LAFCO

Santa Barbara Local Agency Formation Commission
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December 10, 2026 (Agenda)

Local Agency Formation Commission
105 East Anapamu Street
Santa Barbara CA 93101

Receive and file a report regarding Isla Vista and La Purisima incorporation efforts and activities taking place

Dear Members of the Commission

RECOMMENDATION

It is recommended that the Commission receive and file a report regarding Isla Vista and La Purisima incorporation efforts and activities taking place.

DISCUSSION

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code §56000 et seq.) governs city incorporations and LAFCO proceedings. The Commission expressed interest to better understand the process and what activities are taking place regarding two incorporations within Santa Barbara County.

Leave93436.org has approached LAFCO and the Vandenberg Village Community Services District and the Mission Hills Community Services District, asking the Districts to submit a joint application to LAFCO to incorporate a new general law city, to be known as the City of La Purisima. As chief proponent of Leave93436.org representative James Lamont has contacted LAFCO regarding the necessary steps to presue incorporation. LAFCO Executive Officer attended a Vandenberg Village Community Services District meeting on October 6, 2026 to discuss the process, implications, and answer questions from the board and public should the district participate in the process.

The following summary of activities outlines what Leave93436.org has coordinated as of November 23. Leave93436 remains the proponent of the proposed City of La Purisima. Since our last report, the organization has completed its corporate setup. No Notice of Intent has been filed, and no petition circulation has begun. Neither district has adopted a Resolution of

Commissioners: Roger Aceves ◆ Craig Geyer ◆ Joan Hartmann ◆ Dorinne Johnson ◆ James Kyriaco ◆ Roy Lee ◆ Jorge Magana ◆ James Mosby ◆ Bob Nelson, Vice-Chair ◆ Alice Patino ◆ Shane Stark, Chair **Executive Officer:** Mike Prater

Application. Leave93436's next step is to keep working with both districts toward Resolutions of Application, following the process outlined. (Attachment D)

A private citizen of Isla Vista, Victor Trujillo has also inquired about becoming a chief proponent for incorporating the community of Isla Vista. At the same time and indepently of Mr. Trujillo efforts, the Isla Vista Community Services District has engaged with Berkson Associates to prepare a preliminary fiscal feasibility analysis of Isla Vista becoming a city. On March 10, 2026 the IVCSD Board authorized $40,500 toward this assessment work. The motivatation was initiated by the community's desire to improve local control over governance, public services and facilities, and planning. By becoming a city, it offers opportunities to pursue grants and other local revenues, promote economic development, and assure that important governance decisions are in the hands of a locally elected city council. These same desires have also motivated Mr. Trujillo to explore what cityhood process requires.

The following summary of activities outlines Victor Trujillo as of November 23. Mr.Trujillo has met with Jonathan Abboud, General Manager of the Isla Vista Community Services District, to discuss Isla Vista governance history, current district priorities, incorporation requirements, stakeholder considerations, and opportunities for future collaboration regarding research and community engagement. (Attachment A)

The following summary of activities outlines what IVCSD has coordinated as of November 23. IVCSD contracted with Berkson Associates in April 2026 for a preliminary comprehensive fiscal analysis. This study is currently waiting on the county data request. No application, petition or resolution of application has been started, and the IVCSD Board hasn't decided whether to pursue one. The study is meant to answer two things: whether a city could pay for the services Isla Vista needs, and whether it makes sense to bring a proposal forward. Efforts have been led by IVCSD staff with board support/direction. IVRPD has been briefed on the intent. No formal support or opposition has been given. The IVCSD General Manager has provided a summary of activities, potential boundary, services considering, and reason for potential proposal. (Attachment B).

Brief Background on Incorporation Process

Embarking on incorporation into cityhood can be a very involved process that has many specific steps that must be followed. Although the process can take significant time and money the steps are fairly straight forward. The Cortese Knox Hertzberg Act under Government Code 56000 outlines the reuirements. Below is an overview of the step-by-step process for how an incorporation process should proceed. Some of the first steps, begin by working with the County and other agencies to coordinate and understand specific needs for adequate information. A formal handout that LAFCO has developed provides greater detail of the Procedures for Processing an Incorporation Proposal (Attachment F).

In general, an application can be submitted to LAFCO for incorporation by either Petition or Resolution.

- Petition or Resolution to Initiate Incorporation (Identify a Designated Agent and up to 3 persons) Petitions are signed by registered voters or landowners wanting to incorporate. Area must include a minimum of 500 registered voters and petition signed by 25% threshold, and Resolutions are approved by an existing affected public agencies designation them as chief proponent.
- Description of Incorporation proposal– Reasons for incorporation, statement of concerns looking to address, changes to any and all public services, brief history, demographic/geographic/economic data (this is a written report)
- Proposed Incorporation maps and boundary description – Identify proposed incorporation boundaries and alternative boundaries – Proposed Incorporation map and description to be approved by County Surveyor during formal submittal process.
- Feasibility Study– Estimates potential municipal costs and revenues for desired city services
- Service Plan– Plan for providing services prepared in compliance with California Government Code §56653
- Environmental Information– (CEQA). A completed Environmental Information Form is required to facilitate LAFCO's environmental review.
- Deposit towards Pre-application costs and cost accounting agreement. ($5,500 but varies based on complexity of incorporation, formal application fees estimate additional $20,000 deposit + Surveyor Fees ($5,000)

Once all of these materials are in draft form for submittal, continued consultation with County and Affected Agencies are necessary. For the Isla Vista community these agencies include (IVCSD, IVR&P, Metro Transit Dist, GWD, GSD GWSD, MVMD, Goleta Cemetery, CRCD, County Fire, CSA 31). For La Purisma area (City of Lompoc, VVCSD, MHCSD, Lompoc Valley Medical Center, Santa Ynez River WCD, County Fire, NCL, MVMD, Lompoc Cemetery, CRCD) are all affected agencies.

Before a formal petition or Resolution of application is adopted or submitted a Notice of Intent to engage in the process must first be submitted to LAFCOs Executive Officer. This allows the detail conversation of all necessary specific content, form, and requirements to be discussed and outlines for whomever becomes the chief proponent, either private citizen or represented Board.

Under a formal application, the submittal must include full list of informational needs outline in attachment F and CKH act. These include formal Resolution of Application or Petetion, Fees ($20,000 Deposit Toward Project Cost) + Surveyor Fees ($5,000), Comprehensive Fiscal Analysis, Revenue Neutrality agreement, Initial Budget & 3-5-year estimates up to 10-yr budget potentially, CEQA Review (EIR likely), Final Service Plan, Targeted MSR-SOI, before a LAFCO hearing, and election, if approved.

LAFCO staff encourages interested parties to have as many public outreach opportunities as possible to inform the citizens and residents of the cityhood plans while moving through the early stages of the process, well before a formal application is submitted. This type of

engagement is provided by the proponents and not LAFCO, although we will assist at any gathering to help answer questions explain the process. Public comment will also be available to the public and interested persons and affected agencies to provide feedback to the Commission while they make a decision.

Conclusion. If at any time a negoitatied tax echange and revenue neutrality agreement can not be completed, no formal hearings will be held. Any chief proponents may withdrawl their application up and until issuance of a certificate of filing. Once a certificate of filing is issued, the Commission must make a decision on the application to either approve, approve with conditions, modify, or deny. All final cost associated with the processing of the incorporation application will become the responsibility of the chief proponents. If the Commission approves an incorporation of a new city, an election must be held. A majority approval of the ballot measure will decide if incorporation has passed or failed. If passed, on the same ballot, will include a list of candidates to hold City Council seats during first term of office, any new assessments or taxes necessary for cityhood.

Attachments

Attachment A – Summary of effort from Victor Trujillo

Attachment B – Summary of effort from IVCSD

Attachment C – Berkson Proposal for Isla Vista

Attachment D – Summary of effort from James Lamont

Attachment E – Vandenberg Village CSD October 6, 2026 Agenda materials

Attachment F – Procedures for Processing an Incorporation Proposal

Attachment G –Guide to the LAFCO Process for Incorportion

Please contact the LAFCO office if you have any questions.

Sincerely,

MRP

Mike Prater
Executive Officer

lafco@sblafco.org

From: victor trujillo <victrujillo1989@gmail.com>
Sent: Wednesday, November 4, 2026 3:14 PM
To: Mike's Mobile Work
Subject: Meeting with Isla Vista

Hi Mike,

I met with Jonathan Abboud, General Manager of the Isla Vista Community Services District, to discuss Isla Vista governance history, current district priorities, incorporation requirements, stakeholder considerations, and opportunities for future collaboration regarding research and community engagement.

Best regards,

Victor Trujillo

ATTACHMENT A

lafco@sblafco.org

From: Jonathan Abboud <generalmanager@islavistacsd.com>
Sent: Thursday, November 19, 2026 9:57 AM
To: lafco@sblafco.org
Cc: Sydney Castañeda
Subject: Re: IVCSD - Incorporation Discussion

Hi Mike,

The short version is that we're still studying whether a city would be feasible. No application, petition or resolution of application has been started, and the IVCSD Board hasn't decided whether to pursue one. However, we may consider moving the process ahead at our Dec 1 regular board meeting

Feasibility study:

IVCSD contracted with Berkson Associates in April 2026 for a preliminary comprehensive fiscal analysis. This study is currently waiting on the county data request.

In June we asked the County for service, cost and revenue data for Isla Vista. The CEO's office is coordinating responses from the Sheriff, Public Works, General Services, Animal Services, the Auditor-Controller and Elections. We only received the first batch of data this week, and are waiting on more. We are considering paying the county $55k to conduct the remaining data collection.

Intent:

IVCSD was formed as a step toward local self-governance, and whether Isla Vista should eventually become a city has been an open question for us the entire time.

The study is meant to answer two things: whether a city could pay for the services Isla Vista needs, and whether it makes sense to bring a proposal forward.

The reasons raised are greater representation, local decision-making over land use, control over taxes generated in IV, and pulling together services that are now split among IVCSD, IVRPD, CSA 31 and several County departments into more cohesive and efficient public services provided by a city.

Who has been involved:

So far the work has been led by IVCSD staff with board support/direction. Berkson is the consultant with data from the County, with the 2nd District and CEO’s office involved. IVRPD has been briefed on our intent. Associated Students is a funding partner on the study and a student consulting club assisted in some of the early work with Berkson.

Boundary

We're looking at two options. One is the IVCSD/IVRPD boundary (the Box), about 15,500 residents. The other is an expanded boundary that adds the UCSB campus, about 25-27,000 residents in total.

Services

Services a city would provide (In parentheses current provider):

- Land use planning, permitting and building (County)
- Code enforcement (County)
- Law enforcement (County)
- Animal Control (County)
- Roads, sidewalks and stormwater (County)
- Street lighting (now CSA 31)
- Parks and recreation (IVRPD)
- Parking management (County/IVCSD)
- Community programs and beautification (VCSD)
- Housing (County/IVCSD)
- Library (County/Goleta)

Would stay with current providers:

- Fire: County Fire
- Water: Goleta Water District
- Sewer: Goleta West Sanitary District
- Services on the UCSB campus: UCSB

Happy to talk through any of this before the Commission meeting, and I'll let you know when the revised draft is in.

_____
Jonathan A. Abboud
General Manager
Isla Vista Community Services District

Bachelor of Arts, Political Science
Master of Technology Management
University of California Santa Barbara
Cell: (310) 734-9791

On Oct 29, 2026, at 9:13 AM, lafco@sblafco.org wrote:

Hello,
Friendly reminder to get us any written information about incorporation activities to date by November 20th.

ATTACHMENT B



Berkson Associates

Urban Economics
Policy Forensics & Forecasting
Planning & Policy Analysis

PROPOSAL

ISLA VISTA

PRELIMINARY COMPREHENSIVE FISCAL ANALYSIS (PCFA)

Prepared by BERKSON ASSOCIATES

January 30, 2026

ATTACHMENT C

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ATTACHMENT A Resume for Richard Berkson

ATTACHMENT B Selected Incorporation Experience and References

Jonathan A. Abboud
General Manager, Isla Vista CSD
sent via email

January 30, 2026

Jonathan,

I appreciate the opportunity to submit this proposal to prepare a Preliminary Comprehensive Fiscal Analysis (PCFA) to evaluate the feasibility of incorporating the Isla Vista community. As with most incorporations, I understand that the effort is motivated by the community's desire to improve local control over governance, public services and facilities, and planning. A city offers opportunities to pursue grants and other local revenues, promote economic development, and assure that important governance decisions are in the hands of a locally elected city council.

In addition to preparing several dozen incorporation and reorganization feasibility studies throughout California, Berkson Associates has extensive experience in a broad range of disciplines essential to an effective incorporation study: fiscal and municipal budget analysis, forecasting, and public facilities planning. Mr. Berkson recently completed a preliminary incorporation feasibility study for the Mountain House Community Services District (MHCSD). MHCSD successfully incorporated effective July 1, 2024. He prepared the Comprehensive Fiscal Analysis (CFA) for Goleta prior to its successful incorporation. Mr. Berkson was the principal-in-charge of the Isla Vista governance options study prepared as part of the successful formation of the IVCSD.

The proposed budget shown in **SECTION 2** totals $50,500. Accrued costs are billed monthly. The PCFA will require about 3-4 months as described in **SECTION 3** of this proposal, depending on the availability and timing of data.

Please let me know if you have any questions about this proposed Scope of Work. This proposal remains valid for a period of sixty (60) days from date of submittal.

Sincerely,

Richard Berkson, Principal, BERKSON ASSOCIATES
34 Terrace Ave.
San Anselmo, CA 94960
(510) 612-6906

1. PROJECT APPROACH & SCOPE OF WORK

The Preliminary Comprehensive Fiscal Analysis (PCFA) will help to guide a "go/no-go" decision about incorporation by providing an objective, transparent and well-documented analysis of fiscal feasibility and other incorporation issues such as County impacts and revenue neutrality payments. The implications of various assumptions will be described, for example, future revenues contingent on city economic development activities, transition and provision of services, and boundary options.

The objective of the PCFA feasibility analysis is to compare the costs facing a new city to its potential revenues to assure sustainable balanced budgets, adequate reserves and continuation (and improvement) of services levels. A key element of the analysis is to estimate the amount of property taxes transferred from the County based on County costs to IV. The PCFA also will determine revenue neutrality amounts, if any, that the city would owe for financial impacts on the County or other public agencies. The study will identify factors that will influence its viability (e.g., property tax, special district consolidation, and service options).

BERKSON ASSOCIATES will prepare a clearly written, easily understood report that will assist the Isla Vista community and its residents in their decision process and will help LAFCO in the subsequent CFA preparation if an application moves forward.

TASK 1: PROJECT INITIATION

BERKSON ASSOCIATES will schedule a kick-off meeting with the Client to occur within approximately two to three weeks of receiving signed authorization to proceed. The purpose of the meeting is to review and discuss:

- Scope of Work and timeline
- Issues, concerns and objectives
- Available information and documents, sources, and key contacts
- Project description, including the boundary to be evaluated
- Roads, parks and other public facilities that may be transferred from the County to the City
- Potential boundary alternatives (if any); the PCFA will analyze one boundary, but can describe alternatives and their implications
- Known service and facility needs
- Future meetings and communication protocols
- Role and tasks of CSD staff and interns

TASK 2: DATA COLLECTION AND REVIEW

BERKSON ASSOCIATES will review available data from **Task 1** provided by the Client and conduct additional research as necessary. This research may involve coordination with the CSD and the County.

Key items to be compiled and reviewed include:

- County property tax data for the proposed boundary area (e.g., assessed value, property tax, and tax increment factors for all agencies by tax rate area)
- Other County revenues from the area (e.g., hotel tax, sales tax)
- County services and costs (e.g. road miles and maintenance costs, parks and landscaping, sheriff services and costs including water rescue, if any)
- Santa Barbara County General Plan, budgets, budget forecasts, financial audits, capital improvement plans, cost of service studies, and other relevant documents including plans, programs and agreements
- IVCSD and IVRPD documents (budgets, audits, etc.)
- Historic growth patterns and any available projections and planned/pending projects
- Maps and descriptions of other agencies and service providers including budgets and key documents (e.g., IVRPD)
- Budgets of reference cities (to be determined in consultation with the Client)
- Isla Vista Municipal Service Reviews (MSRs) and County documents and studies
- Housing plans and regional housing allocations

Data will be requested from the County. If information is unavailable from the County, other sources and estimates will be utilized. For example, it may be necessary to purchase data from private vendors related to hotel revenues. The U.S. Census provides estimates of taxable sales if more precise information from the County cannot be obtained.

TASK 3: COST AND REVENUE FORECAST

The PCFA will include a projected budget for the new city. The incorporation budget analysis will estimate initial startup and ongoing operations for a period of five years including the transition year. The report will identify any significant factors affecting costs and revenues. Longer-term issues and opportunities will be described.

The budget will be based on a review of other reference cities to provide a baseline reference. The reference cities are to be determined but will include the City of Goleta; although Goleta is larger than Isla Vista, it is a relatively new city subject to a revenue neutrality agreement with the County and receives some contract services from the County. Goleta costs and revenues will be adjusted as necessary to reflect Isla Vista circumstances and differences. Other reference cities may include Carpenteria, a city in Santa Barbara County similar in size to Isla Vista.

Generally, no change in current levels of service provided by the County will be assumed in the PCFA except as required for new city functions, or as may be financially supportable by net surpluses. To the extent that the City generates net surpluses, the PCFA will describe how these revenues would be available for increased reserves, capital improvements, tax rate reductions, and/or improvements in services.

Existing districts serving the community will be reviewed to identify those districts that may be candidates for reorganization and management by the new City, for example the Isla Vista Park and Recreation District.

3.1 Municipal Services Plan

The analysis will be based on a Municipal Services Plan. The Plan will be constructed from current services provided by the County and additional services required and/or typical of reference cities, (see **Task 3.8**).

The PCFA will describe a basic staffing plan consistent with current levels of service which could be affordable given the City's potential revenues and neutrality obligations to the County (if any).

Options for integrating other districts, e.g., IVPRD, as a department or subsidiary district will be considered.

3.2 Revenue Estimates

City revenues will be estimated based on actual revenues currently received by the County from Isla Vista (if available), comparisons to reference cities, per capita estimates, or other formula.

If actual revenue data is unavailable, the PCFA will describe the sources and uncertainties of each revenue estimate. If the incorporation process moves forward, LAFCO can require public agencies to respond to data requests.

Property Tax – Property tax is based on an exchange determined by statutory formula (see **Task 3.3**) and initially is independent of the magnitude of local assessed value. The property tax exchange will determine the city's property taxes and also determine its share of future property tax growth.

Hotel Tax (TOT) – The PCFA will assume that the new City adopts a TOT comparable to the current County rate. Estimates of the city's TOT will be based on current TOT collected by the County if data is available. If TOT amounts are unavailable, estimates may require a survey of hotels and/or purchase of commercially available hotel data.

Sales Tax – The PCFA will assume taxable sales from the area that currently are received by the County. Estimates may require use of adjusted County averages if actual data for the area is unavailable from

the County, and/or averages received by reference cities. The U.S. Census also provides estimates of taxable sales.

Utility Users Tax – Existing IVCSD rates will be assumed to continue with the new city.

Franchise Fees – The new city will receive franchise fees from various utilities at rates similar to the County. Estimates may require use of adjusted County averages if actual data for the area is unavailable from the County, and/or by using reference cities averages.

Road-related Revenues – The new city will receive a share of State-allocated gas taxes and other road-related revenues including County and regional sales taxes. Estimates may require use of adjusted County averages and/or averages received by reference cities.

Assessments – Assessment districts, if any, will be assumed to continue providing current services at current and planned rates, independent of the city.

Other Revenues – Other revenues (e.g., fees and charges, fines and penalties) will be based on existing County averages and per-resident estimates from reference cities.

