update of an SOI of a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection, the present and probable need for those public facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.

Disadvantaged unincorporated communities, or "DUCs," are inhabited territories (containing 12 or more registered voters) where the annual median household income is less than 80 percent of the statewide annual median household income.

- a. Does the subject agency provide public services related to sewers, municipal and industrial water, or structural fire protection?

- b. Are there any “inhabited unincorporated communities” within or adjacent to the subject agency’s sphere of influence that are considered “disadvantaged” (80% or less of the statewide median household income)?
- c. Information Sources: City and County general plans, US Census, California Rural Legal Assistance, and Council of Governments reports.

3.5.3 Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies.

- a. Are the jurisdiction’s water resources and facilities adequate to serve the area in the existing boundaries? What about future growth or expansions?
- b. What is the jurisdiction’s current status with regard to wastewater collection, treatment, and disposal? What are the plans for the future?
- c. What is the present condition of the streets, roads, and circulation? Where are the problem areas and what are the future needs and plans?
- d. Does the jurisdiction have adequate police and fire resources to meet the existing needs of the community? What about future needs?
- e. Information Sources: Water master plans, urban water management plans, Department of Water Resources annual reports, wastewater master plans, general plans, EIRs, circulation elements, regional transportation plans and EIRs, capital improvement plans, Insurance Service Office (ISO) ratings, police and fire department websites, questionnaires, and interviews.

3.5.4 Financial ability of agencies to provide services.

- a. What is the current fiscal status of the jurisdiction? What are the indicators?
- b. Will the fiscal impacts of the proposed changes to the sphere of influence be greater or lesser than the fiscal benefits?
- c. Does the jurisdiction have financial reserves? If so, what percentage of the general fund do their reserves represent?

- d. How will the jurisdiction fund needed capital improvement projects, i.e., bonds, loans, other?
- e. How does the jurisdiction analyze and establish rates and fees?
- f. How will the sphere of influence action impact the rates and fees within the jurisdiction?
- g. How will the sphere of influence territories pay their share of the jurisdictions' costs for services?
- h. Information Sources: Budgets for the last three years, city managers, state and city annual reports, Department of Finance, retail sales and transient occupancy tax (TOT), city fiscal policies, development impact fee information, debt information, joint-financing efforts, and UCSB Economic Report, Budget processes, special purchasing contracts, bidding policies, service studies, and interviews rates and fees studies, EIRs, cost-of-service studies, and rates and fees policies.

3.5.5 Status of, and opportunity for, shared facilities.

- a. Does the jurisdiction share facilities with other agencies?
- b. Has either the jurisdiction or County suggested sharing facilities in the SOI/Annexation areas?
- c. Are there presently any shared relationships for services between agencies in the sphere of influence areas? Are there opportunities for sharing in the future?
- d. Is there any or will there be any duplication of facilities in the sphere of influence area?
- e. Information Sources: Capital improvement plans, shared road construction plans, open space preservation plans, City and County recreational facilities, and shared water storage and distribution facilities.

3.5.6 Accountability for community service needs including governmental structure and operational efficiencies.

- a. Does the jurisdiction strive to involve the public in decision-making?
- b. Does the jurisdiction facilitate local media coverage and public information programs?
- c. Are elected and appointed representatives accessible and attentive to their constituents?

- d. Are annual budget and audit reports available to the public?
- e. Does the jurisdiction have the administrative capacity to assume expanded responsibilities over the SOI areas without decreasing existing services?
- f. Does the jurisdiction have a customer-oriented service philosophy, including written goals and mission statements, master services plans, customer outreach programs, and an active quality control program?
- g. Does the jurisdiction maintain capital improvement programs and enterprise fund management plans?
- h. Does the jurisdiction maintain sound accounting principles and best practice fiscal management programs?
- i. Does the Jurisdiction have a reasonably good record of safety, environmental and permit compliance?
- j. How will services to the sphere of influence areas be enhanced by the jurisdiction?
- k. Will services to the sphere of influence areas proposed for exclusion be enhanced, decreased, or remain the same?
- l. Will opportunities for public participation in the development review process be enhanced in the jurisdiction or the County for the SOI areas?
- m. Information Sources: Interviews, websites, public involvement policies, public information programs, customer complaint processes, customer surveys, budgets for the last three years, city managers, state and city annual reports, fiscal management policies, and indicator reports.

3.5.7 Any other matter related to effective or efficient service delivery, as required by commission policy.

### **3.6 Agricultural Goals & Guidelines**

The Cortese-Knox-Hertzberg Act strongly encourages the preservation of prime agriculture land. LAFCO's mission is to discourage urban sprawl, preserve open space and prime agricultural lands, promote the efficient provision of government services and encourage the orderly formation of local

agencies. In general terms, San Luis Obispo LAFCO's current policy base discourages premature conversion of agricultural lands, guides development away from existing agricultural lands and encourages the development of existing vacant lands within city boundaries prior to conversion of additional agricultural lands. The CKH Act clarified the many factors that LAFCOs must consider and balance in making decisions:

"The Legislature recognizes that the logical formation and determination of local agency boundaries is an important factor in promoting orderly development and in balancing that development with the sometimes competing state interests of discouraging urban sprawl, preserving open-space and prime agriculture lands, and efficiently extending government services."

The written goals, policies, and guidelines in this document express LAFCO's intent to more specifically address the preservation of agricultural land, consistent with current policies and LAFCO's mandate. LAFCO must consider the effect that any proposal may produce on existing agricultural lands. This is balanced with the need to ensure orderly development and the efficient provision of services to certain areas. By guiding development toward urban areas and away from agricultural land, LAFCO helps to preserve important and valuable agricultural resources.

**Definitions.** Several terms are important in understanding agricultural resources. These terms and definitions are found below and are applicable throughout these policies. The Cortese-Knox-Hertzberg Act has a definition for agricultural land and prime agricultural lands that may include lands other than class one or two soil classification.

**56016.** *"Agricultural lands" means land currently used for the purpose of producing an agricultural commodity for commercial purposes, land left fallow under a crop rotational program, or land enrolled in an agricultural subsidy or set-aside program.*

**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 Story 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 Range and Pasture Handbook, Revision 1, December 2003, 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.

The Cortese-Knox-Hertzberg Act further describes the intent of the legislation with regard to agricultural resources in Government Code section 56377, which states:

**56377.** In 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.*

Government Code Section 56377 has been used by LAFCOs as the basis for developing more specific policies that address local circumstances and conditions.

### **Guidelines**

Guidelines provide further direction regarding the application of the goals and policies but are more flexible giving LAFCO more discretion in application. These guidelines are used to advise and assist the public, agencies, property owners, farmers and other stakeholders with regard to LAFCO's expectations in reviewing a proposal that involves agricultural resources.

- 3.6.1. Applications submitted to LAFCO involving agricultural resources shall include analysis that evaluates the potential impacts (direct and indirect) of the proposal on agricultural resources. The California Environmental Quality Act (CEQA) analysis for a proposal shall

evaluate the impacts affecting agricultural resources. At a minimum the following topics should be addressed:

- a. Detailed analysis of direct and indirect impacts on agricultural resources of the site and surrounding area
- b. Potential diversion, availability and use of water that could impact agricultural lands or operations
- c. A detailed description of the agricultural resource that is affected, including but not limited to soil types, existing and potential productivity, and surrounding land uses
- d. Use of transfer of development credits programs and purchase of development credits for the preservation of agricultural land and other approved programs
- e. Analysis of mitigation measures that could offset impacts
- f. Consultation with the County Agricultural Commissioners office
- g. Williamson Act, Agricultural Easements, and other preservation programs
- h. Urban Reserve Lines, Urban Limit Boundaries and Spheres of Influence
- i. County and City General Plan Policies

3.6.2. Consider including agricultural land as defined in the Cortese-Knox-Hertzberg Act into a Sphere of Influence if the following factors are addressed:

- a. Potential impacts of the conversion of the prime agricultural land
- b. Future capability of farming activities for the site and surrounding area
- c. Existing and potential productivity of the prime agricultural land
- d. Land Preservation status: Williamson Act, easements, etc.
- e. Growth patterns in the surrounding area
- f. General Plan Policies and Standards
- g. Other relevant issues, such as potential impacts on agricultural tourism