Revenues of Other Districts – Other districts will be reviewed for potential reorganization with the City and their contribution of a share of revenues towards City staff and overhead.

3.3 Property Tax Transfer

State statutes determine the re-distribution of property tax from the County to the city based on an "Auditor's Ratio". The County Auditor's determination of the ratio of property tax to total County general purpose revenues. This ratio is multiplied by the cost of County services transferred to the new city to determine the amount of property tax to be transferred.

The PCFA will estimate the transferred costs; if current costs are minimal, the property tax transferred will be low and the resulting tax increment factor applicable to a future share of tax growth will also be low. Conversely, higher Countywide costs will result in a greater amount of property tax to the new city.

Services and costs transferred by the County will consider various County management and administrative costs that the new City will incur to provide services. These costs will affect the estimates of revenue neutrality as well as calculation of property tax transfers.

3.4 Start-up and Transition Costs

State law allows for the continuation of current County services during the first year of transition since most new cities will have minimal revenues in the initial year; the costs can be repaid in subsequent years. The PCFA will identify transition services, estimate their costs, and calculate a repayment to include in the budget forecast. Because of the timing of certain revenues, the new city may not receive a full year of revenues during the transition year.

3.5 Ongoing Operating Costs

Cost estimates will be derived from existing County costs. Additional services required for a new city will be separately identified and estimated. Costs of new city services will be based on current County costs and similar costs faced by reference cities. Following are examples of estimating methods.

General Government and Administration – The new city will require management and administrative services and costs, office space, and other overhead. Election costs will be incurred for council positions.

Police Protection and Animal Control – Costs will be based on existing County Sheriff costs plus any additional costs to provide traffic enforcement (a CHP responsibility in unincorporated areas). City budget costs may be derived from reference cities.

Public Works, Engineering, Planning and Development Services – These services will be based on current County costs and/or by comparison to reference cities.

Road Maintenance – These cost estimates will require data on road miles. Costs will be based on actual County expenditures in the area, County averages per road mile, and/or by reference cities.

Other Costs – The PCFA will describe other costs that may include services such as parks and recreation , development of a general plan, liability and property insurance, and other costs of running a viable city.

Services of Other Districts – As noted previously, existing districts are assumed to continue as-is but will be reviewed for possible reorganization with the new City. For example, the Isla Vista Park and Recreation District potentially could become a part of the new city and share overhead and management costs.

3.6 Facilities and Infrastructure

Any significant new capital facilities required by or associated with incorporation will be identified. These items will be described with corresponding capital, operating and maintenance costs, if available.

3.7 Contingency Reserves and Other Funding Requirements

The budget forecast will include appropriate levels of contingency reserve funds to deal with increased services and costs and to account for unanticipated economic conditions or emergencies.

3.8 Review of Reference Cities' Budgets

State statutes refer to the use of budgets of similar cities as a source for estimating a new city's budget. A review of other cities will inform the staffing, services, and cost and revenue estimates. The specific reference cities (up to three) will be determined early in the study process. Goleta will be one of the reference cities; although it is larger than Isla Vista, it is immediately adjacent and in Santa Barbara County and is a relatively new city. Goleta's revenue neutrality agreement can provide a point of reference for a potential Isla Vista agreement.

3.9 Budget Forecast for the New City

Summary tables will compare revenues to expenditures and estimate annual net revenue surpluses or deficits over time. The forecast will include start-up and transition costs including transition year County services and repayment. Potential reserves will be evaluated.

The budget will represent a basic budget that maintains existing service levels and identifies potential improvements supportable by current and/or future revenues.

The budget forecast will include discussion of integrating parks and recreation functions.

3.10 Revenue Neutrality

State law requires that an incorporation be "revenue neutral" and not create an adverse financial impact on another agency. Generally, the agency most affected would be the County due to the transfer of revenues from the County to the new city. The County's revenue losses are partially offset by reductions in its service responsibilities and costs.

The PCFA will estimate revenue neutrality impacts on the County, if any. The actual impact on the County will be refined during the CFA preparation, and any payment amounts and terms would be negotiated. The PCFA will provide an initial indication of the general magnitude of financial impacts and budget implications for the new city.

TASK 4: IMPACTS ON OTHER AGENCIES

As noted above in 3.10, the County may experience impacts that need to be factored into the city's budget. The PCFA will estimate these impacts and any significant impacts on other agencies that may need to be mitigated by the new city. If the incorporation process moves forward, the LAFCO CFA will further define these impacts based on information provided by the agencies; LAFCO may create "Terms and Conditions" that mitigate the impacts (for example, through "revenue neutrality" payments).

TASK 5: PREPARE PCFA REPORT

5.1 Report Preparation

The purpose of the report is to provide the community with clear and objective information about the incorporation proposal, the city's service costs and tax revenues, and implications for fiscal feasibility. The report will describe potential costs, benefits and goals of incorporation.

The report will demonstrate whether the new city would be fiscally viable and it will provide a basis for subsequent review, discussion and decisions by the public. Key sections will include:

- **Comparison of Services, Cityhood vs. Status Quo** – A table will list all public services and identify the service provider, and manner of provision before and after incorporation.

- **Project Description** – The analysis will describe key assumptions underlying the boundary, growth and development and the provision of facilities and services in the future.
- **Summary of Findings** – An executive summary will highlight key findings regarding feasibility, property tax transfer, and revenue neutrality.
- **Description and documentation of the analysis** – The report will summarize key assumptions and results; detailed calculations and assumptions will be included in tables in appendices.

Berkson Associates will prepare an administrative draft report for limited distribution, review and comment. Following input on the administrative draft, the report will be revised for public distribution. If needed, a final report can be prepared and revised to reflect comments received during public review.

The report will include maps as appropriate. This proposal assumes that the incorporation proponents will assist with preparation of a City boundary map.

TASK 6: MEETINGS AND PRESENTATIONS

Meetings and presentations will be discussed at the kick-off meeting. The schedule of meetings is likely to be amended during the study process.

6.1 Meetings with Proponents and Other Key Stakeholders

Berkson Associates will participate in up to three in-person meetings. Additional virtual meetings will occur as needed to discuss the research, report and other issues. Additional in-person meetings can be arranged and billed on a “time and materials” basis.

2. COST PROPOSAL

FIGURE 2 provides a proposed budget for the PCFA. The budget includes up to three in-person meetings. The proposed budget assumes that a boundary map will be provided by the Client or will be readily available from public sources (e.g., LAFCO). Expenses include travel and data acquisition if needed.

Figure 1 Proposed Budget

Task[3]	TOTAL Hours	TOTAL Cost
Task 1: Project Initiation	8	$2,000
Task 2: Information Collection & Review	48	$12,000
Task 3: Cost and Revenue Forecast	68	$17,000
Task 4: Impacts on Other Agencies	10	$2,500
Task 5: Prepare PCFA Report	46	$11,500
Task 6: Meetings and Presentations[2]	12	$3,000
Subtotal[4]	**192**	**$48,000**
Expenses[1]		**$2,500**
TOTAL COST		**$50,500**

(1) Expenses are billed at actual cost and may include data acquisition & data entry.
Costs for detailed maps not included.
Amount shown includes travel costs for 3 in-person meetings.
Budget assumes that all reports and other materials are provided electronically.

(2) "Meetings and Presentations" include preparation/participation at 3 in-person meetings.
Additional "in person" are billed at "Time and Materials" costs.

(3) Allocations by task are estimated; actual billing allocations will vary from those shown.

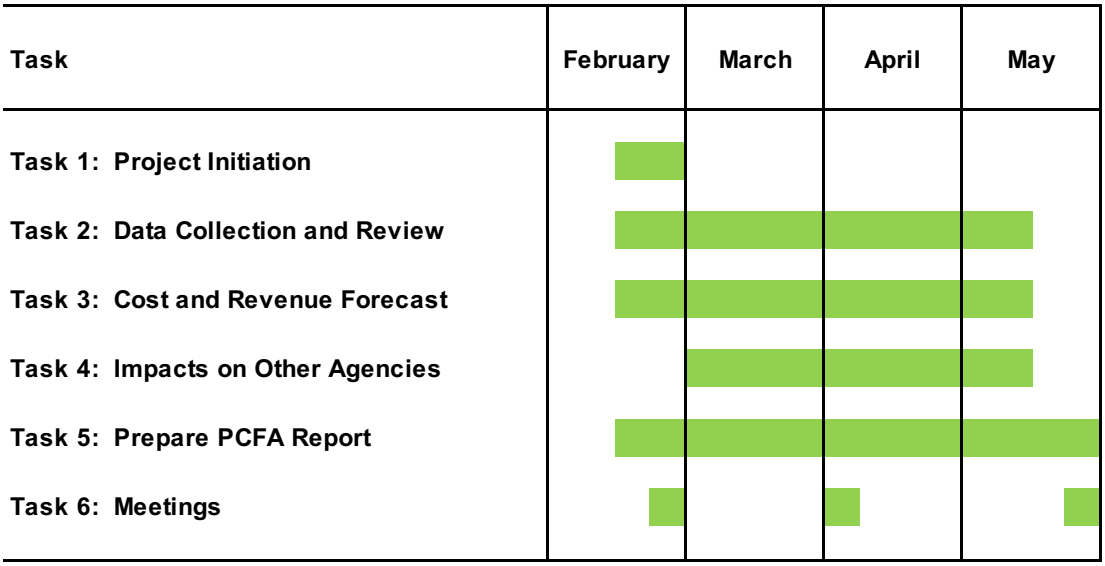
(4) Billing rate is $250 per hour.

Hours and expenses are invoiced monthly and are due and payable within 30 days.

3. SCHEDULE

FIGURE 3 illustrates a preliminary schedule for preparation of the PCFA. The schedule will be reviewed and revised at the kick-off meeting. The schedule shown assumes that Berkson Associates receives written authorization to proceed by February 15th. The schedule is dependent on the timing of data needed from the County, the CSD and other agencies, as well as the scheduling of meetings and draft report review.

Figure 2 Proposed Schedule



Notes:
Meeting/presentation dates to be determined.
Up to 3 in-person meetings and presentations; other meetings as needed will be virtual.
Schedule depends on timely responses to data requests and document review and is subject to change.

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ATTACHMENT A

RESUME FOR RICHARD BERKSON



Richard Berkson
Principal, Berkson Associates

Education
Master of Public Policy, University of California, Berkeley

Bachelor of Arts in Social Science, University of California, Berkeley

Undergraduate study in Engineering, Massachusetts Institute of Technology (3 semesters)

Affiliations
CALAFCO,
Associate Member

Public Service
Capital Program Monitoring and Fiscal Advisory Committee, & authored the Economic Development Plan for the Town of San Anselmo

Honors and Awards
Anaheim, CA, honoring contribution to the success of the Anaheim Resort Project

Prior Employment
Founding Principal, Economic and Planning Systems, Inc. (EPS)

About
Richard Berkson, Principal of Berkson Associates, believes that sound policies and strategies require careful consideration of causality, creative problem solving, and incentive-based solutions. His practice is founded on 30+ years of experience providing clear and concise fiscal and financial analysis based on a solid understanding of local government organization (e.g., formation, annexation, and consolidation), capital improvement policy and programming, and urban economics (demographics, market & financial analysis, and economic development).

Expertise
Government Organization
Prepares governance feasibility and special studies addressing municipal incorporation, annexations, service reviews and special studies, special district formations, dissolutions and consolidations, and assists in the preparation of intergovernmental agreements including tax sharing. Creates detailed pro forma operational and capital budgets as well as analysis of reorganization issues, options and impacts upon existing agencies, and develops sustainable mitigation measures.

Fiscal and Economic Analysis
Analyzes and predicts fiscal and economic impacts of land uses, developments, and policies on municipal budgets. Designs fiscal models to evaluate public service and financing issues and develops mitigation measures for long-term fiscal sustainability. Forecast budgets and develop asset management policies and programs.

Public Finance
Prepares financing strategies and plans for a wide variety of public services and infrastructure projects, including development project-related infrastructure, area-wide capital improvement programs, public safety, and recreation facilities, as well as specific infrastructure projects. Financing techniques applied include formulation of area-specific and facility-specific development impact fees, special tax bonds, sales tax measures, and Infrastructure Financing Districts.

Market and Financial Analysis
Evaluates the market feasibility of a wide range of uses including recreation, residential, office, industrial, retail, and hotel, as a part of development proposals, specific and general plans, and governance studies. Prepares initial market reviews as well as detailed pricing and absorption estimates, demographic forecasting, and economic development strategies. Constructs pro forma financial analysis of large-scale mixed-use projects, as well as individual business proposals.

Policy Forensics and Forecasting
Understanding the Past, Managing the Future

34 Terrace Avenue ▪ San Anselmo, CA 94960
510.612.6906 ▪ Richard@BerksonAssociates.com

ATTACHMENT B

SELECTED INCORPORATION EXPERIENCE AND REFERENCES

SELECTED INCORPORATION & REORGANIZATION STUDIES

Mr. Berkson was the primary author, project manager, and the principal in charge of the following studies prepared by Berkson Associates since 2015 and while he was a principal with Economic and Planning Systems (prior to 2015).

- **La Jolla Preliminary Comprehensive Fiscal Analysis (2024)** – Application to San Diego LAFCO is in process based upon the PCFA prepared by Berkson Associates.
- **Initial Feasibility Analyses: Incorporation of Alameda County Communities (2024)** – Study completed for LAFCO to evaluate the potential for incorporation of several communities in Alameda County.
- **El Dorado Hills Preliminary Comprehensive Fiscal Analysis (2021)** – An incorporation application to Eldorado LAFCO is in process based on the PCFA.
- **Mountain House Community Services District Incorporation Feasibility Analysis (IFA) (2020)** –The PCFA prepared by Berkson Associates initiated the incorporation application to LAFCO. Voters approved city incorporation.
- **Isla Vista Governance Options Financial Analysis Study** – Richard Berkson was principal in charge of an analysis to inform the community of potential governance options to improve conditions in Isla Vista. A community services district was subsequently formed.
- **Comprehensive Fiscal Analysis (CFA) for a Proposed City of East Los Angeles (2011)** – LAFCO rejected city incorporation based on the independent findings of the CFA.
- **Initial Fiscal Analysis (PCFA) for the Incorporation of West Ranch/Castaic/Tesoro Areas (2009)** – No application was submitted to LAFCO.
- **Carmel Valley Incorporation Comprehensive Fiscal Analysis (2008)** – The CFA managed by Richard Berkson supported the incorporation application to LAFCO. Voters rejected city incorporation.
- **San Martin Initial Feasibility Analysis and Comprehensive Fiscal Analysis (2008)** – LAFCO determined that city would be infeasible based on the independent CFA findings.
- **Malaga Comprehensive Fiscal Analysis (2004)** – LAFCO determined that city would be infeasible based on the independent findings of the CFA.
- **Castro Valley Comprehensive Fiscal Analysis (2002)** – Voters rejected city incorporation.
- **Goleta Comprehensive Fiscal Analysis (2001)** – Voters approved city incorporation.
- **Rancho Santa Margarita Comprehensive Fiscal Analysis (1999)** – Voters approved city incorporation.
- **Oakley Comprehensive Fiscal Analysis Support (1998)** – Voters approved incorporation.

REFERENCES

Trace Wilson, The Association for the City of La Jolla
(310) 903-2635 twilson@materia-llc.com

Berkson Associates prepared a Preliminary Comprehensive Fiscal Analysis for the proposed creation of the City of La Jolla.

Steven Pinkerton, General Manager, City of Mountain House
(209) 831-2300 spinkerton@sjgov.org

Berkson Associates prepared an incorporation feasibility study for the Mountain House CSD and advised the CSD in its review of LAFCO's Comprehensive Fiscal Analysis. Mountain House became a city on July 1, 2024.

Rachel Jones, Executive Officer, Alameda LAFCO
(510) 670-6267 Rachel.Jones@acgov.org

Mr. Berkson recently completed incorporation feasibility studies for multiple communities in Alameda County.

Paul Novak, Executive Officer, LAFCO for the County of Los Angeles
(626) 204-6500 pnovak@lalafco.org

Mr. Berkson prepared a CFA for LAFCO for the proposed incorporation of East Los Angeles. Mr. Berkson, in association with PCA, LLC, recently completed a 2020 Municipal Services Review update of four L.A. cities on behalf of LAFCO.

Kate McKenna, Executive Officer, LAFCO of Monterey County
(831) 754-5838 mckennak@monterey.lafco.ca.gov

Mr. Berkson prepared a preliminary study for incorporation proponents and then wrote a detailed CFA under contract to Monterey LAFCO for the proposed incorporation of Carmel Valley.

lafco@sblafco.org

From: Leave93436 Office <office@leave93436.org>
Sent: Thursday, November 19, 2026 1:11 PM
To: lafco@sblafco.org; JLamont@vvcsd.org
Subject: Re: Proposed City of La Purisima Resolutions of Application in Preparation: VVCSD and MHCSD

Hi Mike,

Thank you for the reminder. Here is our written update for the December 10 status report.

Leave93436 remains the proponent of the proposed City of La Purisima. Since our last report, the organization has completed its corporate setup. It is a California nonprofit public benefit corporation, recognized as tax-exempt by the IRS and the Franchise Tax Board, and registered with the Attorney General's Registry of Charities and Fundraisers (CT0303371).

Neither district has adopted a Resolution of Application. On October 6, 2026, the Vandenberg Village CSD board voted to postpone the matter for further discussion; it did not reject it. MHCSDwe believe is awaiting the result of VVCSD's vote. No Notice of Intent has been filed, and no petition circulation has begun.

Our next step is to keep working with both districts toward Resolutions of Application, following the process you described at the September 3 Commission meeting. We will let you know as soon as either board schedules the item.

If needed, we ca speak briefly at the December 10 meeting if that would help the Commission.

Thank you,

Jimmy

On 11/17/26 08:36, lafco@sblafco.org wrote:

> Hi Jimmy,
>
> Friendly reminder to get us any written information about incorporation activities to date by November 20th.
>
> Thank you for your participation. A LAFCO Item will return on our December 10, 2026 meeting.
>
> Mike Prater
>
> Executive Officer

ATTACHMENT D

VANDENBERG VILLAGE
COMMUNITY SERVICES DISTRICT

3745 Constellation Road • Vandenberg Village • Lompoc, CA 93436
Telephone: (805) 733-2475 • Fax: (805) 733-2109 • info@vvcsd.org



"Pride in Community Service"

NOTICE: The Board of Directors of the Vandenberg Village Community Services District will meet at the District Office Conference Room, 3745 Constellation Road, Vandenberg Village, in compliance with California Government Code § 54954.

Regular Board Meeting

AGENDA

Tuesday, October 6, 2026

4:30 p.m.

1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE
2. ROLL CALL: Directors Cox, Gonzales, Heuring, Lamont, and Stassi
3. ADDITIONS AND DELETIONS TO AGENDA
4. PUBLIC FORUM

   The Board will invite public comment on each action item as it is considered during the meeting.

   At this time, members of the public wishing to address the Board on other matters that are within the jurisdiction of the District may do so when recognized by the President.

   Please begin by stating your name and place of residence.

5. REPORTS FROM STAFF

   A. Operations

   B. Administration

   C. General Manager

ATTACHMENT E

6. CONSENT CALENDAR

   A. Minutes of the Regular Meeting on September 1, 2026 ..... page 1

   B. Treasurer Report

      1) Pro-forma Financial Statements as of August 31, 2026 .... page 11

      2) Disbursements through September 30, 2026 ..... page 25

   C. Investment Policy ..... page 31

   D. Statement of Developers Fees ..... page 35

7. ACTION ITEMS

   A. **City of La Purísima**: Receive a presentation from Mike Prater, Executive Director, Santa Barbara LAFCO; discuss options; and provide direction to staff as appropriate ..... page 39

   B. **Mitigated Negative Declaration:** Adopt the Final MND prepared by Meridian Consultants for the well site lease ..... page 47

8. REPORTS FROM DIRECTORS

   A. Committees

      1) **Finance/Budget** – Directors Stassi & Cox

      2) **Legal/Personnel** – Directors Gonzales & Lamont

      3) **Water/Wastewater** – Directors Heuring & Cox

      4) **Santa Ynez River Valley Groundwater Basin Western Management Area Groundwater Sustainability Agency (WMA GSA)** – Directors Stassi & Lamont

      5) **Ad Hoc** – Directors Gonzales & Lamont

   B. District Representatives to External Agencies

      1) **Association of California Water Agencies (ACWA) & Joint Powers Insurance Authority (ACWA/JPIA)** – Directors Heuring & Lamont

2) **California Special Districts Association (CSDA) & Santa Barbara County Chapter of CSDA (SBCCSDA)** – Directors Gonzales & Stassi

3) **Santa Ynez River Water Conservation District (SYRWCD)** – Directors Lamont & Heuring

C. Board President – Director Gonzales

9. INFORMATIONAL CORRESPONDENCE

A. **US Drought Monitor**: California, October 1, 2026 ..... page 53

B. **VVCSD**: Water Pumped vs Sold, 12 months ..... page 55

C. **VVCSD**: Well Soundings, 12 months ..... page 57

D. **VVCSD**: PG&E Production Costs, Fiscal Year 2026-27..... page 59

10. DIRECTORS FORUM: Any member of the Board may address the Board on any subject within the jurisdiction of the District.

11. ADJOURN

Notice Regarding Public Participation: For those who are unable to attend the meeting in person or electronically, but who wish to provide public comment on matters that are within the jurisdiction of the District, please submit any comments and written materials to the District in person or via electronic mail at administration@vvcsd.org. All submittals should indicate the board meeting date and agenda item number. Materials received by the District before or during the meeting will become part of the minutes and will be made available to the public under the Public Records Act.

This agenda was posted on the District website at https://vvcsd.org and 3745 Constellation Road, Vandenberg Village, California, and notice was delivered under Government Code § 54950 et seq. This Agenda contains a brief general description of each item to be considered. The Board reserves the right to change the order in which items are heard. The full board package with staff reports and other written documentation is available on the District's website at https://vvcsd.org. If you need reasonable accommodation due to a disability, please contact the Board Secretary 24 hours before the meeting at (805) 733-2475.

Please silence cell phones during the meeting, as a courtesy to others.

VANDENBERG VILLAGE COMMUNITY SERVICES DISTRICT

AGENDA MEMORANDUM

TO: Board of Directors ITEM: 7.A

FROM: Cynthia Allen, General Manager CA

DATE: October 6, 2026

SUBJECT: City of La Purísima Incorporation

Recommendation: Receive a presentation from Mike Prater, Executive Director, Santa Barbara LAFCO; discuss options; and provide direction to staff as appropriate.

Policy Implications:

- The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code § 56000 et seq.) governs city incorporations and LAFCO proceedings.
- Government Code § 56650 et seq. authorizes a resolution of application to initiate incorporation proceedings, and requires the applicant to submit a Plan for Providing Services.
- Government Code § 54964 prohibits public agencies from using public funds to support or oppose a ballot measure or candidate.
- Government Code § 8314 prohibits public officers and employees from using public resources—including agency funds, staff time, equipment, or facilities—for campaign activities or other unauthorized purposes.
- Stanson v. Mott (1976): California's Supreme Court held that government agencies may inform the public, but generally may not use taxpayer funds to promote a partisan position in an election.
- Article XIII D, Section 6(b)(2) of the California Constitution states that revenues derived from a fee may be expended only for the service for which the fee was imposed and shall not be used to fund general governmental activities or any other purpose.

Resource Impacts:

- No immediate operational or capital impacts to District utility services are proposed.
- Initial LAFCO pre-application deposit of $5,500 is required to initiate proceedings. This cannot be funded through District resources.
- District staff time and resources cannot be used for the incorporation endeavors.
- Future fiscal impacts associated with incorporation will be evaluated through:
    - LAFCO Comprehensive Fiscal Analysis (Government Code § 56800)
    - Property tax exchange negotiations (Revenue & Tax Code § 99)

Alternatives Considered:

- Do not participate in the incorporation and advise Leave93436.org to pursue other avenues.
- Delay action until a future date to provide the District additional time to research the impacts and potential implications to the District.

Discussion:

Leave93436.org has approached the Vandenberg Village Community Services District and the Mission Hills Community Services District, asking the Districts to submit a joint application to LAFCO to incorporate a new general law city, known as the City of La Purísima.

The proposed incorporation of the City of La Purísima presents significant governance, fiscal, and service-delivery considerations for the District. Adoption of a Resolution of Application would not create a city, alter utility operations, or dissolve the District.

Given the potential long-term impacts of incorporation on local governance, municipal services, and interagency relationships, the Board should carefully evaluate the information before deciding how to proceed, delay action pending further analysis, or decline to participate in the application process.

Attachment: LAFCO Handout: Procedures for Processing an Incorporation Proposal

LAFCO

Procedures for Processing an Incorporation Proposal

These procedures are intended to supplement the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, the State Office of Planning and Research Guide to the LAFCO Process for Incorporations, and the Santa Barbara LAFCO Commissioner Policies and Procedures.

I. APPLICATION MATERIAL

A. Resolution of application, landowner petition or registered voter petition (56764)
B. Completed LAFCO Questionnaire
C. Boundary Map
D. Plan for Services (§56653)
E. Comprehensive Fiscal Analysis (§56800)
F. Filing Fees

II. CONTENTS OF THE COMPREHENSIVE FISCAL ANALYSIS (CFA)

At a minimum, the CFA must contain the following information:

A. The costs to the proposed city of providing public service and facilities for a minimum of eight years following incorporation.
B. The revenues of the proposed city during for a minimum of eight years following incorporation.
C. The effects on the costs and revenues of any affected local agency for a minimum of eight years following incorporation.
D. An analysis, consistent with Government Code §56815, relating to revenue neutrality.
E. Any other information and analysis needed to make the findings per the Cortese-Knox-Hertzberg Local Government Reorganization Act (CKH Act).

III. PRE-APPLICATION

Prior to initiating an incorporation proposal, the applicant should prepare a preliminary fiscal study to determine the feasibility of incorporation. It is important to conduct a preliminary feasibility study at an early stage to avoid the time and expense associated with pursuing an incorporation proposal that is financially infeasible. The preliminary feasibility study should be completed no later than filing a Notice of Intent to Circulate a Petition or adopting a resolution of application to LAFCO.

IV. REVIEW OF APPLICATION MATERIAL

Incorporation is a complex and lengthy process. In accordance with State law, it is important that once the application for incorporation is initiated that it be processed in a timely manner to ensure that the data used in the fiscal analysis does not become stale.

Proponents for an incorporation project shall complete the application requirements within a period of 24 months following the opening of the incorporation file. LAFCO staff will notify the proponents at least 90 days before the 24-month deadline. If the application remains incomplete after 24 months, the file will be closed, unless the proponents request a time extension. A time extension is subject to approval by the Commission.

A. Resolution or petition – area proposed for incorporation must have a minimum of 500 voters (56043).

If the proposal is filed by resolution, LAFCO staff will review the resolution to ensure compliance with the relevant sections of the Government Code.

If the proposal is filed by landowner petition, LAFCO staff will submit the petition to the County Assessor's office for verification. This process can take from a few weeks to months depending on workload and other factors.

If the proposal is filed by registered voter petition, LAFCO staff will submit the petition to the County Registrar of Voters office for verification. This process can take from a few weeks to months depending on workload and other factors.

If it is found that the petition has insufficient valid signatures, the incorporation applicant has 15 days to acquire the sufficient number of valid signatures (56706).

B. LAFCO Questionnaire/Application

LAFCO staff will review the questionnaire for accuracy and completeness. LAFCO staff will coordinate review of proposal with all affected local agencies and interested parties to determine potential impacts. The results of this review will be included with the LAFCO staff report to the Commission.

C. Boundary Map

LAFCO staff, affected agencies and interested parties will review the boundary map to determine consistency with existing local agencies and to ensure that the boundaries are logical and reasonable.

A more detailed map and legal description meeting the requirements of the Santa Barbara County Surveyor will need to be completed prior to the incorporation proposal being set for hearing before the Commission.

The incorporation applicant should discuss potential boundary alternatives with LAFCO staff early in the process. The preliminary analysis and CFA should identify and assess boundary options.

The Commission may modify proposed boundaries and order the inclusion or deletion of territory to ensure orderly boundaries.

In addition to approving the boundary of a new City, LAFCO must also approve a sphere of influence (SOI) within one year of incorporation (56426.5). The SOI must be consistent with other affected local agencies (56375.5).

Incorporation proposals, which would result in certain conditions, are prohibited by law, including incorporations, which would result in unincorporated islands (56744) and annexation of land within a Farmland Security Zone (56749).

D. Plan for Services

A proposal for incorporation must include a Plan for Services that addresses the items identified in Government Code §56653.

E. Comprehensive Fiscal Analysis (CFA)

Section 56800 of the Government Code requires the LAFCO Executive Officer to prepare, or cause to be prepared, the CFA. The CFA is used to project the fiscal condition of the proposed new city and must contain specific information per the Government Code. The CFA shall project income and expense for a minimum of eight years following incorporation.

Typically, LAFCO staff will contract with an independent consultant to prepare the CFA, and the cost will be paid by the applicant. LAFCO staff manages the consultant's work as long as there are funds on deposit.

The selection process will generally involve the following:

- A Request for Proposals will be prepared by LAFCO staff and circulated to prospective bidders. A bidding process will help control costs, ensure objectivity and quality.
- A review panel representing diverse interests including the incorporation proponents will evaluate and/or score the responses.
- The LAFCO Executive Officer will prepare a recommendation for Commission approval and authorization of the contract. The Commission will give final approval of the selected consultant and authorize the contract to prepare the CFA.

Upon receipt of the CFA, LAFCO staff will publish a legal notice setting a 30-day review period for the CFA. LAFCO staff will also notify all affected agencies, the chief proponents, and all persons who have filed a written request for notification.

During a specified review period, any interested person may request the State Controller's Office to review the CFA prior to issuance of the LAFCO Executive Officer's report and recommendation (56801). Such a request must be accompanied by a deposit to be determined by the LAFCO Executive Officer, to cover the cost of the Controller's review.

The request for the Controller's review should specify the portion or portions of the CFA to be reviewed and a brief explanation of why the review is being requested. This

information will assist the Controller in completing a timely review, and help reduce the cost of the review to the requesting party.

A Certificate of Filing deeming the application complete shall not be issued until the CFA is complete.

F. Filing Fees

The actual costs for processing the incorporation application are the proponent's responsibility.

Application costs include LAFCO processing fees, costs associated with the CFA and environmental review documents, and other related expenses. Some of these fees are fixed, and others are based on actual costs. Please refer to the current LAFCO Schedule of Processing Fees.

Consultants may be hired to assist with the preparation of the CFA and CEQA documents. Consultants may be asked to divide the project tasks into sub tasks. LAFCO staff will provide costs estimates, whenever possible; actual costs will be determined after consultant contracts are negotiated.

Payments, other than payment in full (e.g., installment payments) are subject to approval by the Commission. The terms of any payment schedule will be stated in an agreement to be executed between LAFCO and the proponents. LAFCO staff will not authorize the consultant to commence or continue work until the required funds are received.

If installment payments are delinquent, work on the project will be suspended until the payments are brought up to date.

G. Loan for Incorporation

Section 56383(g) provides that incorporation proponents may seek a loan from the State Controller's Office to cover the incorporation processing expenses.

H. California Environmental Quality Act (CEQA)

Incorporations are projects subject to CEQA and require environmental review. LAFCO, as Lead Agency for an incorporation, must prepare the required documentation. Depending upon the circumstances of each incorporation proposal, LAFCO will make one of three environmental determinations with respect to the potential environmental effects of the incorporation. The project, in rare cases, may qualify for an exemption from CEQA. If an exemption is not appropriate, LAFCO will prepare, or cause to be prepared, an Initial Study to determine whether a Negative Declaration or an Environmental Impact Report must be prepared.

The applicant shall be responsible for all reasonable costs associated with preparing the environmental document in accordance with the LAFCO Fee Schedule.

I. Commission Proceedings

LAFCO staff prepares an analysis of the proposal and issues the Executive Officer's report and recommendations (56665).

The Commission holds a public hearing to review the LAFCO staff analysis and receive oral and written testimony (56666).

The Commission then adopts a resolution approving, modifying, or disapproving the proposal (56880).

If the incorporation is approved, the Commission determines the final boundaries, the base property tax, the provisional appropriations limit for the proposed city, and any terms and conditions of approval.

At the time of approval, the Commission may also determine the sphere of influence (SOI) of the proposed city. The Commission shall, in any event, determine the SOI for any newly incorporated city within one year of the incorporation (56426.5).

If LAFCO wholly disapproves the proposal, no new proposal involving the same or substantially the same territory shall be initiated for one year, unless this provision is waived by the Commission (56884)

J. Request for Reconsideration

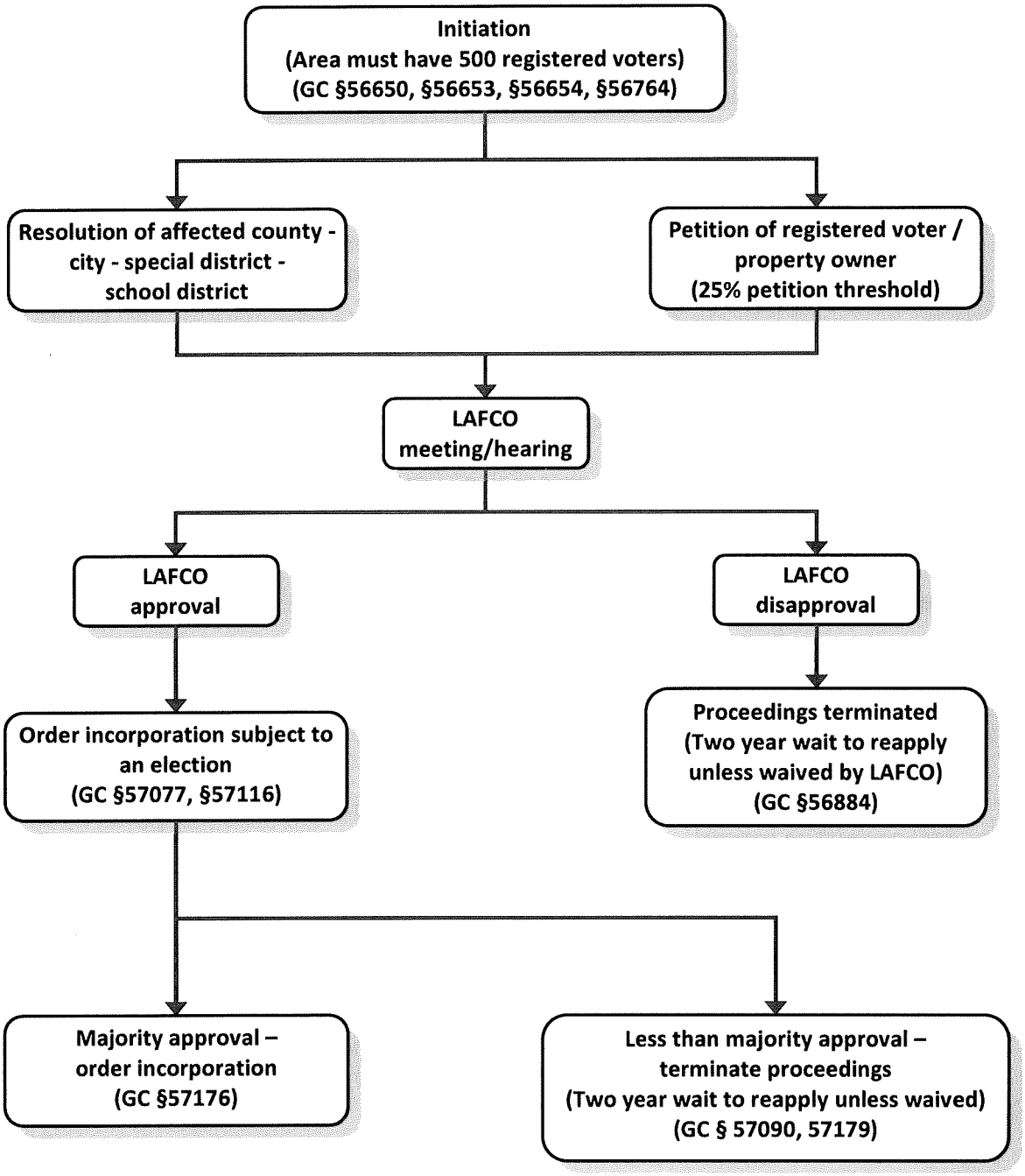
Within 30 days of the adoption of the LAFCO resolution either approving or disapproving the proposal, any interested party can request the Commission to reconsider its action (56895). Such a request requires the payment of a fee per the current LAFCO Fee Schedule.

Upon receipt of a timely request, LAFCO will hold a legally noticed public hearing on the reconsideration request.

K. Election

An election is held, usually at the next general election. If the majority of votes are cast supporting the incorporation, the Commission shall adopt a resolution ordering the incorporation. An incorporation election also provides for the election of the city council members and other officers, and on the question of whether the city council in future elections shall be elected by district or at large (57116).

City Incorporation or Disincorporation



ATTACHMENT F

State of California

Gray Davis
GOVERNOR

Tal Finney
INTERIM DIRECTOR

A GUIDE TO THE LAFCO PROCESS FOR INCORPORATIONS

Governor's Office of Planning and Research

October 2003

ATTACHMENT G

LAFCO Incorporation Guidelines

The Governor's Office of Planning and Research

1400 Tenth Street, Sacramento, CA 95812-3044, 916/322-2318, www.opr.ca.gov

Tal Finney, Interim Director

Development Team:

Toni Symonds	- Project Manager, Community Vitalization Unit Director
Terry Roberts	- Project Manager, State Clearinghouse Director
Kathryn Winter	- Incorporation Task Force Chairperson
Doreen Updike	- Administrative Analyst
Julia Ouellette	- Administrative Analyst

October 2003

The Governor's Office of Planning and Research (OPR) would like to acknowledge and thank the members of the Incorporation Task Force for their invaluable assistance in identifying key issues and for providing input into the development of LAFCO Incorporation Guidelines.