- 3.6.3. Consider approval of proposals that convert agricultural land when the Commission finds that the proposal will lead to planned, orderly, and efficient development. A proposal leads to the planned, orderly, and efficient development if all of the following criteria are met:
- a. The land subject to the change of organization or reorganization is contiguous either to lands developed with an urban use or to lands which have received all discretionary approvals for urban development.
  - b. The proposed development of the subject lands is consistent with the Sphere of Influence of the affected agency or agencies.
  - c. The land subject to the change of organization is likely to be developed within five years.
- 3.6.4. If a LAFCO proposal involves a loss of prime agricultural lands, property owners, Cities, the County, Special Districts, Community Advisory Councils, Resource Conservation Districts, and agricultural conservation agencies should work together as early in the process as possible to adequately mitigate the impacts.
- 3.6.5. Detachment of prime agricultural lands and other open space lands should be encouraged if consistent with the Sphere of Influence for that agency.
- 3.6.6. The following factors should be considered for an annexation of prime agricultural and open space lands:
- a. The proponent of the annexation should provide a land use inventory of the jurisdiction that indicates the amount of available land within the subject jurisdiction for the proposed land use.
  - b. Evaluation of effective measures to mitigate the loss of agricultural lands, and to preserve adjoining lands for agricultural use to prevent their premature conversion to other uses. Such measures may include, but need not be limited to:

- i. Acquisition and dedication of farmland, development rights, open space and agricultural conservation easements to permanently protect adjacent and other agricultural lands within the county
  - ii. Participation in other development programs that direct development toward urban areas (such as transfer or purchase of development credits)
  - iii. Payments to responsible recognized government and non-profit organizations for the purpose of preserving agricultural lands;
  - iv. Establishment of buffers to protect adjacent agricultural operations from the effects of development
- 3.6.7. Annexation for land uses in conflict with an existing agricultural preserve contract shall be prohibited, unless the Commission finds that it meets all the following criteria:
- a. The area is within the annexing agency's Sphere of Influence.
  - b. The Commission makes findings required by Government Code Section 56856.5.
  - c. The parcel is included in an approved city specific plan.
  - d. The soil is not categorized as prime.
  - e. Mitigation for the loss of agricultural land has been secured in the form of agricultural easements to the satisfaction of the annexing agency and the County.
  - f. There is a pending, or approved, cancellation for the property that has been reviewed by the local jurisdictions and the Department of Conservation.
  - g. The Williamson Act contract on the property has not been renewed and final approval of the non-renewal has been granted.

## CHAPTER 4

### Bylaws

#### OF THE LOCAL AGENCY FORMATION COMMISSION COUNTY OF SAN LUIS OBISPO

~~Revised January 17, 2002, August 16, 2007, April 2016, and April 2020~~

### ARTICLE I - GENERAL PROVISIONS

These rules and bylaws shall apply to the Local Agency Formation Commission of the County of San Luis Obispo (henceforth "Commission") and are adopted pursuant to the authority vested in the Commission by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Part I, commencing with Section 56000 of the Government Code.

### ARTICLE II – ORGANIZATION

**SECTION I: Composition.** The Commission shall consist of seven (7) members selected as follows:

- a. Two (2) appointed by the Board of Supervisors from their own membership. The Board of Supervisors shall appoint a third (3rd) Supervisor who shall be an alternate member of the Commission. The alternate member may serve and vote in place of any Supervisor on the Commission who is absent or who disqualifies himself or herself from participating in a meeting of the Commission.
- b. Two (2) selected by the cities in the County, each of whom shall be a mayor or council member, appointed by the City Selection Committee. The City Selection Committee is encouraged to select members to fairly represent the diversity of the cities in the county, with respect to population and geography. The City Selection Committee shall also designate one (1) alternate member to the Commission in the same manner as it appoints a regular member. The alternate member shall also be a mayor or council member. If one of the regular City members is absent from a Commission meeting or disqualifies himself or herself from participating in a meeting, the alternate member may serve and vote in place of that regular City member for that meeting of the Commission.

- c. Two (2) presiding officers or members of legislative bodies of independent Special Districts, selected by the independent Special District Selection Committee. The independent Special District Selection Committee is encouraged to select members to fairly represent the diversity of independent special districts in the county, with respect to population and geography. The independent Special Districts Selection Committee shall also designate a presiding officer or member of the legislative body of an independent special district as an alternate member to the Commission in the same manner as it appoints a regular member. If one of the regular Special Districts members is absent from a Commission meeting or disqualifies himself or herself from participating in a meeting, the alternate member may serve and vote in place of that regular Special District member for that meeting of the Commission. The special district members so appointed shall be elected or appointed special district officers residing in the County but shall not be members of the legislative body of a city or county.
- d. One (1) representing the general public appointed by the other six (6) members of the Commission. The Commission may also designate one alternate public member who may serve and vote in place of a regular public member who is absent or disqualifies himself or herself from participating in a meeting of the Commission. Selection of the public member and alternate public member shall be subject to the affirmative vote of at least one of the members selected by each of the appointing authorities.