INCORPORATION TASK FORCE MEMBERS

- Chairperson, Kathryn Winter, Office of Planning and Research (OPR)
- Terry Roberts, Project Manager, State Clearinghouse Director, Office of Planning and Research (OPR)
- Toni Symonds, Project Manager, Senior Policy Advisor, Office of Planning and Research (OPR)
- Robert Braitman, Santa Barbara LAFCO
- Greg Brummels, State Controller's Office
- Tim Campbell, Santa Barbara LAFCO
- Christopher Carlisle, Speaker Hertzberg's Office
- Tony Carstens, County of Riverside Executive Office
- Phil Carter, Pacific Municipal Consultants and City of Elk Grove
- William Chiat, County of Santa Barbara
- Cathy Creswell, Department of Housing and Community Development
- Baxter Culver, California State Association of Counties
- Harry Ehrlich, Olivenhain Municipal Water District and California Special District Association
- Carolina Jimenez-Hogg, Fresno County Planning & Resource Management Department
- Bill Mahoney, Orange County
- Anthony Manzanetti, Kronick, Moskovitz, Tiedemann, & Girard and City Attorney for the City of Elk Grove
- Jerry McClain, State Controller's Office
- Michael Oliver, City of Oakley
- Michael Ott, San Diego LAFCO
- Catherine Smith, California Special Districts Association
- Chris Tooker, Sacramento LAFCO
- Rita Velasquez, Elk Grove Community Services District

OPR would also like to acknowledge and thank Joyce Crosthwaite, Project Design Consultants and her excellent consultant team that assisted OPR in the development and implementation of the extensive public outreach and stakeholder consultation process and the writing of the final draft of the guidelines. Other members of her team included:

- Dan Miller, Rosenow Spevacek Group
- Charon Browning, SMB Associates
- Robert Ewing, Services Commodities Consulting

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Executive Summary

The Incorporation Guidelines are a result of legislation signed in 2000, which established a process for the creation of statewide guidelines. While the Cortese-Knox Act, the law governing Local Agency Formation Commissions (LAFCOs), had always specified minimum procedures and requirements for incorporation proposals, there were variations among the 58 LAFCOs in processing, content and requirements. Many LAFCOs and incorporation proponents developed a set of "best practices" which, while shared as much as possible, were not always widely disseminated. The intent of the guidelines is to gather these best practices and summarize existing legal requirements into minimum statewide guidelines. The Incorporation Guidelines are advisory and each LAFCO may adopt supplemental policies and procedures.

One of the biggest challenges to any incorporation proposal is readily available information. The Incorporation Guidelines provide easy to read information for citizens, for agencies and for proponents about the incorporation process, its timelines, and likely costs. A short "Primer" is included in the appendices to the Incorporation Guidelines, which provides a generalized overview of the entire incorporation process with common sense suggestions gathered from incorporation veterans. The Primer is short enough for LAFCOs and incorporation proponents to easily copy, fax and/or email.

However, incorporation is a complex process that must meet legal requirements. Therefore, the main body of the Incorporation Guidelines provides a step-by-step process, with hyperlinks to the relevant Government Code Sections, for those groups and individuals actively engaged in an incorporation. In particular, the Incorporation Guidelines include detailed information and examples about the type of information that should be included in the comprehensive fiscal analysis (CFA). The Incorporation Guidelines also include a suggested process to address the legal requirement of ensuring that incorporations are "revenue neutral".

Thorough preparation is essential for an incorporation. The first section of the Incorporation Guidelines includes recommendations gathered from the workshops and Task Force meetings for potential incorporation proponents, for LAFCOs, and for other affected agencies regarding the efforts that must precede initiating an incorporation proposal. It includes information for proponents about consulting with LAFCO to avoid potential pitfalls, the use of consultants and investigating alternatives to an incorporation. LAFCOs are encouraged to begin their preparation for an incorporation before a proposal is even submitted.

The determination of the possible fiscal feasibility of an incorporation has also been a challenge. Preparation of a CFA is expensive and if the proposed incorporation is infeasible, many proponents feel their efforts and money have been wasted. The Incorporation Guidelines contain a recommended "initial fiscal feasibility review" which is designed to help incorporation proponents decide whether to continue with an incorporation effort. The initial fiscal feasibility review only provides a one-year "snapshot" of some of a community's financial assets and liabilities—it should never be used as a basis for a CFA which includes more comprehensive analysis of potential revenues and expenditures.

Initiating an incorporation is, in itself, a complex process with tight time limits and various legal requirements for processing and collecting signatures. The process, legal requirements and time limits for initiating an incorporation are described in Section III. As throughout the entire Incorporation Guidelines, hints from incorporation veterans have been included to help make the initiation process easier.

All incorporation proponents must prepare an application and while the specific requirements of various LAFCOs differ, there are certain basic requirements for all incorporation applications. Preparing an application to be submitted to LAFCO also requires payment of fees and the Incorporation Guidelines, Section IV, includes information regarding the probable costs of an incorporation application.

The review and analysis by LAFCO staff of an incorporation application is detailed and exhaustive as required by law. Section V, "Reviewing the Application: LAFCO Staff Analysis," contains detailed descriptions of the financial information which needs to be included in a CFA. This section of the Incorporation Guidelines also includes information about revenue neutrality, recommends a sample process and discusses what data should be included (or not) in the ensuing revenue neutrality calculations. Section V also discusses the environmental review process for an incorporation.

All incorporations must be heard in public hearings and, if approved, must follow a legally defined process for a Conducting Authority hearing, elections and the final steps in the creation of a new city. These steps are also described in the last sections of the Incorporation Guidelines.

Finally, the Incorporation Guidelines also contain some basic information and sources of help for newly incorporated cities. LAFCO's involvement in incorporation ends after a successful election but some information has been included to assist newly incorporated cities in making a transition to full municipal status. However, new cities should rely on their legal counsel and staff for more complete and updated information.

The Appendices (Section XI) contain sample forms and notices as well as the Primer.

Existing law requires each LAFCO to adopt written policies and procedures which may augment and supplement these Incorporation Guidelines. Incorporation proponents are strongly urged to consult with LAFCO in their own county to get copies of local policies and procedures.

The Incorporation Guidelines are available in PDF format that contains electronic links to the appropriate California Government Code sections. Clicking on the links will move the user to the appropriate section of the Government Code. The entire electronic file containing the Incorporation Guidelines may overwhelm some email servers. If you encounter problems downloading the guidelines it is recommended that you contact LAFCO in their county for a copy of the Incorporation Guidelines or go to your neighborhood library where computers are generally available for public use.

I. INTRODUCTION

This section provides the background to the development of the Incorporation Guidelines, an explanation of their purposes and information about the overall structure and how to use this document.

A. BACKGROUND OF INCORPORATION GUIDELINES

On September 26, 2000, Governor Gray Davis signed into law AB 2838 (Chapter 761, Statutes of 2000), authored by Assembly Speaker Robert M. Hertzberg. This legislation, titled the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 and codified as California Government Code Sections 56000 et seq., marked the most significant reform to local government reorganization law since the 1963 statute that created Local Agency Formation Commissions (LAFCOs) in each county.

The legislation resulted from the recommendations of the Commission on Local Governance for the 21st Century, created by 1997 legislation. The Commission's recommendations were included in its final report, *Growth Within Bounds*, issued on January 20, 2000.

Pursuant to the new requirements in Government Code Section 56815.2, the Governor's Office of Planning and Research (OPR) was required to convene a task force composed of representatives of cities, counties, special districts, and local agency formation commissions for the purpose of creating statewide guidelines for the incorporation process.

Existing law further specifies that the guidelines serve as minimum statewide guidelines for the incorporation process. OPR recommends that LAFCO adopt supplemental policies and procedures that reflect local conditions to further assist the public and affected agencies in understanding the incorporation process.

The guidelines are required by law to include:

- Information to assist incorporation proponents to understand the incorporation process, its timelines, and likely costs.
- Direction to affected agencies regarding the type of information that should be included in the comprehensive fiscal analysis of incorporation, as well as suggestions for alternative ways to achieve fiscally neutral incorporations.

These guidelines were the result of an extensive public participation process. Three workshops were held in San Diego, Sacramento and Bakersfield in the fall of 2001 to gather public input into the content of the Incorporation Guidelines. A draft copy of the Incorporation Guidelines was posted on the OPR website for a 30-day public review period. During the public review period, three additional workshops were held in Ukiah, Tracy and Van Nuys to receive comments from interested parties regarding the draft document. In addition, an Incorporation Task Force was formed, comprised of members of LAFCOs, the State Controller, cities, counties, special districts and other interested parties, to identify key issues and provide input into technical content of the Incorporation Guidelines. The Task Force met three times and submitted numerous recommendations that have been incorporated into this document.

The Incorporation Guidelines reflect the Cortese-Knox-Hertzberg Act and related laws as were in effect on that date. Since state law may be amended periodically, it is critical that users of these Guidelines consult with the State of California, OPR, LAFCO staff and/or legal counsel to ensure that they are aware of the latest amendments to the relevant Government Code sections. In addition, each LAFCO may have policies, procedures and regulations that should be consulted before starting any incorporation effort.

B. PURPOSES OF THE INCORPORATION GUIDELINES

The Incorporation Guidelines are permissive and intended to be used as a framework for the consistent processing of incorporation proposals by LAFCO, by other affected local governments and by proponents. They are intended to serve as the minimum statewide guidelines for the incorporation process. The Guidelines are advisory to LAFCOs in the review of incorporation proposals (§56815.2) and are consistent with the existing Government Code.

C. HOW TO USE THE INCORPORATION GUIDELINES

The Incorporation Guidelines are available in hard copy (paper), CD-ROM and PDF format. The PDF and CD-ROM versions contain electronic links to the appropriate California Government Code sections. Clicking on the links will move the user to the appropriate section of the Government Code. The Guidelines are organized in the following manner.

ACRONYMS USED IN THE GUIDELINES

LAFCO—Local Agency Formation Commission

CFA—Comprehensive Fiscal Analysis

SOI—Sphere of Influence

CEQA—California Environmental Quality Act

Acronyms are both defined in the text of the document and in a Glossary in Appendix C. These definitions are provided to assist the reader in understanding the text. For a complete definition of terms, the reader should always refer to the definition section (§56010) of the Cortese-Knox-Hertzberg Act, the law governing LAFCOs, for complete definitions.

Section I contains the Introduction including information about the background, purposes and use of the Incorporation Guidelines.

Sections II through IX contain a step-by-step guide for processing an incorporation proposal. It is advised that users of these Guidelines read the entire document first to gain an understanding of all the steps in incorporation. Government Code sections are included in parentheses so that readers can refer directly to the appropriate section of the law. Templates, exhibits and sample forms are provided where appropriate.

Section X contains a brief discussion of the responsibilities of a new city immediately following incorporation. While LAFCO's involvement in incorporation generally ends soon after a successful election, this section has been included to assist newly incorporated cities in making a transition to full municipal status. However, new cities should rely on their legal counsel and staff for more complete and updated information.

Appendices A through G contain a timeline for the incorporation process, the Incorporation Primer, a Glossary, sample forms and notices, an initial fiscal feasibility review spreadsheet which can be used by proponents to conduct a preliminary fiscal review of the proposed incorporation, and an example of an agenda from a new city's first city council meeting. If the initial fiscal feasibility review indicates potential problems, incorporation proponents can use that information as a basis for future decisions. The initial fiscal feasibility review spreadsheet can be used for a one-year budget but is not a substitute for a LAFCO application or a comprehensive fiscal analysis (CFA). CFAs include more detailed and specific revenues/expenditures for multiple years which are not included in the initial feasibility review spreadsheet. Use of the initial feasibility review spreadsheet as a CFA may result in inadequate financial information which can lead to longer processing times at LAFCO and ultimately more expense for incorporation proponents.

II. GETTING READY: PRE-INITIATION

The work of research and planning before initiating an incorporation is critical to the process. The following sections include a discussion of pre-initiation steps for LAFCO and incorporation proponents. OPR recommends that LAFCOs and proponents refer to Appendix A to review the steps in the overall process and Appendix C to review key terms used in these Guidelines before getting started.

A. BEFORE INCORPORATION STARTS: LAFCO'S ROLE

WRITTEN POLICIES

LAFCO is required to review, approve/disapprove proposals for changes of organization and reorganization consistent with written policies, procedures and guidelines adopted by the Commission (§56375).

In order to ensure a fair and equitable deliberation by LAFCO on incorporation proposals it is important that LAFCO adopt policies and procedures prior to the submittal of any specific incorporation proposal. At a minimum, LAFCO should take a comprehensive view of its existing rules related to incorporations, determine whether modifications are warranted and make the information available to LAFCO's Commission, local governments, special districts and the public. The following is a list of preparatory activities a LAFCO should consider:

- Review and update LAFCO general policies and procedures which relate to or affect incorporation.
- Review and update any specific incorporation policies, procedures, and guidelines.
- Establish a standard application form.
- Establish a schedule of fees.
- Establish standards for appropriate incorporation boundaries and alternatives.
- Establish a policy regarding the adoption of the Sphere(s) of Influence.
- Establish a process for triggering LAFCO facilitation in the revenue neutrality agreement process.

- Review LAFCO's and the State's rules and procedures related to financial contributions to incorporation efforts.
- Identify the County Auditor's ratio.

The public, in particular, should have access to comprehensive information on the incorporation process, application forms, requirements, processing times, fee schedules, standards of review for incorporations and other relevant information.

LAFCO plays several roles in the incorporation process including educating the public on the incorporation process, facilitating communication between affected local government parties and community groups and reviewing/approving the proposal. When developing incorporation policies and procedures LAFCO should address each of these roles.

OPR recommends that LAFCOs consider developing a formal pre-application process which includes having community members meet early in the process with LAFCO staff to become better educated on the process and form a cooperative working relationship with LAFCO.

At a minimum the pre-application process should include the following procedures:

- An internal tracking system to maintain updated information on changes in incorporation law, contacts with potential incorporation groups/individuals and a mailing list of potential incorporation proponents.
- Development of an information packet on the incorporation process and procedures which LAFCO will follow in reviewing the proposal.
- A meeting and consultation among incorporation proponents, LAFCO and affected local agencies to clarify expectations of the incorporation process.
- A review of the draft application including boundaries, alternative boundaries, descriptions and other application requirements.

B. Before Incorporation Starts: The Proponents' Role

1. Alternatives to Incorporation

LAFCO'S ROLE IN AN INCORPORATION

Incorporation proposals are often motivated by dissatisfaction with the status quo.

One of LAFCO's roles is to be an intermediary and facilitator that is required, by law, to identify issues and to resolve them in an equitable manner.

LAFCO staff must communicate clearly the standard of review, the requirements, the estimated cost and the probable timing of an incorporation proposal.

Approximately 6,500,000 people, or 18% of California's population, live in unincorporated communities. While these communities vary in size and character, they have the same range of challenges that cities face—changes in the character of their community, housing/jobs balance, provision of services, increased traffic and growth. Sometimes these communities see incorporation as the only means to acquire the political visibility and credibility to address their problems and they may be unaware of other alternatives.

OPR recommends that proponents investigate alternatives to incorporation prior to initiating an incorporation. As an example, a special district may be a more cost effective means for obtaining services than incorporation. "*Choices for the Unincorporated Community: A Guide to Local Government Alternatives in California*" (Institute of Governmental Affairs, University of California at Davis, September 1981) contains a comprehensive discussion of alternatives to incorporations for unincorporated areas.

Below is an excerpt from "*Choices for the Unincorporated Community*". Residents considering incorporation, should consider the following questions before making a formal proposal to LAFCO:

- What is the problem, if any, driving the desire for change in the existing governmental structure? Can the problem be addressed by other means?
- What is the role of the County government in the community? Is the County willing or able to address the identified problems?
- What is the community's relationship to other adjacent communities?
- What would the proposed boundaries look like and how would that affect other agencies and communities?
- What is the past history of local efforts to incorporate?
- How is the community changing?
- What is the community's capacity for self-governance?
- How are services currently provided and how would they change? Does the area have the ability to provide municipal level services if incorporated?
- Who is likely to benefit from a change and who is likely to lose?

Once these questions are answered, residents may have a better understanding of why they want to incorporate and whether incorporation will actually solve the problem(s) which concern them.

2. Consult with LAFCO

INCORPORATIONS CAN BE EXPENSIVE

Proponents are generally required to pay for LAFCO fees and staff costs, consultant costs, preparation of the CFA, application, map and legal descriptions as well as environmental review. It is not unusual for an incorporation to cost more than $100,000.

Of all the actions incorporation proponents can take to help ensure a successful incorporation process, early and frequent consultation with LAFCO, and with other affected agencies, such as the County and special districts, is the most important. Proponents can often become overwhelmed by the technical, legal and procedural requirements of incorporation.

LAFCO staff should be available to assist proponents in understanding the process, in facilitating communication among all the affected agencies and in helping all parties avoid the most common pitfalls in an incorporation.

a. Assist in Identifying Logical Boundaries

Developing a logical incorporation boundary is the first and most fundamental step in an incorporation effort. It is strongly recommended that proponents develop the boundary in conjunction with LAFCO staff early in the process—even before deciding to move forward with any incorporation efforts. Developing logical boundaries and alternatives early in the process with LAFCO staff can save time and money for proponents. See Exhibit 1, Example: An Incorporation Boundary and Alternative Boundaries.

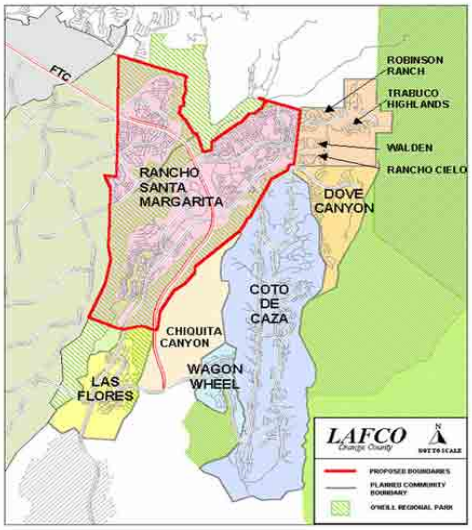
LAFCO's policies and procedures on incorporations should include a list of criteria which LAFCO will use in evaluating boundaries and should reference items such as the existing boundaries and spheres of influence of existing cities and special districts, flood plains, communities of interest and the readiness of the area to incorporate.

b. Facilitate Early Discussions with Affected Agencies

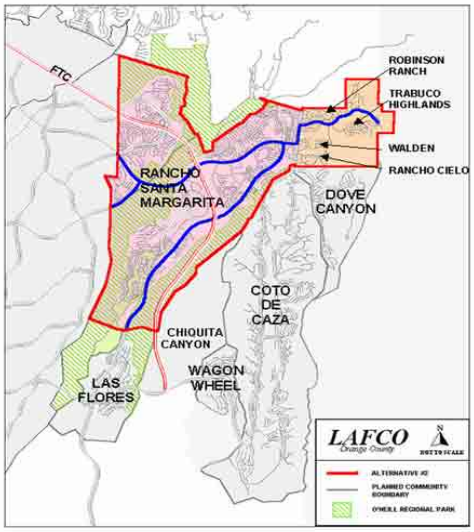
LAFCO staff should be available to convene a meeting of representatives from affected agencies and other interested parties to ensure early input into the proposed incorporation proposal and boundaries.

EXHIBIT 1
EXAMPLE: INCORPORATION BOUNDARY AND ALTERNATIVE BOUNDARIES

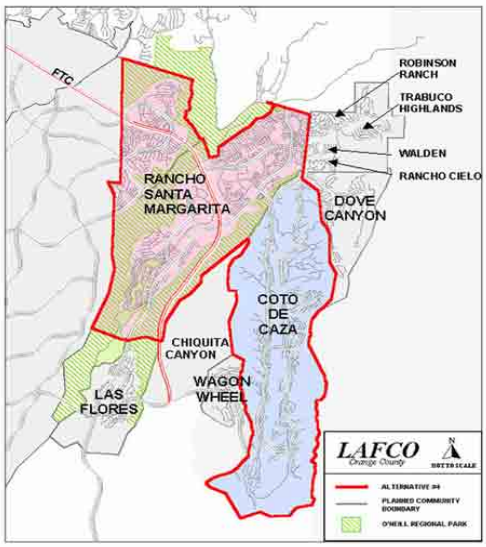
RANCHO SANTA MARGARITA



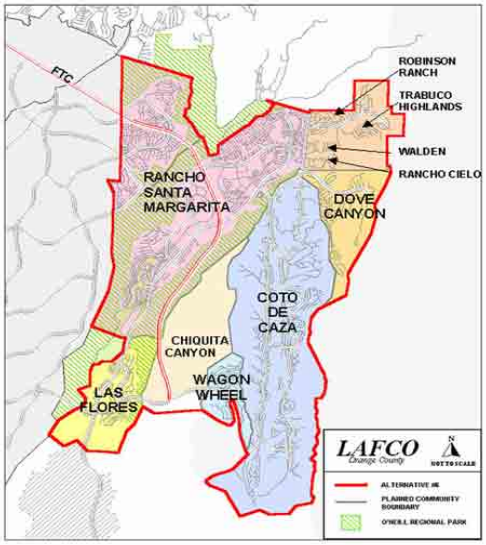
Proposed Incorporation Boundary



Alternative Boundary #2



Alternative Boundary #4



Alternative Boundary #6

Maps Courtesy of Orange County LAFCO

(Not all alternatives are displayed.)

3. Use of Consultants

LAFCO is legally responsible for the information in the Executive Officer's report and must ensure that it is accurate, complete and objective. LAFCO may need assistance in meeting those requirements and may contract for an outside consultant. If LAFCO requires additional assistance, it may require that the proponents pay for the costs of hiring a consultant. Even if the proponents have already prepared an incorporation application, LAFCO may need to contract for an independent consultant to verify information and review the conclusions presented in the application.

Consultants are typically used for a variety of tasks. They may have the comprehensive and current knowledge of local government financing needed to prepare a CFA, of local government structure, of LAFCO polices and procedures and of incorporation processes. Consultants are often responsible for helping in establishing logical boundaries in conjunction with LAFCO; preparing and developing the CFA including revenue neutrality negotiations; preparing the application, reports, petitions and other forms as needed; monitoring the proposal; and providing technical assistance.

The manner in which consultants are used varies but generally matches one of the two following models:

- LAFCO hires the consultant. The proponents deposit money with LAFCO to cover consultant costs. The consultant works for and is paid by LAFCO with the funds deposited by the proponents. Proponents do not have control over the consultant's work, timing or end product.
- Incorporation proponents hire the consultant. The consultant works for and is paid by the proponents. The proponents have more control over the preparation of the application and related studies.

Both methods can be successful. Proponents should discuss the use of consultants with LAFCO early in the process.

4. Initial Fiscal Feasibility Review

PREPARING A CFA

The preparation of a CFA is the legal responsibility of LAFCO. In practical terms, that means that LAFCO will determine who prepares the CFA and when the CFA shall be prepared. It is recommended that proponents discuss the method of preparation of the CFA with LAFCO prior to beginning any incorporation efforts. Failure to do so may result in the processing of the application being delayed and in additional costs to the proponents. **Proponents are typically required to pay for the costs of the CFA.**

If proponents decide to take a closer look at incorporation, it may be helpful to perform a preliminary assessment of the fiscal resources available to a potential new city. The preliminary assessment, or initial fiscal feasibility review, is designed to help community groups conduct a quick appraisal of the potential for incorporation. An initial fiscal feasibility review spreadsheet, provided in Appendix D, can be used by incorporation proponents to determine if revenues will be available to support municipal level services. The initial fiscal feasibility spreadsheet is NOT intended to be used as a substitute for a CFA. It is only intended to be used as a means to educate proponents regarding the fiscal potential for incorporation.

III. INITIATING THE INCORPORATION

The Cortese-Knox-Hertzberg Act requires that areas proposed for incorporation include at least 500 registered voters (§56043).

The legal process for incorporating a new city can be initiated (§56047), or started, in three ways. They are:

- Registered Voters: A petition signed by at least 25% of the registered voters residing in the proposed incorporation area is submitted to LAFCO. The Registrar of Voters must verify the number of valid signatures on petitions of registered voters.
- Land Owners: A petition signed by at least 25% of the landowners owning at least 25% of the assessed value of land within the proposed incorporation area. The County Assessor's Office must verify the petitions of landowners.
- Legislative Body: The legislative body of an affected agency (§56014) can adopt a resolution of application. An affected agency is any city, special district or county which contains territory, including a sphere of influence, within the proposed incorporation boundaries. If the territory identified in the resolution is within the boundaries of a city the "incorporation" process would follow under the procedures for a special reorganization rather than the change of organization process.

Each method of initiation is described in detail in the following sections. Proponents are encouraged to check with LAFCO regarding local policies, procedures and guidelines. Sample forms are provided in Appendix E.

A. INITIATION BY PETITION OF REGISTERED VOTERS

Most incorporations are initiated through a registered voter petition. The process of explaining the goals of an incorporation effort to potential signers of petitions is an important step in the education of a community about the issues involved in and the purpose of incorporation. The process of gathering signatures on petitions is also a means of determining the level of support for incorporation and of gathering feedback from residents. If the incorporation is to ultimately succeed at the polls, it must have a high degree of community consensus and the petition effort is part of the process to develop that consensus.

A registered voter petition for incorporation requires the signatures of not less than 25% of the total number of registered voters residing in the area to be incorporated (§56764(a)). A sample petition is included in Appendix E.

Petitions must be prepared and processed in accordance with the legal requirements of the Cortese-Knox-Hertzberg Act. The legal requirements for the process, form and content of incorporation petitions are specific and complex. LAFCO's Executive Officer and LAFCO legal counsel should review all registered voter petition forms when the proponents file a "Notice of Intent" (§56700.4) to circulate petitions with LAFCO. This preliminary review can lessen the possibility that petitions will be rejected for errors after the proponents have gathered signatures.

Existing law states that the signatures on an incorporation petition shall be verified by the elections official of the county and that the costs of verification of the signatures shall be provided for in the same manner and by the same agencies which bear the costs of verifying signatures for an initiative petition in the same county (§56383(e)). Proponents are strongly encouraged to check with LAFCO staff, the county and the Registrar of Voters in their own county to determine the costs of verification.

LAFCOs may adopt regulations governing contributors, expenditures and other activities relating to the petition process (§56700.1). Proponents should check with LAFCO about these regulations prior to circulating petitions.

B. Initiation by Petition of Landowners

Incorporations may also be initiated by petition of landowners (§56048). This type of initiation requires the signatures of not less than 25% of the total number of landowners who own property valued at a minimum of 25% of the total assessed value of land in the proposed incorporating area (§56764(b)). Landowner petitions are usually verified by the County's Assessor's Office which uses the most recent assessment rolls (§56708). However, in some California counties, the Registrar of Voters may verify landowner petitions as well as registered voter petitions. While infrequently used, this type of initiation may be more useful when less densely populated communities want to form a new city.

Except for the type of signatures collected and the agency which verifies the petitions, the requirements for the form, the content and the processing of an incorporation initiated by landowners is the same as for registered voters. The incorporation must still ultimately be voted on in an election and must ensure that it has the support of registered voters. The proponents among the landowners assume the leadership role in the incorporation process and are responsible for completion of all application requirements including the payment of fees.

C. Initiation by Resolution of an Affected Agency

Any affected agency in the area proposed for incorporation may become the applicant by adopting a Resolution of Application (§56654). The resolution may also be preceded by a "Notice of Intent" and must include all of the same components as incorporation initiated by petition except for the signature requirements (§56654(c)). The agency board assumes the leadership role in the incorporation process and is responsible for completion of all application requirements including the payment of fees.

D. Processing of Petitions

The following sections explain the processing of petitions initiating incorporation. Exhibit 2 provides a Typical Timeline for Processing Petitions.

EXHIBIT 2
TYPICAL TIMELINE FOR
PROCESSING INCORPORATION PETITIONS

Notice of Intent to Circulate Petition
(§56700.4)

↓

Date of First Signature on Petition
(§56705(a))

↓

180 days

↓

Date of Last Signature on Petition
(§56705(a), §56706(2))

↓

30 days
(law prohibits more than 60 days)

↓

LAFCO Submits Petition for Verification
(§56706)

↓

Petition Sufficient:
LAFCO Issues Certificate of Sufficiency
(§56706(a))

↓

INCORPORATION PROPOSAL PROCEEDS

↓

Petition Insufficient
(§56709)

↓

Additional Signature Collection
(§56706(2))

↓

15 days

↓

LAFCO Certifies Results
(§56706(c))

↓

Petition Insufficient

↓

PROPOSAL TERMINATED

1. Notice of Intent to Circulate a Petition

Before circulating a petition for incorporation, incorporation proponents must file a "Notice of Intent" (§56700.4) to circulate a petition or to adopt a Resolution of Application. Although recommended by OPR, affected local agencies are not required to circulate a Notice of Intent to LAFCO and other affected and interested agencies prior to the adoption of the resolution (56654). The Notice of Intent must include the name, mailing address and signature of the proponents (§56068) and a written statement (not exceeding 500 words) stating the reasons for the proposed incorporation. The Notice of Intent must be filed with LAFCO. A sample Notice of Intent form is included in Appendix E.

Only after filing the Notice of Intent with LAFCO may the petition be circulated. LAFCO's Executive Officer is required, upon receiving the Notice of Intent, to notify affected agencies and jurisdictions (§56658).

2. Form and Content of a Petition or Resolution

The text of a petition or resolution of application is similar for all three types of initiation. Sample petition forms and notices are included in Appendix E. The text of a petition or resolution of application must include the following (§56700):

REVIEW OF PETITIONS

A petition is a legal document and must be prepared in accordance with the requirements of the law. It is strongly recommended that the proponents and LAFCO use the "Notice of Intent" filing as an opportunity to review the petition to ensure legal conformance.

- A statement that the proposal is made pursuant to Government Code Section 56000 et seq.
- A brief statement of the nature of the proposal and listing of other changes of organization. This could include the special districts that are proposed for reorganization as a result of the incorporation, detachment or annexation of territory and or changes in applicable governmental boundaries.
- A map and description of the proposed incorporation boundaries and alternatives.
- Proposed terms and conditions. Although LAFCO has the ability to add, delete or modify proposed terms and conditions, the incorporation proponents should include some terms and conditions to ensure that petitions signers understand the consequences of incorporation.
- A statement of the reason(s) for the proposed incorporation. A clear statement of the reasons for incorporation is critical for the education of petition signers.

COLLECT MORE THAN YOU NEED

In collecting signatures on a petition incorporation proponents should plan on collecting at least 10% to 15% more signatures than the minimum requirement to compensate for signatures found to be invalid. Each circulator of a petition should review the map of the incorporation area with each signer of the petition to confirm his/her residence. This helps reduce the number of invalid signatures.

- A statement as to whether the petition is signed by registered voters or landowners.
- The names of three proponents who will be the main contacts for the proposal.

- A request that further proceedings be taken by LAFCO pursuant to the Cortese-Knox-Hertzberg Act.
- A statement of whether the proposed incorporation is consistent with the spheres of influence previously adopted by LAFCO.

The petition can also propose a name for the new city or town (§56722), and provisions for appointment of a city manager and other city officials (§56723).

The form of the petition must provide for each signer's printed name, street address (post office boxes are not sufficient), signature and the date of signature (§56704). Each signer of the petition must be either a registered voter or landowner, depending on which type of petition is being circulated, within the boundaries of the proposed incorporation. For landowner petitions, each signature must be accompanied by a description of property owned within the incorporation area, such as an assessor's parcel number.

3. Timing of Petitions

All signatures must be gathered within a six-month (6) period from the date of the first signature (§56705). Incorporation petitions must be submitted to LAFCO for filing within 60 days of the date of the last signature on the petition. The total number of valid signatures necessary to meet the 25% requirement for a petition of registered voters will be established as of the date of the last voter registration report prior to the date of the first signature on the petition (§56071, §56706) and Election Code 9113-9115). It is important that incorporation proponents plan the timing of their petition drive carefully to meet these statutory requirements. Within 30 days after the date a petition is received by LAFCO, the Executive Officer shall cause the petition to be examined and shall issue a "Certificate of Sufficiency" or "Notice of Insufficiency" (§56706(a)) after the results of the examination are received. The County's Registrar of Voters examines registered voter petitions to determine the number of valid signatures (§56707). Landowner petitions are examined based on a comparison of signatures and the "most recent assessment roll" (§56708).

If the petition is determined to be insufficient based upon the number of signers, LAFCO's Executive Officer will notify the proponents by certified mail. The proponents have 15 days after the date of this notice to submit a supplemental petition to LAFCO's Executive Officer (§56706(b)(1)). It is important to note that this 15-day period is the only chance to collect the additional number of required signatures if the original number of signatures is insufficient.

Within 10 days of the date the supplemental petition is filed, LAFCO's Executive Officer will have the petition examined and certify in writing the result of his/her examination. If the petition is found to be insufficient, it will be filed as a public record "without prejudice" to any future incorporation effort in the same area (§56709). Without prejudice means that proponents can begin the process of initiating another incorporation without waiting a specified period of time.

IV. PREPARING AN INCORPORATION APPLICATION

Incorporation applications must include a variety of information and studies. LAFCO should develop and publish a standard list of information which is to be included in the application. The minimum information (§56652) which must be submitted to LAFCO includes:

- A petition or resolution of application initiating the proposal;
- A description of the incorporation proposal;
- A map and legal description of the proposed incorporation area.
- The names of the officers or persons, not to exceed three in number, who are to be furnished with copies of the Executive Officer's report and who are to be furnished with mailed notices and copies of the Executive Officer's report.

LAFCO is also authorized to require other data and information necessary for the analysis of the application.

While some incorporation applications may also include a CFA, it is strongly recommended by these guidelines that the preparation of CFAs be started after submittal of an incorporation application to LAFCO.

The Cortese-Knox-Hertzberg Act's timelines for submittal of petitions, noticing and other requirements related to an incorporation application are mandatory. However, the timelines for review and processing are generally advisory. Proponents should consult with LAFCO to determine a schedule for processing an incorporation application which will be consistent with the requirements of the individual LAFCO and the law (§56106).

Subsections (d) and (e) of Section 56652 provide LAFCO's Commission and its Executive Officer with the authority to require additional information as needed to process the incorporation proposal. State law also empowers each LAFCO to adopt additional written procedures for the evaluation of proposals (§56375(g)). Incorporation proponents are strongly encouraged to check with LAFCO staff in their county to obtain an application and to determine if there are specific procedures or policies adopted by that LAFCO which may affect the incorporation.

A. DESCRIPTION OF INCORPORATION PROPOSAL

Existing law requires each incorporation proposal to include information relative to the "nature" of the proposal (§56652(b)). OPR recommends that the nature of the proposal be described in the following manner.

- The reasons for proposing incorporation. The reasons for incorporation vary and include, but are not limited to: improving local public services; capturing existing or accessing new revenues to support local services; giving a community local control over land use planning; creating a locally accountable governing body; and, pursuing local policy.

INCORPORATION PROPOSAL

While capturing existing or accessing new revenues may be a motivating factor for proposing incorporation, the Cortese-Knox-Hertzberg Act states that incorporations should not occur primarily for financial reasons (§56815).

- A clear statement of concerns, issues or problems, if any, with the existing governmental structure.
- Any changes proposed from the way public services are currently being provided. For example, if the incorporation proposes the reorganization of special districts as part of the incorporation, those governmental changes should be included in the description of the incorporation proposal.
- A brief history of the incorporation area including the results of any previous incorporation efforts.
- Demographic, geographic and economic data which describe the incorporation area. This information can be readily obtained from the United States Census Bureau or other public agencies.

B. TIMING OF THE COMPREHENSIVE FISCAL ANALYSIS (CFA)

Following submission of an incorporation application, LAFCO's Executive Officer will prepare, or cause to be prepared by contract, a CFA and will release that analysis for public review (§56800).

PREPARING A CFA

The preparation of a CFA is the legal responsibility of LAFCO. In practical terms, that means that LAFCO will determine who prepares the CFA and when the CFA shall be prepared. It is recommended that proponents discuss the method of preparation of the CFA with LAFCO prior to beginning any incorporation efforts. Failure to do so may result in the processing of the application being delayed and in additional costs to the proponents. **Proponents are typically required to pay for the costs of the CFA.**

While some incorporation proponents may prepare their own CFAs and submit them to LAFCO with their application, LAFCO has the ultimate responsibility for ensuring that the information is accurate, complete and objective. Some LAFCOs may require that the proponents pay for the costs of hiring an independent consultant to verify or supplement the work of the proponent's consultant. This can increase the processing time for incorporations and add to the costs. OPR recommends that preparation of the CFA not begin until after a successful initiation of the incorporation and after submittal of an application to LAFCO.

COMMUNICATION AMONG LOCAL GOVERNMENT ENTITIES

LAFCOs are encouraged to work closely with counties and incorporation proponents to facilitate the preparation of the CFA and a revenue neutrality agreement.

LAFCOs are encouraged to adopt written policies and procedures for a pre-initiation review of an incorporation proposal, preparation of a CFA (§56300(a)), a schedule of fees and clear and consistent standards of review for a CFA and an incorporation proposal. LAFCOs are also encouraged to work closely with counties and incorporation proponents to facilitate the preparation of the CFA and a revenue neutrality agreement. The steps in the preparation of a CFA are described below under Section V. A, Preparation of the Comprehensive Fiscal Analysis.

The CFA becomes a part of the Executive Officer's Report and is submitted to the Commission prior to their consideration of the incorporation proposal (§56665).

C. Service Plan

All incorporation applications must be accompanied by a service plan. A service plan is a proposal submitted by the incorporation proponents detailing which municipal services, after incorporation, will be provided by the new city or by other agencies (§56653). A service plan should include, at a minimum, the following:

- A description of the local public agencies presently serving the area including maps of service areas;
- The range and level of services currently provided;
- Proposed changes in the governmental structure (e.g., districts proposed to be dissolved and/or merged with the new city); and
- Increased or decreased range and level of services potentially available in the community if incorporated and how the difference, if any, will be financed.

WHO PROVIDES WHAT SERVICES AFTER INCORPORATION?

Services Which A New City May Assume

- Law enforcement
- Fire protection and paramedics (some cases)
- Water and sewer (some cases)
- Planning (land use, environmental review, zoning, building inspection, etc.)
- Public works (streets, engineering, traffic signals, streetlights, drainage, etc.)
- Local parks and recreation
- Libraries (in some cases)
- Animal control

Services that the County Must Continue to Provide

- Special services (welfare, child protective services, etc.)
- Health services (medical care, mental health, public health)
- Criminal justice (courts, prosecution, jails, probation, etc.)
- Regional parks (in some cases)
- Elections and voters services
- General government (assessor, treasurer, recorder, tax collector, etc.)
- Planning and environmental services

Special Districts may also be formed and/or expanded to provide a wide variety of serves.

D. Map and Legal Description of Boundaries

All incorporation applications must include a map and legal description of the proposed incorporation boundaries including a rationale for the boundaries proposed and a description of possible boundary alternatives. Since LAFCO has the legal responsibility to consider, among other items, the effect of the proposed incorporation on the provision of services, its social and economic impact on the county and proposed city, and its conformity with LAFCO's policies on orderly development (GC 56668), incorporation proponents are strongly encouraged to work with LAFCO staff early in the process to develop a logical incorporation boundary..

OPR recommends that an incorporation boundary recognize other local agencies' boundaries and SOIs; include a variety of land uses; consider topography and transportation routes;

recognize communities of interest especially if environmental justice communities may be affected; and not create islands of unincorporated territory.

Government Code Section §56668(f) states that one factor to be considered when reviewing a proposal is the "…definiteness and certainty of the boundaries of the territory, the nonconformance of the boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory and other similar matters affecting the proposed boundaries". To ensure consistency with this requirement, incorporation applications should include a metes and bounds legal description. However, individual LAFCOs may require the preparation of a metes and bounds description at different stages during the process. Incorporation proponents are responsible for the cost of preparation of both the map and the metes and bounds legal description. Please refer to Section II, B-2 for a more complete list of factors which determine a logical incorporation boundary and alternatives.

Existing law requires LAFCO to consider alternative boundaries (§56668). OPR recommends that incorporation proponents begin consultation with LAFCO as early as possible to reduce the likelihood of having to pay for the development and analysis of additional boundary alternatives after the application is filed.