**SECTION 2: Terms.** The term of office of each member shall be four (4) years and until the appointment and qualification of a successor. The expiration date of the term of office of each member shall be the last Monday in December in the year in which the term of the member expires. The Clerk shall maintain a record of the Terms.

Any member may be removed at any time and without cause by the body appointing that member. If a member who is a City, County or Special District officer ceases to be an officer of a City, County, or Special District during his/her term, that member's position on the Commission shall thereafter be considered vacant.

Any vacancy in the membership of the Commission shall be filled for the unexpired term by appointment by the body which originally appointed the member whose office has become vacant.

**SECTION 3. Independent Judgment.** While serving on the Commission, all Commission members shall exercise their independent judgment on behalf of the interests of residents, property owners, and the public as a whole. Any member appointed on behalf of local governments shall represent the interests of the public as a whole and not solely the interests of the appointing authority.

**SECTION 4. Compensation.** Non-County Commission members shall receive a per diem of \$50 per meeting. All non-County Commissions shall receive mileage reimbursement at County rates existing at the time, excluding Commissioners living within five (5) miles of the meeting place.

**SECTION 5: Officers.** A Chairperson and Vice Chairperson shall be elected at the first meeting in each year and shall serve a one (1) year and until the election of their successors or their re-election.

The Chairperson shall be the presiding officer and shall preserve order and decorum at all meetings of the Commission. In the absence of the Chairperson, the Vice Chairperson shall assume the duties and powers of the Chairperson.

In the absence of the Chairperson and Vice Chairperson at any meeting, a Chairperson Pro Tempore may be selected to assume the duties and powers of the Chairperson.

**SECTION 6: Staff.** The Commission shall appoint an Executive Officer who shall conduct and perform the day-to-day business of the Commission. If a proposal is approved by the Commission, the Executive Officer shall conduct protest proceedings in accordance with Government Code Section 57000, et seq.

The Commission shall appoint Legal Counsel to advise it. The Legal Counsel shall attend Commission meetings, provide requested advice on legal matters, and represent the Commission in legal actions.

**SECTION 7: Executive Committee.** An Executive Committee comprised of the Commission's Chairperson, Vice Chairperson, and the Immediate Past Chairperson, will meet periodically to advise the Commission on the annual budget; overall work program; and major policy issues, including

controversial or sensitive proposals. Executive Committee items for review will be selected by the Commission, after consultation with the Executive Officer. The Executive Officer and Legal Counsel shall attend all meetings of the Executive Committee.

**SECTION 8: Selection of the Public Member.** When the position of public member and/or alternate public member is vacant, the Commission may choose from any of the following options for selection of a replacement:

- a. A nominating committee selected by the Commission will interview qualified candidates and select the most qualified candidates to be interviewed and voted on by the full Commission.
- b. The Executive Committee will interview qualified candidates and select the most qualified candidates to be interview by the full Commission.
- c. The full Commission will interview all candidates and select the public member(s).

**SECTION 9: Attendance.** Each Commissioner is expected to have regular attendance. If any Commissioner misses three consecutive regular meetings without first advising the Executive Officer prior to each missed meeting, the Executive Officer will address a letter to the appointing body requesting that a replacement be appointed.

## ARTICLE III – MEETINGS

**SECTION 10: Regular Meetings.** Regular meetings of the Commission are scheduled for the third Thursdays of each month at 9:00 a.m. in the Board of Supervisors Chambers, County Government Center, San Luis Obispo, with the first Thursday being held open for special meetings.

**SECTION 11: Special Meetings.** Special meetings of the Commission may be called in the manner provided by State law. The order calling the special meeting shall specify the time and place of the meeting and the business to be transmitted and no other business shall be transmitted at that meeting.

**SECTION 12: Notice.** The Executive Officer shall direct posting and publication of notices on all meetings pursuant to State law.

**SECTION 13: Agenda.** The Executive Officer shall prepare the meeting agenda. Unless otherwise directed by the Commission, the Executive Officer shall set as many matters for hearing as can be heard.

The Executive Officer shall prepare and send copies of the staff report at least one (1) week prior to the meeting to Commissioners, proponents and all affected local agencies and any persons requesting such a report.

**SECTION 14: Quorum and Majority.** A majority (at least 4) of all members of the Commission concurs therein.

**SECTION 15: Minutes.** The Executive Officer shall cause a staff member to take and transcribe the minutes of each meeting and, whenever possible, mail copies thereof to all members prior to the next meeting. Minutes will continue to be subject to comment and objection at the following meeting before approval.