E. Sphere of Influence (SOI) and Municipal Service Review

A Sphere of Influence (SOI) is defined as the "…probable physical boundaries and service area…" (§56076) of an agency. An SOI includes territory not within the corporate limits of the agency but which is expected to be annexed at some time in the future. There may be communities or territory closely connected with a proposed incorporation area which are not ready to be included in the new city but need to be acknowledged for future planning. The impacts of incorporation on the proposed SOI should be considered as part of the incorporation application and may, although not required to, be included in the CFA.

DETERMINING A NEW SPHERE OF INFLUENCE

LAFCO may either approve a SOI for a new city at the time of LAFCO's Commission hearing or delay consideration of the SOI for up to one year after voter approval (§56426.5).

It is recommended that incorporation proponents develop a proposed SOI together with the proposed incorporation boundary and alternatives. LAFCO may either approve a SOI for a new city at the time of LAFCO's Commission hearing or postpone consideration of the SOI for up to one year (§56426.5) after voter approval. One advantage of deferring the SOI decision for the full year is that the new city council has time to consider the SOI in connection with the new city's general plan process.

Beginning in January of 2001, LAFCOs are required to undertake a municipal service review prior to the adoption or update of an SOI (§56430). Incorporation proponents need to consult with LAFCO to determine how and when a service review will be prepared for an incorporation proposal or a newly incorporated city. OPR recommends that LAFCO develop a policy that clearly states when a service review for an incorporation proposal or a newly incorporated city will be conducted. The policy should also clearly state when a service review will be prepared for other agencies whose boundaries or SOIs may change as a result of incorporation.

F. PAYING FOR THE INCORPORATION APPLICATION.

Fees for incorporation proposals vary and are set by each LAFCO. All LAFCOs should adopt general fee schedules to allow potential applicants the ability to estimate the potential incorporation costs.

Incorporation proposals can be charged on an actual cost-recovery basis, on a deposit system, as a set fee or by other methods. Proponents are required to fund the incorporation effort, including the costs of LAFCO to develop information and process the application. The cost of incorporations has ranged from $50,000 to $150,000 based on the experience of several incorporation efforts over the past 5 years.

LOAN FROM THE STATE

For an incorporation that has been initiated by a successful petition, LAFCO (§56383(g)) may forward a request for a loan from the Controller of the State of California. The State, not LAFCO, can approve the loan which then becomes an obligation of the new city. Repayment of the loan must be made within 2 years of the effective date of the incorporation.

Since incorporation is almost always a volunteer effort, raising the necessary funds can be a challenge. For incorporation proceedings that have been initiated by a successful petition, LAFCO may, upon receipt of substantial proof submitted by the proponents that they are unable to raise sufficient funds, take no action on the proposal and forward a written request for a loan to the Controller of the State of California (§56383(g)). This is a new provision of the Cortese-Knox-Hertzberg Act. The proponent's written request should state the amount requested and should be sufficient to cover incorporation expenses. The written request may also include, but is not limited to, the following:

- Bank statements of incorporation accounts
- Audit of funds of incorporation accounts
- Affidavits signed by the proponents
- Information as necessary to verify that the incorporation proponents are unable to raise sufficient funds

LAFCO shall forward the loan request, along with the certification of insufficient funds as supplied by the proponents, to the State Controller by registered mail. State funds are NOT automatically granted to an incorporation effort and are subject to availability and other budgetary limitations of the State. It should be noted that LAFCO has no discretion or authority over the State funds or incorporation loans; LAFCO's role is to simply forward the request and certification to the State Controller for consideration.

If the loan is approved, repayment of the loan shall be made a term and condition of LAFCO approval and may be included as part of the ballot measure when incorporation goes to the voters. If the incorporation is successful, the loan shall become a legal obligation of the newly formed city and shall be shown as an expense in the budget projections of the CFA for the proposed city. Repayment of the loan must be made within two years of the effective date of incorporation. If the incorporation proposal is denied by the Commission or defeated at an election, the loan shall be forgiven.

V. REVIEWING THE APPLICATION: LAFCO STAFF ANALYSIS

After the incorporation application and fees have been submitted, LAFCO staff will mail a notice of receipt of the application to all interested and affected agencies and the proponents (§56658).

LAFCO staff then has 30 days to review the application for completeness. If the application is considered complete, LAFCO's Executive Officer will issue a Certificate of Filing (§56651) which indicates that the application is ready for a public hearing. LAFCO must then set a public hearing for the incorporation within 90 days. However, if the application is not complete, LAFCO's Executive Officer must notify the applicants within 30 days of submittal if the application is incomplete and must specify those parts of the application which need additional information (§56658(g)) to be deemed complete.

Once the application is complete, LAFCO staff must analyze the merits of the proposal, evaluate it for consistency with existing laws and adopted LAFCO policies and procedures, conduct the environmental review, prepare or cause to be prepared the CFA, complete the revenue neutrality process and prepare the Executive Officer's report. As necessary and as provided in the Cortese-Knox-Hertzberg Act (§56652), LAFCO's Executive Officer can also request additional information to process the incorporation application. The staff review may take up to a year depending on the completeness of application, the complexity of the proposal and the experience and staffing level of LAFCO.

A. ENVIRONMENTAL JUSTICE CONSIDERATIONS IN INCORPORATIONS

In analyzing the merits of the proposal, LAFCO staff should consider their responsibilities under federal and state civil rights and environmental justice laws. This chapter describes the framework for developing an effective review process which reflects the laws and policies related to civil rights and environmental justice.

Factors that are required to be considered in the review of the proposal and that may have significant civil rights and environmental justice implications include, among other items, population, per capita assessed valuation, the need for organized community services including the present cost and adequacy of existing services and the probably effect of the incorporation on the area and adjacent areas (§ 56668). Further, LAFCO is required to specifically identify the effect of the proposed action on social and economic interests in the proposed new city and the county government structure.

In order for civil rights and environmental justice to be properly considered, OPR recommends that relevant information collected during municipal service reviews as well as other local studies on social and economic indicators in the region be used in considering the incorporation proposal.

In general, federal and state civil rights laws prohibit actions by public entities which disproportionately affect one category of individuals including, but not limited to, race, creed, ethnicity, disability, family status, sexual orientation and income.

Environmental justice is defined in state law as the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies (GC §65040.12(e)).

Environmental justice has particular implications for review of incorporation proposals, as LAFCO will be considering boundaries and service plans that directly address who will be included and who will excluded from the new city and what impact the inclusion and exclusion will have on the both the residents of the new and the surrounding community including those that may have been historically undeserved and/or environmentally overburdened.

Staff and Board Training

OPR recommends that LAFCOs provide for ongoing training of staff and board members relative to the application of federal and state civil rights statutes that apply to local government entities.

city

The 2000 amendments to CKH Act also recognize the potential impact of LAFCO decisions on environmental justice. (GC §56001):

> "Encourage orderly growth and development which are essential to the social, fiscal, and economic well-being of the state… The Legislature also recognizes that providing housing for persons and families of all incomes is an important factor in promoting orderly development. Therefore, the Legislature further finds and declares that this policy should be effected by the logical formation and modification of the boundaries of local agencies, with a preference granted to accommodating additional growth within, or through the expansion of, the boundaries of those local agencies which can best accommodate and provide necessary governmental services and housing for persons and families of all incomes in the most efficient manner feasible. "

Other sections of these guidelines provide guidance on boundaries, service plans and adoption of sphere's of influence. Appendix H includes additional background on LAFCO's civil rights and environmental justice responsibilities.

These guidelines include a number of recommendations which encourage broad public participation and incorporation proposal analysis which would affirmatively support the civil rights and environmental justice responsibilities of LAFCO including:

- Educate the public on the role of LAFCOs and the incorporation review process. Appendix A includes a "Primer on Incorporations" that was developed to assist LAFCO with this purpose.
- Adopt general policies and procedures relative to the undertaking of the review of incorporation applications. This will avoid any appearance of an unequal review of some applications.
- Develop and publish a schedule for review and Commission consideration to maximize the ability of the public to participate in the process.
- Convene stakeholders and facilitate collaborative efforts to address issues and challenges that are identified during the early consultation with the proposal proponents which may, ultimately, eliminate the need for the incorporation of a new city.

Consider the impacts of the proposed incorporation across county lines if that would more appropriately address the community of interest.

- Publish the Draft Executive Director's Report and provide for a 21-day public review period before scheduling the report to be considered by LAFCO.
- Hold meetings and public documents in language other than English, where affected populations are reasonably expected to be non-English speakers.
- Sponsor public workshops prior to the hearing at which the incorporation proposal will be considered.

B. PREPARATION OF THE COMPREHENSIVE FISCAL ANALYSIS (CFA)

The CFA (§56800) is a critical part of LAFCO's Executive Officer's report. It includes several legally required components and is usually prepared and processed in a series of sequential steps. Those steps are described in the following sections.

OPR recommends that preparation of the CFA begin after submittal of an application to LAFCO to ensure that multiple versions of the CFA do not have to be prepared. This will help to keep costs and preparation time at a minimum.

As previously mentioned, it is important in the preparation of the CFA to have identified alternative boundary scenarios early in the incorporation process. The early identification of alternative boundaries will allow greater efficiency in the collection and segregation of related costs and revenues. Adding or excluding areas can have a significant impact on the CFA, on revenue neutrality, and on the amount of property tax transfer. The revenue neutrality impact analysis of the CFA should also incorporate alternative boundary scenarios so that any agreement on a revenue neutrality mitigation payment plan can be adjusted to reflect the financial impacts of alternative boundaries.

The CFA must also address revenue neutrality. Incorporations should not occur primarily for financial reasons (§56815) and, under the Cortese-Knox-Hertzberg Act, should result in a similar exchange of both revenue and responsibility for service delivery among affected agencies. Negative financial impacts to affected agencies must be identified and mitigation measures proposed. A suggested process for determining revenue neutrality impacts and mitigation is also described in a subsequent section of these Incorporation Guidelines.

1. Gather Financial and Service Level Data

Existing law requires LAFCO to prepare the CFA (§56800) from data provided by affected public agencies, franchise agencies and the county. Data collection should be coordinated by LAFCO to ensure that it is efficient and cost-effective.

The data collection begins with a data request letter mailed, generally by LAFCO, to all agencies with territory within or currently serving the proposed area of incorporation. The data request letter must also be sent to the county committee on school district organization and each school district within the proposed incorporation boundary. The data request letter should also include a provision that the agency both acknowledge receipt of the letter within 15 days and that it respond to the content of the letter within a specified and reasonable time frame as established by LAFCO's Executive Officer (§56658(b)). In the case of state agencies needing to provide data, the Executive Officer is encouraged to communicate with the agency to establish a reasonable timeframe.

PLAN AHEAD

Close coordination is critical in the preparation of a CFA. Often LAFCO and incorporation proponents begin working with agencies and the county a full year ahead of the submittal of the application to ensure efficient timing of data collection.

In the data request letter, the affected agencies should be asked to verify existing levels of service, associated costs, and revenues associated with the provision of service(s) to the proposed incorporation area. This information is used to establish the base year costs and revenues (§56810).

Data used for the CFA must be from the most recent fiscal year for which data are available preceding the issuance of the Certificate of Filing (§56800). When the prior fiscal year data requested by LAFCO is unavailable, the responses to LAFCO's data request letters and/or the CFA shall document the source and methodology of the data used.

Counties end their fiscal year on June 30th; however, the final financial data may not be available until August or September due to the length of time needed to assemble and prepare the financial information. The Executive Officer's report and CFA must be completed and heard at a public hearing by LAFCO's Commission within the same fiscal year or the data must be updated and/or a new CFA prepared. Therefore, the timing of data collection is critical to an incorporation. OPR recommends that data request letters be sent to all agencies and county departments at the start of a fiscal year (July 1) although data may not be available until August or September. Responses should be received by October or November if the CFA and LAFCO Executive Officer's reports are to be completed during the current fiscal year.

If precise cost figures and levels of service are not available or if the reporting agency does not collect data specific to the proposed incorporation area, the reporting agency must document the source of information and the method used to extrapolate the data. Projected general government costs are frequently based on staffing levels, salaries, and associated costs for cities of similar size. LAFCOs and proponents can use the data gathered from affected agencies to establish a service plan.

2. Establish a Service Plan

The CFA must analyze the fiscal implications of proposed changes in services (§56810).

Cities can provide services through one of two models. A municipality can be a "full-service" city which means that it provides all municipal level services (such as fire, police, garbage collection, water, sewer, etc.) through city employees in departments governed by the city council. Alternatively, a city can be a contract city, providing many of these services through contract(s) with service providers such as special districts, the county or private companies providing contract municipal services. Either model can be successful but has different impacts on data collection and ultimately on the CFA.

To determine which agencies or county service departments must be contacted to provide data, it is necessary to know what services are proposed in the service plan to be transferred to the new city. California cities are ***required*** to provide only a limited number of municipal services, including:

- General legislative functions.
- Land use planning and control over land use and development. (May also be provided by means of a contract with other entities such as the county or private firms.)
- Law enforcement (May be provided by means of a contract with other entities).
- Animal control (May also be provided by contract).
- Maintenance of public roads and other public property owned by the city. (May also be provided by means of a contract with other entities such as the county or private firms.)

The agencies, special districts and/or county departments providing these services should receive a data request letter.

The following are services that a city **may** provide and, if it does, then data needs to be collected to analyze the costs associated with providing these services:

- Fire protection and suppression
- Libraries
- Parks and recreational services
- Street lighting
- Street median maintenance
- Domestic water
- Wastewater treatment and disposal
- Solid waste management
- Flood control
- Social services or community services

Existing law requires any public agency to furnish LAFCO's Executive Officer with any records or information that are needed for the preparation of the CFA or Executive Officer's Report (§56658(b)(2)).

OPR recommends that all agencies or departments providing these services be sent data request letters if changes in the provision of services are part of the incorporation proposal.

Time and money can be saved in the data gathering process if LAFCO maintains a consistent schedule for undertaking municipal service reviews.

Exhibit 3 is a hypothetical example of which services might be transferred to a new city and would therefore have to be analyzed as part of the CFA.

EXHIBIT 3

EXAMPLE

TRANSFER OF SERVICE RESPONSIBILITY

Public Service	Current Provider	Post-Incorporation Provider	Level of Service	Funding Source
Animal Control	County	New City (contract with County	No Change	User Fees, General Fund
Administrative Services (§56650-56668.5)	County	New City	Likely Increase	General Fund
Wastewater	Water District	Water District	No Change	User Fees, Property Tax
Water	Water District	Water District	No Change	User Fees, Property Tax
Emergency Medical	County Fire District	County Fire District	No Change	User Fees, Fire Fund, Property Tax
Fire Protection	County Fire District	County Fire District	No Change	Fire Fund
Drainage/Flood Control	County	New City (local) and County Flood Control District (regional)	No Change	County Flood Control Property Tax, General Fund
Land Use Regulation	County	New City	No Change (demand-based)	User Fees, General Fund
Libraries	County Library District	County Library District	No Change	District Property Taxes, Fines and Fees, State Aid
Building Inspection	County	New City	No Change (demand-based)	User Fees
Police Protection	County	New City (contract with public agency)	Likely Increase	General Fund
Trash Collection and Disposal (public)	County (franchise with private firm)	New City (franchise with private firm)	No Change	User Fees
Road Maintenance, Public Works	County	New City	Likely Increase	Fuel Taxes, General Fund
Public Transit	County Transportation Authority	County Transportation Authority	No Change	User Fees, Grants, Subventions and Property Taxes
Parks and Recreation	County Service Area or Community Services District	New City	Likely Increase	User Fees, General Fund
Street Lighting	County	New City	No Change	General Fund

3. Establish Base Year Costs

Once data gathering is complete, LAFCO will develop an estimate of the base year costs (§56800(a)). Base year costs are the costs to provide municipal level services if the incorporation area had been a city during the base year. The primary examples of identifiable base year costs include law enforcement, animal control, public works administration (not funded by gas tax revenues), code enforcement and the net cost of land use planning and regulation.

WHAT IS NOT INCLUDED IN BASE YEAR COSTS

- Revenues that were not realized, received or collected during the base year.
- Project specific revenues, such as development impact fees.
- Special revenues used to cover costs such as federal grants or CDBG funds.
- Revenue from development currently under construction. For example, a new commercial development, which would not go on the tax rolls and did not produce sales tax or user tax revenues until the fiscal year following the base year, would not be included.

Base year costs are used to determine a base year budget as well as the property tax revenue transferring to the new city and ultimately, the new city's ability to provide adequate municipal services. Base year costs (and revenues) are also used to calculate revenue neutrality (§56810).

When determining base year costs, LAFCO must include all direct and indirect costs associated with the current provision of existing services in the proposed incorporation boundary. These costs should reflect the actual or estimated costs at which the existing level of services could be provided by the proposed city and should include any general fund expenditures necessary to support or subsidize a fee-supported service if the costs of providing the service are not fully recovered through fees.

LAFCO must identify the costs being transferred to the new city that will result in an administrative cost reduction to other agencies. LAFCO should also compare the costs of any existing services to the costs of services provided in cities with similar populations and geographic size that provide a similar level and range of services. This may help to determine a reasonable estimate of the costs expected to be borne by the new city.

Revenues should not be included in the base year budget unless they were realized, received or collected during the base year. Revenues, which were project-specific or are used to cover, either partially or wholly, costs are usually not included. These offsetting revenues might include federal monies used for specific projects. Finally, revenue resulting from development currently under construction is excluded from the base year costs. For example, a new commercial development, which would not go on the tax rolls and did not produce sales tax or user tax revenues until the following fiscal year, would not be included.

4. Calculate Property Tax Transfer

An important component of the CFA is the calculation of the estimated transfer of property tax from the county and any affected special districts to the new city. The property tax transfer calculation results in the county and affected special districts transferring property tax revenues to the new city in proportion to the services responsibilities assumed by the new city.

The Cortese-Knox-Hertzberg Act (§56810) provides a formula by which a share of the property taxes is transferred from the county and special districts to a newly incorporated city. The property tax transfer, or allocation, to the new city is calculated by LAFCO by multiplying the total net cost of transferred services by the Auditor's ratio, as described below and shown in Exhibit 4, Calculation of Property Tax Transfer. LAFCO determines the total net cost, based on information supplied by the county and other affected local agencies as described during data gathering, of all services to be transferred to the new city.

NET COSTS

Net cost includes both direct costs and overhead (indirect costs) funded by general-purpose revenues. The total net cost excludes any portion of the total costs funded by special purpose revenue, federal revenues, and revenues derived from fees, charges or assessments. Examples of these revenues include land use planning fees, building permit fees, gas tax revenues, landscape and lighting assessments, and animal licensing fees.

The total amount of revenue from all sources available for general purposes means the total amount of revenue, which an affected local agency may use on a discretionary basis for any purpose. The total amount of revenue does not include revenue (§56810(a-c)) which, by statute, is required to be used for a special purpose; revenue from fees, charges, or assessments which are levied to specifically offset the cost of particular services and do not exceed the cost reasonably borne in providing these services; and revenue received from the federal government which is required to be used for a specific purpose. Revenues that were project specific or were used to either partially or wholly cover costs for a specific project are also usually not included.

The total net cost is multiplied by the Auditor's ratio to produce the base property tax allocation, or the amount to be transferred to the new city. The Auditor's ratio is the ratio of property taxes allocated to the general fund of the county and each affected agency during the prior fiscal year to all revenues received by the county and affected agencies for general purposes during the prior fiscal year. The Auditor-Controller of the affected county determines the ratio.

The Auditor-Controller establishes the ratio each year pursuant to Section 93 of the Revenue and Taxation Code. Auditor-Controllers from different counties may determine the ratio by different methods. LAFCO, the county and the proponents should review the methodology of the Auditor-Controller to determine if the ratio is consistent with existing law and the recommendations of these guidelines. LAFCO's Commission uses the Auditor's ratio and the net cost of services to determine the amount of property tax revenue to be transferred to the new city. (See Exhibit 4, Calculation of Property Tax Transfer and Exhibit 5, Example: County Property Tax as a Percentage of Revenue Available for General Purpose.)

The formula used by LAFCO to determine the base property tax transfer as established in Government Code Section 56810 is depicted below.

Total Net Cost of Transferred Services x Auditor's Ratio = Base Property Tax Allocation

EXHIBIT 4

EXAMPLE

CALCULATION OF PROPERTY TAX TRANSFER

A. 2000-01 County Cost Estimates

	Net County Cost
Sheriff Department	$2,929,347
Animal Control	74,480
Code Enforcement	53,829
Street Lighting	116,878
Total Expenditures – General Fund	**$3,174,534**

B. Transfer of Tax Base

Total Expenditures Subject to Transfer	$3,174,534
County Auditor's Ratio 2000-01	28.84%
Property Tax Base Transferred from County	$915,560

C. Calculation of Tax Allocation Factor (TAF)*

Assessed Value (FY 2002/2003)	$4,051,833,786
Total Property Tax Collected @1% AV	40,518,338
Property Tax Base Transferred from County	$915,560
Tax Allocation Factor	2.26%

*Please note that this is a simplified version of the calculation of TAF. This calculation can be more complex and the tax rate may vary within the new city.

EXHIBIT 5

EXAMPLE

COUNTY PROPERTY TAX AS A PERCENTAGE OF REVENUE AVAILABLE FOR GENERAL PURPOSES

Item	2000-01 Revenues
PROPERTY TAX REVENUE	
Current Secured	$47,064,968
Current Unsecured	2,489,979
Prior Unsecured	62,117
Supplemental – Secured	791,623
Supplemental – Unsecured	14,107
Penalties & Cost Delinquencies	3,307,826
Airplane	210,462
Timber	95,059
Racehorse	10,381
Total	**$54,046,522**
OTHER GENERAL PURPOSE REVENUE	
Redemption Fees	$111,446
Deed Fees	2,870
Sales Tax	12,409,401
Property Transfer Fee	1,558,301
AB 1661 – ERAF	1,457,906
Franchise Fee	2,514,174
Interest Income	12,264,030
Commissions	12,175
Rental Income	182,969
Motor Vehicle-In-Lieu	47,845,516
Other State in-lieu taxes	15,469
Tobacco Tax	10,453,426
Homeowners In-Lieu	1,084,732
Williamson Act	5,813,928
State Other	2,837,000
Net Revenue Available for General Purposes	**$98,563,343**
TOTAL GENERAL PURPOSE REVENUES	**$152,609,865**
Property Tax as % of General Purpose Revenues	**36.32%**

5. Develop Budget Projections

Using the financial data gathered from agencies providing services during the prior fiscal year, the base year costs/revenues and the property tax transfer as determined by LAFCO, the CFA must include budget projections for the proposed new city (§56800(a-c)). Budget projections must include:

- The costs to the proposed city of providing services during the three fiscal years following incorporation.
- The revenues of the proposed city during the three fiscal years following incorporation.
- The effects of the costs and revenues on any affected local agency during the three fiscal years following incorporation.
- Any other information needed to make the findings as required for an incorporation proposal.

TESTING LONG-TERM FINANCIAL FEASIBILITY

To accurately analyze the long-term financial feasibility of a proposed incorporation, OPR recommends that the CFA provide budget projections for ten (10) years to reflect the drop in revenues collected by the new city after the state revenues decrease in the eighth year.

Existing law requires budget projections for only the first three (3) years after incorporation. However, during the first seven (7) years after incorporation, a city receives some state revenues based on a formula of three (3) times the number of registered voters. After the seventh year, revenues, such as Motor Vehicle In-Lieu fees and State Gas taxes, are subject to a formula based on the actual population of the city. The revenues received during the first seven years after incorporation may represent a significant but impermanent level of funding for any new city. A ten-year projection allows for a more accurate estimate of a new city's long-term financial feasibility. Generally, the budget projections should reflect a reasonable cost of living increase or inflationary factors.

A CFA must also include in its budget projections a transition period budget. A transition period is the time between the effective date of the incorporation and the date on which the new city must assume full service responsibility. The effective date is significant because the flow of revenue to the new city is affected by that date. For example, third quarter sales tax revenues are generally not received by a city until the end of the fourth quarter. Please refer to the section site chapter and section on Effective Date for a more complete discussion of this issue.

During the transition period, the new city receives certain revenues but services are still provided by the county. This allows the city time to organize its operations in anticipation of full city-hood. The new city receives certain revenues during this period, such as motor vehicle in-lieu fees and sales taxes that may allow it to create a fund balance to carry over into the first full fiscal year. To make this calculation, the CFA needs to assume an effective date and the length of the transition period. The effective date should be established by LAFCO working with the incorporation proponents.

Finally, the CFA's budget projections should be presented on a cash basis. New cities must operate on a cash basis since they have no initial fund balances on which to depend for cash flow. Further, the cash basis approach provides a more realistic picture of both the year-end surpluses (or deficits), which will be experienced by the new city. See Appendix G for information on typical sources and uses of municipal funding.

a. Establish Budget Projections: Revenues

The new city's general fund and special purpose revenues usually come from a variety of revenue sources. A CFA, at a minimum, should provide estimates of revenue from the following revenue sources:

i. Base Property Tax Allocation

As discussed above, the Cortese-Knox-Hertzberg Act provides a formula by which a share of the property taxes is transferred from the county and other affected local agencies to the new city. The process requires LAFCO to determine the total net cost of transferred services based on information supplied by the affected local agencies, during the prior fiscal year. The net cost includes both direct and indirect costs funded by the general fund. The total net cost is multiplied by the Auditor's ratio. LAFCO uses the Auditor's ratio and the net cost of transferred services to determine the annual amount of property tax for the new city. The base property tax can increase each year as allowed per statute and by any change of ownership and new development.

PROPERTY TAXES

As a result of Proposition 13, the property tax rate is constitutionally limited to 1% of assessed value. Cities must share the 1% revenue with other agencies providing services such as schools, counties and special districts. On a statewide basis cities currently receive an average of 11% of total property tax revenues. Counties receive - 13%.

Besides establishing the maximum property tax rate, Proposition 13 also limits the rate at which the assessed values of individual properties may increase. Specifically, the assessed value may increase by an annual rate of no more than 2% when held in the same ownership, and is increased to market value at the time of sale. The total property tax collected will increase as property ownership changes and new development takes place.

ii. Special District Property Taxes

Current property tax revenues of certain special districts that are dissolved (see Service Plan) or have territory detached as a result of incorporation would be transferred to the new city upon incorporation. The new city may also receive the current fund balance (reserves) of the affected dependent special district upon dissolution or a proportionate share of the fund balance and service liabilities upon detachment of territory from the district. Redevelopment agencies and Mello-Roos districts may not be affected by incorporations but proponents should work closely with the county and LAFCO to determine any impacts of incorporation on these agencies.

iii. Property Transfer Taxes

The amount of Property Transfer Tax received by the new city will depend upon the level of resale activity and new development within the incorporation area. A conservative annual property turnover rate should be assumed, based upon information from the county, land developers, and/or real estate agents in the area.

iv. Sales Taxes

Upon incorporation, the new city will be eligible to receive a percentage of the sales tax charged on qualifying retail sales from businesses within the proposed incorporation area. The estimated sales tax revenues should be based on data from the State Board of Equalization.

v. Transient Occupancy Taxes (TOT)

If the proposed incorporation area contains hotels, motels or other facilities that provide short-term and/or overnight accommodations, a similar amount of TOT revenues previously collected by the county can be assumed to be available to the new city to the extent that the new city imposes, at least initially, a similar level of TOT. This data can be obtained from the county and is based on the approved TOT rate, average daily room rates, and estimated daily occupancy rates.

SAMPLE CITY BUDGETS AVAILABLE FROM LEAGUE OF CALIFORNIA CITIES

Through a joint service of the California Society of Municipal Finance Officers (CSFMO) and the League, more than 100 city budgets are available through the League library. (www.cacities.org)

CSMFO encourages members to develop budgets that are useful as both a management and communication tool. To this end, CSMFO offers a budget review and awards program that recognizes city budgets that meet specific presentation criteria. One copy of each budget is submitted as a loan copy for the League library.

Incorporation proponents may be interested in examining budgets from a similar region or cities with a comparable size population.

vi. State Revenues

Upon incorporation, the new city will be eligible to receive Motor Vehicle In-Lieu Fees and off-highway vehicle license taxes. These revenues are collected by the State's Department of Motor Vehicles and allocated to cities on a per capita basis. These revenue sources are based on three (3) times the number of registered voters during the first seven years after incorporation. At the beginning of the eighth year, the State will recalculate these revenues based upon the actual population of the city.

vii. Franchise Fees

Upon incorporation, the new city will receive franchise fees currently paid to the county by the affected utilities including gas, electric and cable television providers. Additional franchise fees may also be received from the new city's solid waste disposal/recycling service if applicable. The estimated annual franchise fees can be obtained directly from the county or utilities during the data-gathering phase of the CFA preparation.

viii. Road Related Revenues

A significant portion of road fund revenues are calculated and allocated to cities on a per capita basis. Similar to other state revenues, road fund revenues are initially based on three times the registered voter population. In the eighth year following incorporation, these revenues would be adjusted to account for the actual population rather than three times the registered voter population. Revenues derived from these gasoline taxes are restricted to use on road maintenance and improvement.

ix. Transportation Related Local Sales Taxes

Voters in many urban counties impose an additional sales tax levy through a ballot measure to fund transportation improvements. Apportionment of these sales tax revenues may be based on a formula using population, miles of public roads and taxable sales.

x. Other Revenues

Estimates for other revenues can be obtained from the county and include land use related, planning, permit and inspection fees, motor vehicle code fines and forfeitures, and other miscellaneous revenues including DMV abandoned vehicle reimbursement, parking fines, non-planning related charges for services, regulatory fees, applicable parcel taxes and assessments, and other charges.

b. Establish Budget Projections: Expenditures

In general, the new city's level of expenditures will be based on the cost of transferred services currently provided by the county and other local agencies. However existing law does not provide an exact formula for establishing the first year's expenditures for a new city. Budget projections are based on a series of judgment decisions related to other established cities, past experience and the type and levels of services. In addition, the level of services provided and the type of provider (either the new city or a contract entity) will impact the annual projection of cost. OPR recommends that LAFCO clearly identify the assumptions underlying the projections of costs. These projected costs can also be based on a review of the budgets of similar sized cities. The types of expenditures usually include:

- General governmental administrative functions such as: city manager, city clerk, city attorney, and finance director.
- General governmental administrative operations and facilities such as: telephones, computers, photocopy machines, office space and council meeting location.
- Community development such as land use planning and regulation, permit issuance, and code enforcement.
- Public safety such as law enforcement, fire protection, emergency medical and animal control.
- Public works such as street maintenance and repair, street lighting, landscape and park maintenance, storm drain maintenance and repair, local flood control, and public facility maintenance and repair.
- Community services such as parks, open space, libraries, cultural arts, senior citizens and adult and youth recreation programs.
- Non-departmental costs such as lease/rent for office space, utilities, liability insurance costs, communication and computer expenses, custodial services, and miscellaneous supplies.
- Water and sewer and other utility services.
- Transition year repayment, is the reimbursement to the county for the net cost of services provided during the transition year.

A contingency fund based on a percentage of estimated expenditures should be reflected in the CFA projections to cover unforeseeable expenses. Most cities attempt to reserve a minimum percentage of the operating budget in unappropriated reserves as prudent fiscal policy. OPR recommends that a contingency fund in the range of 10-20% of estimated expenditures be included in the CFA.

THE GANN LIMIT

Proposition 4, the Gann Initiative approved by the California voters in 1979, sets a constitutional appropriations limit on governmental agencies.

The appropriations limit is simply the amount of money that a governmental agency can spend in a fiscal year. The appropriations limit is determined provisionally by LAFCO during the incorporation process.

The voters at the first municipal election held following the first fiscal year after incorporation set a permanent appropriations limit. See Section V. (A.5.c) and Exhibit 6 for an example of the calculation for the Gann limit.

It is important to note that the CFA may show a cumulative funding surplus, but that funding surplus should not be directly identified as an operating reserve. A reasonable unappropriated reserve fund, in addition to a contingency fund, is necessary. Although the preferred level of a reserve fund can vary and should be based on the past experience of comparable new cities, a minimum reserve of at least 10% is recommended. A reserve fund, in addition to a contingency fund, is required because:

- A new city has no historical track record on the cost or level of services required to meet the expectations of the newly incorporated community.
- Unanticipated expenditures could occur due to major disasters, emergencies, liability claims, and litigation settlements.
- Local finances may be subject to changes based on the State's budget.
- Changing economic conditions could result in a decrease in general fund revenues.
- Funds may have to be budgeted for non-road-related capital improvement projects. As the new city grows in staffing and assumes services from the county and outside contractors, there will be a need for new facilities, vehicles and other major equipment.

c. Determine An Appropriations Limit

The next step in preparing the CFA is the determination of an appropriations limit for the proposed city (§56812). LAFCO estimates the amount of revenue anticipated to be received by the new city in its first full year of operations from the "proceeds of taxes." These are revenues from taxes rather than from fees, assessments or service charges.

The second step is adjusting the amount of the "proceeds of taxes" to reflect an increase in the cost of living and to establish the provisional limit by projecting the second full operating year costs (including the impact of inflation and population changes). The inflation rate is assumed to be based on current accepted cost of living indices with an anticipated percentage population increase. Exhibit 6 depicts a hypothetical example of a calculation of a provisional appropriations limit.

The new city council shall determine the proposed permanent appropriations limit of the city that will be submitted to the voters. This limit is based on the amount of revenue actually received by the new city during the first full fiscal year of operation, adjusted for an increase in the cost of living and population during the next full fiscal year of operation. The permanent appropriations limit of the new city shall be set at the first municipal election, which is held following the first full fiscal year of operation.

EXHIBIT 6

EXAMPLE

DETERMINATION OF PROVISIONAL APPROPRIATIONS LIMIT

Proceeds of Taxes*

Property Tax	$1,087,018
Sales Tax	3,094,801
Motor Vehicle In Lieu	2,550,481
Property Transfer Tax	337,118
Section 2105	405,810
Section 2106	291,336
Section 2107	545,469
Section 2107.5	6,000
Transportation Sales Taxes	381,810
Subtotal	**$8,699,843**
Interest Earnings	521,991
Total Proceeds of Taxes	$9,221,834
Cost of Living Factor	3.00%
Population Growth	1.90%
Provisional Limit	$9,673,703

**These are estimates of revenues anticipated during the first full year of incorporation.*

d. Effective Date and Transition Period

LAFCOs must establish an effective date of incorporation. The effective date is the date upon which the new city is deemed organized or incorporated. During the period between the incorporation election and the effective date, the new city does not have legal standing but the newly elected city council can meet as a city council-elect. These meetings are primarily focused on getting organized for the effective date of incorporation. Activities usually include preparing the required legal documents to be adopted by the new city council on its effective date, securing a location to conduct city business and hold city council meetings, hiring of key interim staff, securing of interim insurance coverage and other administrative activities.

SELECTING AN EFFECTIVE DATE

The effective date of a new city can significantly impact the cash flow of a new city. Revenues received on a quarterly, bi-annual or annual basis (property and sales taxes and franchise fees) may be delayed and not immediately available to a new city based upon the effective date and the timely filing of the required documents to receive these revenues. It is strongly recommended that incorporation proponents coordinate the effective date carefully with LAFCO, the county and the State.

All city council-elect meetings are subject to the Ralph M. Brown Act. The legislative intent of the Brown Act is that public agencies conduct their business and make their decisions in open public meetings. Each board, commission, committee, or other body of a local agency created by charter, resolution or formal action of a legislative body is a legislative body itself and is covered by the requirements of the Brown Act. This includes the city council of a newly incorporated city.

On the effective date set by LAFCO (and following a positive vote in the election), the new city council begins to organize the new city's administrative structure at its first meeting by adopting the existing ordinances of the county. These ordinances will remain in full force for at least 120 days following incorporation or until the new city council adopts ordinances superseding the county ordinances, whichever occurs first.

Under State law, the new city does not assume direct responsibility for providing services during the transition period between the effective date of incorporation and July 1 following the effective date. The county and other affected agencies continue to provide municipal level services during the transition period while the new city prepares to take over this responsibility.

Following the transition period, the new city must provide the services that it is authorized to provide. The responsibility for police protection, accident investigation, animal control, land use planning, building and safety, and public streets, among other services, are transferred from the county and other affected agencies to the new city. The new city is then operational in all respects.

To ensure equity between costs and revenues for the county during the transition period, the county can request reimbursement for the net cost of services provided during the transition period (§57384). If the county requests reimbursement, LAFCO is required to impose it as a term of approval. The new city has up to five years to reimburse the county for the net cost, unless waived by the county (See Exhibit 7, Calculation of Repayment To County).

EXHIBIT 7

EXAMPLE

CALCULATION OF REPAYMENT TO COUNTY

A. Expenditures

Sheriff Department	$3,200, 977
Animal Control	90,269
Code Enforcement	58,821
Street Lighting	123,996
Gross Cost of Transition Year Services	3,474,062

B. Revenues

Property Tax	$915,560
Sales Tax	758,530
Franchise Fees	51,483
Fines and Forfeitures	11,300
Less Transition Year Revenues Received by County	1,736,872

C. Net Transition Repayment Amount 1,737,190

D. Annual Repayment for Five Years $347,438
($1,737,190 ÷ 5)

Government Code Section 56810 defines net cost of services as:

- The total direct and indirect expenses to the county of providing services;
- Adjusted by any subsequent change in the Consumer Price Index, and
- Less any revenues, which the county retains, that was generated from the formerly unincorporated territory during the period of time the services were provided by the county.

e. Financial Feasibility

LAFCO must make a determination that the proposed city is expected to receive revenues sufficient to provide public services and facilities and ensure reasonable reserves during the three fiscal years following incorporation. Although it is assumed that it is the intention of all new cities to improve services, feasibility is best determined by comparing existing costs, revenues and levels of service to those expected after incorporation.

One of the key issues weighed in the evaluation of incorporation is the proposed city's fiscal feasibility and its impact on neighboring cities and communities. "Feasible" is broadly defined under the Cortese-Knox-Hertzberg Act as capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, legal, social and technological factors (§56038.5).

C. Revenue Neutrality

In 1992, the State enacted legislation designed to reduce the negative fiscal impact incorporations can have on counties and other affected agencies, termed "revenue neutrality." Under the revenue neutrality law (§56815) LAFCO cannot approve a proposal for incorporation unless it finds that the amount of revenues the new city receives from the county and affected agencies after incorporation would be substantially equal to the amount of savings the county or the affected agencies would attain from no longer providing services to the proposed incorporation area. A broad range of mitigation measures is permitted as is a less-than-substantially equal exchange if the county and affected agencies agree to the transaction.

WAYS TO ACHIEVE REVENUE NEUTRALITY

A broad range of mitigation measures to achieve revenue neutrality is permitted. These may include tax sharing agreements, lump-sum payments, payments over a fixed period of time, modification of incorporation boundaries or any other terms which are acceptable to all the parties involved. A less than substantially equal exchange of revenues and expenditures is also possible **if** the county and affected agencies agree to it.

1. Background

During the 1980s, unincorporated communities with high levels of revenue through sales tax and property tax were usually the first to successfully incorporate in the Post Proposition 13 period. Because sales and property taxes are generated on a geographic or situs basis, while municipal and countywide (regional) services are provided on an as-needed basis, it was possible to "capture" sales and property taxes by incorporating high tax generators into a new city. Doing so, however, deprived counties of necessary tax revenues, which, prior to the incorporation, had been available to pay for countywide services.