**SECTION 16: Motions.** The Chairperson or any other member of the Commission may introduce or second any motion.

**SECTION 17: Voting.**

- a. The question of approval or denial of a proposal and of all resolutions shall be by roll call vote. All other questions may be voted upon by voice vote, or may be put by the Chairperson and a unanimous vote recorded if there is no objection. A roll call vote shall be taken on any question upon demand of any member.
- b. Each roll call of the Commission shall be in alphabetical order, except that the members making and seconding the motion shall be called first and second respectively, and the Chairperson shall be called last.

- c. The alternate members qualify to vote only in lieu of the Commission membership classification they serve under.
- d. Unless otherwise provided by the City Selection Committee and the independent Special District Selection Committee in the manner required by law, a regular or alternate City or Special District member of the Commission shall be allowed the option to vote on proposals to the City or District of which such regular or alternate member is a representative.

**SECTION 18: Testimony and Argument.** The Chairperson may allocate and limit the time and scope of testimony from any interested party as necessary for the expedition of the Commission's business. Debate between members of the audience shall not be permitted.

## ARTICLE IV - COMMISSION RECORDS

**SECTION 19: Application Contents.** A formal application filed with the Commission shall be accompanied by:

- a. Petition of proponent or resolution of legislative body.
- b. Maps and legal description of the proposed boundary change in a number specified by the Executive Officer.
- c. Completed justification of proposal questionnaire.
- d. Completed environmental assessment form.
- e. For local agencies or school districts filing a resolution of application, a plan for providing services pursuant to Government Code Section 56653.
- f. Filing fee or request for a fee waiver pursuant to the Commission's adopted fee schedule.
- g. Such additional data and information, as may be required by the Executive Officer, pertaining to any of the matters or factors which may be considered by the Commission.

No proposal shall be considered by the Commission for which such required items are not received.

**SECTION 20:** Copies of Documents on File. Any interested person may request copies of any document filed in any proceeding. The Executive Officer may charge and collect a fee to cover the cost to the Commission of making any such copies and such fees shall be deposited in the County General Fund.

DRAFT

# **Attachment B**

Nipomo Community Services  
District Correspondence

---

**From:** Mario Iglesias <[Miglesias@ncsd.ca.gov](mailto:Miglesias@ncsd.ca.gov)>  
**Sent:** Thursday, June 15, 2023 7:22 AM  
**To:** Rob Fitzroy <[rfitzroy@slo.lafco.ca.gov](mailto:rfitzroy@slo.lafco.ca.gov)>  
**Cc:** Richard Malvarose <[rmalvarose@ncsd.ca.gov](mailto:rmalvarose@ncsd.ca.gov)>; Dan Gaddis <[DGaddis@ncsd.ca.gov](mailto:DGaddis@ncsd.ca.gov)>  
**Subject:** NCS D Comment: SLO LAFCO Policies and Procedures

Rob,

After reviewing the proposed update to LAFCO's Policies, Procedures, and Bylaws Manual, there is one minor, potential clarification to a part of the document that the District suggest LAFCO consider adding.

Section 3.2.2(c), which is not proposed to be changed, correctly notes that the County would typically negotiate a tax revenue exchange agreement on behalf of a special district, under Revenue and Taxation Code Section 99. However, the District is asking that you consider adding an additional sentence to take note of the Revenue and Taxation Code Section 99.01, which provides that a special district may negotiate on its own behalf when the sharing agreement would be with the County.

Thank you for the opportunity to comment on the document. If you need to discuss the above, please feel free to contact me.

Best Regards,

**Mario Iglesias**  
**General Manager**



Nipomo Community Services District  
*Serving the Community Since 1965*

148 South Wilson Street  
Nipomo, CA 93444-0326  
(805) 929-1133  
(805) 929-1932 fax  
[miglesias@ncsd.ca.gov](mailto:miglesias@ncsd.ca.gov)

**CONFIDENTIALITY NOTICE:** This email and any documents, files or previous email messages attached to it may contain information that is confidential or legally privileged and is for the sole use of the intended recipient(s). If you are not the intended recipient, do not read, print, or save this email. Any unauthorized review, use, disclosure or distribution of this email, its contents or the attachments, is strictly prohibited. If you are not the intended recipient, please contact the sender by telephone or reply email and destroy the original, any attachments and all copies without reading or saving.