After Proposition 13, local agencies could no longer alter the property tax rate to compensate for lost revenue when a new city incorporated and started receiving sales and other tax revenue. Other communities in the unincorporated area who had relied on the county to provide municipal level services found their revenue sources reduced. Counties, facing revenue losses due to the incorporation, were forced to reduce services simply because there were no practical alternatives such as raising additional revenue.

The revenue neutrality law was an attempt to make the tax allocation more equitable by requiring LAFCO to ensure that counties and districts are held harmless from new incorporations. Counties have dual responsibilities for services. The County is the provider of law enforcement services in the unincorporated area. It often provides fire protection as well. Additionally, it is the county that provides for the rest of the criminal justice system to all county residents—services such as the District Attorney, correctional facilities, Probation, and Public Defender. In addition, the social services and public health care systems are almost exclusively provided by counties. These services are provided regardless of where people live and are funded by the same revenue stream that previously could be diverted to an incorporating city. Revenue neutrality has generally removed the financial incentive for communities to incorporate as counties do not lose more revenues over and above the costs associated with services to be transferred. However, counties may still have strong financial incentive to facilitate incorporations especially if there is strong citizen sentiment to create the new city, the county's financial base is assured, and the county may avoid the long-term costs of providing municipal level services to rapidly developing communities.

Funding the New City

Due to the revenue neutrality provisions in existing law, the new city may have approximately the same revenue base to provide services that the county or district had prior to incorporation.

If new fees or taxes are included in the ballot question, approval of the incorporation may require a two-thirds vote under Proposition 218.

The financial viability of the proposed new city is the primary fundamental question before LAFCO.

The incorporation of a new city usually requires additional expenditures for executive staff and governance cost for which there is no transfer of revenue from the county or district. Additional revenues that are provided to new cities by the State may offset some of these costs. Over time, the new city will be able to make land use decisions, reorder fiscal priorities and otherwise influence the future revenue streams of the city.

Incorporations that have occurred since the passage of the revenue neutral provisions have generally resulted in additional revenues or terms that are designed to facilitate the new city's fiscal health, particularly in the first years following the incorporation.

2. Revenue Neutrality Process

The revenue neutral standard in law (§56815(a)) is: "that any proposal that includes an incorporation should result in a similar exchange of both revenue and responsibility for service delivery among the county, the proposed city and other subject agencies". Section 56815(b) prohibits LAFCO's approval of an incorporation proposal unless it finds that revenues and expenditures are "substantially equal". Section 56815 thus favors neither the new city nor the county or district. Section 56815(c)(1) does provide authority for LAFCO to approve a proposal that is not revenue neutral if both (all) parties agree to the proposal's fiscal effects.

A revenue neutral process, conducted as a part of an incorporation proceeding, should serve to bring the parties affected by the incorporation proposal together for the purpose of reaching a mitigation agreement (if required) that all parties can endorse and will serve as the factual basis for the findings required by §56815. Even if agreement among the parties regarding fiscal mitigation cannot be reached, the process will still provide the factual basis for the development of potential mitigation measures that may be imposed by the Commission. Refer to Exhibit 8 for an illustration of a Typical Revenue Neutrality Negotiation Process.

The purpose and intent of the revenue neutral policy is to:

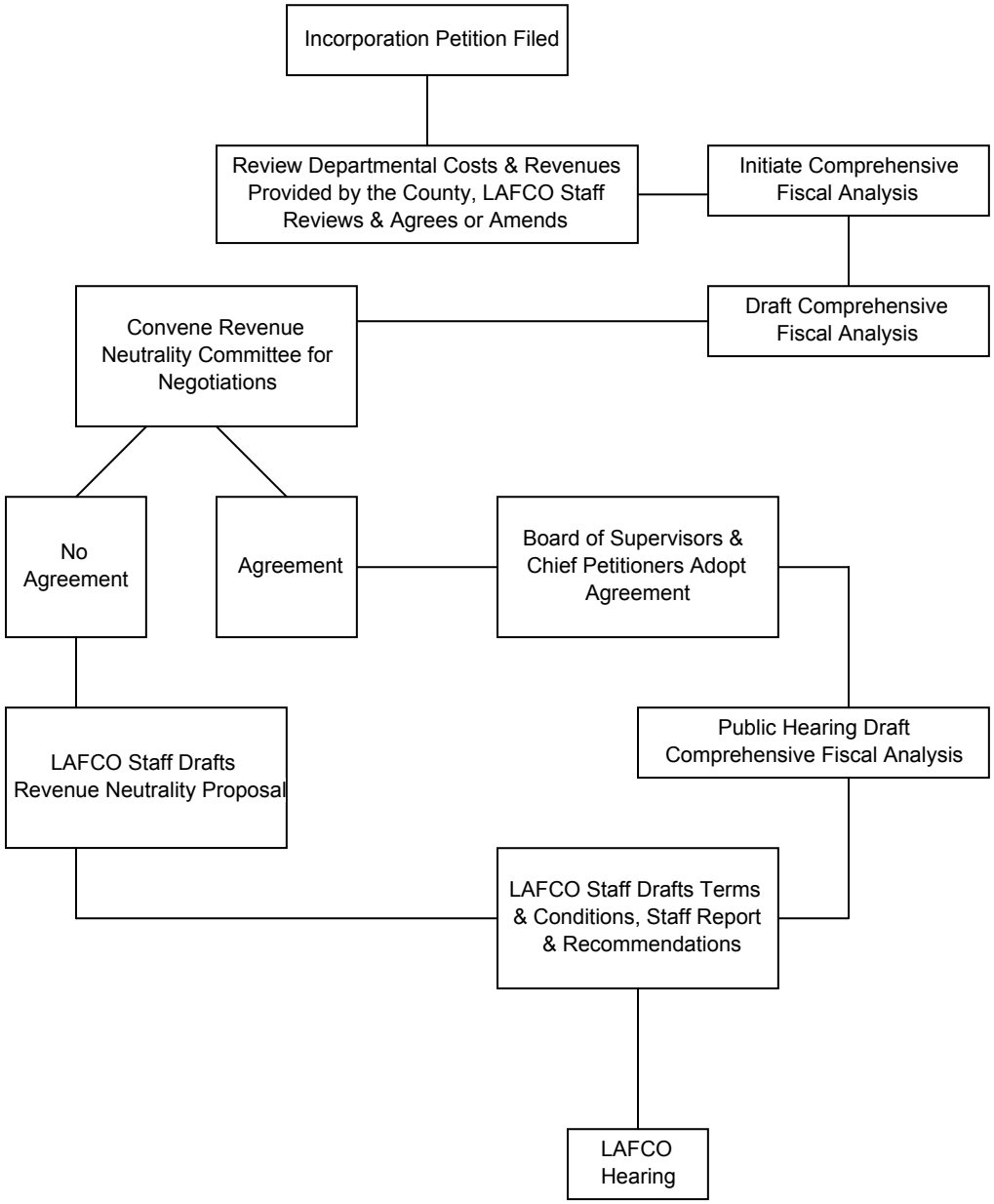
- Prescribe the process for data collection, analysis and discussion of the elements that must be included in a revenue neutral transaction.
- Assist participants in the process to develop proposed terms and conditions that will meet the standards prescribed in the law and enable LAFCO to make the necessary findings.
- Help the parties to reach a revenue neutrality agreement through a rational and predictable process by facilitating the gathering of information from affected parties or fiscal consultants, providing a forum for negotiations, and guiding LAFCO staff when serving as an intermediary to resolve conflicts in the negotiations.
- Develop a basis for a default revenue neutral finding/agreement if one is not forthcoming in the negotiation process.

OPR recommends LAFCOs develop policies for the purpose of implementing revenue neutrality requirements (§56815). The following process is suggested for determining and resolving the issue of revenue neutrality. It is intended to be a model only; individual LAFCOs should either adopt this policy or a revenue neutrality process tailored to unique local conditions. All revenue neutrality policies should be reviewed by legal counsel to ensure compliance with existing law and to ensure that any terms and conditions are legally enforceable.

EXHIBIT 8

EXAMPLE

TYPICAL REVENUE NEUTRALITY NEGOTIATION PROCESS



a. General Requirements for Revenue Neutrality

Any proposal that includes incorporation should provide for a similar exchange of both revenue and responsibility for service delivery among the county, the proposed city, and other affected agencies. LAFCO may not approve a proposal that includes an incorporation unless it finds that the following two quantities are substantially equal §56815(b):

- Revenues currently received by the local agency transferring the affected territory that, but for the operation of revenue neutrality, would accrue to the local agency receiving the affected territory,
- Expenditures, including direct and indirect expenditures, currently made by the local agency transferring the affected territory for those services that will be assumed by the local agency receiving the affected territory.

LAFCO may approve a proposal that includes an incorporation if it finds either of the following:

- The county and all of the subject agencies agree to the proposed transfer (§56815(c)), or
- The negative fiscal effect has been adequately mitigated by tax sharing agreements, lump-sum payments, payments over a fixed period of time, or any other terms and conditions pursuant to §56886.

The terms of a revenue neutrality agreement must be negotiated between the proponents, county and special district officials in accordance with a policy adopted by the local LAFCO. The agreement may be in the form of revenue sharing, lump sum payments, payments over a fixed period of time, or any other term and condition (§56815(c)(2)).

Revenue neutrality negotiations are initiated during the preparation of the CFA. After the preliminary results of the CFA are compiled, the county, proponents and LAFCO use the information to structure payments for revenue neutrality. The negotiated terms of the agreement are then used to create the public hearing draft of the CFA for consideration by LAFCO during the public hearing on incorporation.

b. Method of Calculation

The calculation of revenue neutrality should be based on the following standards (see Exhibit 9, Calculation of Revenue Neutrality Payment) and agreements should be negotiated pursuant to the following policies:

- Revenue neutrality agreements should be based on county costs and revenues for the most recent prior year for which data are available.
- Only identifiable and recurring revenues and expenditures should be evaluated for purposes of determining revenue neutrality. Generally, anticipated or projected revenue growth should not be included.
- Expenditures for services transferred to a new city should be evaluated on a "net cost" basis. Services funded on a full cost recovery basis (such as building inspection) are by definition revenue neutral and should not be included in the analysis.

- Costs of capital improvements are nonrecurring costs and should not be included in the calculation.
- Countywide costs for regional services and administrative functions including Chief Administrative Officer, Clerk of the Board, Auditor-Controller, Board of Supervisors and other administrative functions, which are required to support county governance of both incorporated and unincorporated areas, should not be included in defining services transferred to the new city.
- Inflationary factors should not be included in the analysis of revenue neutrality unless the resulting agreement provides for annual adjustment of mitigation payments based on actual data.
- Restricted and unrestricted revenues should be evaluated separately. An agency could pay a portion of its annual revenue neutrality payment with restricted funds if both agencies agree and a legally enforceable mechanism for payment can be created.

EXHIBIT 9

EXAMPLE

CALCULATION OF REVENUE NEUTRALITY PAYMENT

REVENUE NEUTRALITY – GENERAL FUND

Revenues Transferred

Property Taxes	$915,560
Sales Tax	2,916,300
Real Property Transfer Tax	111,425
Franchise Fees	582,339
Total Revenues Transferred	**$4,525,624**

Expenses (Net of Rev. Offsets)

Sheriff Department	$2,929,347
Animal Control	74,480
Code Enforcement	53,829
Street Lighting	116,878
Total Expenses Transferred	**$3,174,534**

Additional Future Revenues to County (Property Tax Administration Fees, .25%)	**2,289**
County Surplus or (Deficit)	**($1,348,800)**

c. Negotiation Process

CONSENSUS BUILDING

Understanding the process of negotiation is critical to a successful revenue neutrality negotiation process. The following steps are taken from "Breaking the Impasse" by Susskind and Cruikshank:

Pre-negotiation

- Get started
- Decide the representatives
- Draft protocols/agenda
- Conduct joint fact-finding

Negotiation

- Invent options for mutual gain
- Produce a written agreement
- Bind parties to the agreement
- Ratify the agreement

Implementation

- Link the agreement to approval
- Monitor
- Create a context for renegotiation

The role of LAFCO staff in the revenue neutrality process is to facilitate discussions and to ensure compliance with the revenue neutrality requirements.

After completion of the Draft CFA, LAFCO staff should convene a revenue neutrality negotiating committee composed of representatives of the county, other affected agencies and the proponents of the proposed incorporation during preparation of the CFA. The role of the revenue neutrality committee is to develop a mitigation agreement.

Due to the schedule of most incorporations, it is recommended that the revenue neutrality committee complete negotiation of the agreement within 90 days; however, this should remain flexible as long as the schedule and progress toward an agreement is being maintained. At the conclusion of the negotiating period, LAFCO's Executive Officer will certify that an agreement has been reached or has not been reached.

If an agreement is reached, ratification will be by resolution of the County Board of Supervisors and by letter from the incorporation proponents. The documents demonstrating an agreement to the provisions should be returned to LAFCO staff for inclusion in the comprehensive fiscal analysis, staff report and recommendations to be presented at the public hearing. The terms of the revenue neutrality agreement will also be included as terms and conditions in LAFCO's resolution, if the incorporation is approved. Revenue neutrality agreements should include a description of methodology and assumptions underlying the terms of the agreement.

It is recommended that agreements which involve revenue neutrality mitigation payments should establish terms based on the following agreed upon provisions:

- The annual net revenue loss to the county and other affected agencies resulting from the proposed incorporation.
- The duration of mitigation payments.
- The cumulative revenue neutrality impact based on the annual net revenue loss and the duration of the mitigation payments, including annual inflationary factors and discount rates if applied.
- The specific annual mitigation amount to be paid by the new city, including the annual payment amount, and variations to reflect cash flow, expenditure levels and other agreed upon variables
- In instances in which the revenue neutrality agreement requires tax sharing between the new city and the county, payment should be effected as directly from the revenue source as permitted by State law.

The effective date of incorporation and the anticipated lead-time for receipt of revenues can also be considered in revenue neutrality agreements. The effective date should be set to establish adequate initial account balances for the new city as it assumes service responsibilities, but should not otherwise conflict with the intent of fiscal neutrality.

Revenue neutrality agreements should also provide for a process of adjustment after incorporation in order to account for unforeseen economic or legislative events significantly affecting the flow of local revenue.

If the negotiating parties do not reach agreement, the status of the negotiations should be referred to LAFCO for discussion of outstanding issues at the first available meeting as determined by the Executive Officer. If revenue neutrality issues are not resolved, OPR recommends that LAFCO staff draft proposed terms and conditions dictating revenue neutrality terms for use in the comprehensive fiscal analysis and for recommendation to LAFCO at its public hearing.

d. Terms and Conditions

Terms and conditions for implementation of revenue neutrality may include provisions for tax sharing agreements, lump-sum payments, payments over a fixed period of time, modification of incorporation boundaries or any other terms and conditions permitted by law (§56815).

The term of mitigation payments may be either ongoing or limited to a specific number of years. Revenue neutrality agreements that provide for ongoing payments may provide for the permanent sharing of revenues between the new city and affected agencies if agreed to by the parties involved and if a means of adjustment after incorporation is included. Any terms and conditions that mitigate the negative fiscal effect of a proposal that contains incorporation shall be included in LAFCO's resolution.

D. Integrating CEQA with the Incorporation Process

The Public Resources Code, §21000 et sequitur, also known as the California Environmental Quality Act (CEQA), requires public agencies to evaluate the potential environmental effects of their actions. Only discretionary actions that are defined as projects are subject to CEQA. A project is the whole of an action that has the potential for resulting in either a direct physical change to the environment, or a reasonably foreseeable indirect physical change to the environment (CEQA Guidelines §15378). CEQA's procedural requirements encourage citizen participation in the environmental review process.

Incorporations are projects subject to CEQA and require environmental review (CEQA Guidelines §15378). LAFCO, as the lead agency for the environmental review, must prepare the required documentation and may charge the incorporation proponent (the applicant) fees to cover costs. The environmental documentation must address the possible environmental impacts resulting from the incorporation but does not need to speculate on impacts which may result from unknown future city council actions.

The timing of the environmental review is critical to incorporation and should be started as soon as possible after submittal of the incorporation application. The environmental review process must be completed before LAFCO can make a final decision on an incorporation proposal.

LAFCO may make one of three environmental determinations with respect to the potential environmental effects of an incorporation. The project may qualify for an exemption from CEQA, which requires no further analysis. If an exemption is not appropriate, LAFCO should prepare an Initial Study to determine whether a Negative Declaration or an Environmental Impact Report (EIR) must be prepared (CEQA Guidelines §15063). If the project will not result in potentially significant environmental effects, LAFCO may prepare a Negative Declaration. If the project has the potential to result in one or more significant environmental effects, an EIR must be prepared. These three basic determinations are described in more detail below:

- The incorporation is exempt under §15320 of the CEQA Guidelines. A notice of exemption should be filed with the County Clerk upon approval of the incorporation.
- The incorporation does not have the potential to result in significant environmental impacts, based on an initial study. If an initial study shows no substantial evidence that the project may result in significant adverse environmental impacts, LAFCO may prepare and adopt a negative declaration. A notice of determination must be filed with the County Clerk upon adoption of the negative declaration and approval of the incorporation. (CEQA Guidelines Section 15075)
- The incorporation has the potential to result in significant environmental impacts, based on an initial study. If the initial study shows substantial evidence that the project may result in significant adverse environmental impacts, the preparation of an environmental impact report (EIR) is required. A notice of determination must be filed with the County Clerk upon certification of the final EIR and approval of the incorporation. (CEQA Guidelines Section 15094)

LAFCO's environmental determination must be based on the description of the proposed action. Therefore, the "project description" or the description of the proposed incorporation will be important in determining whether the incorporation may have a significant effect on the environment. Characteristics of a project that may lead to significant environmental effects include:

- The project may lead to a direct physical change in the environment, such as dust, noise, odors or traffic resulting from construction and operation of facilities.
- The project may lead to indirect physical change in the environment which is not immediately related to the project but which is caused indirectly by the project, such as new population growth or air pollution associated with new population growth.

If it is determined that an EIR is required, the EIR must discuss possible mitigation measures and alternatives to the proposed project, as means of reducing the potential significant impacts of the proposed incorporation. Therefore, LAFCOs should be prepared to consider alternatives to the proposed incorporation boundaries as one possible type of project alternative. This is consistent with LAFCO's responsibility to consider alternative incorporation boundaries for other reasons (see Section IV.B.).

CEQA review can add time and cost to the incorporation process. The CEQA statute permits public agencies to recover costs of CEQA review through fees charged to the project proponents/applicant. The cost and time for processing a CEQA exemption is negligible. The cost of preparing a Negative Declaration can range from a few hundred dollars to a few thousand dollars depending on whether mitigation measures must be developed to completely eliminate significant effects. A typical Negative Declaration can require up to three to six months to process. When an EIR is required for a project, preparation and processing time can be up to a year and costs are difficult to estimate but can be tens of thousands of dollars.

E. EXECUTIVE OFFICER'S REPORT AND RECOMMENDATION

LAFCO's Executive Officer is required to review the application and prepare a final report on the incorporation application with recommendations to approve or disapprove the incorporation (§56665).

1. Contents of Report

The Executive Officer's report must address, but not be limited to, the following sections:

- Factors which were considered in the review of the proposal (§56668).
- Incorporation Boundaries-- may also establish a sphere of influence.
- Plan for Services.
- Comprehensive Fiscal Analysis.
- Terms and Conditions.
- Recommended findings.
- Recommended determinations.

LAFCO must specify the terms and conditions which result from the revenue neutrality negotiations (§56886) and other special circumstances. These terms and conditions may include, but are not limited to, the following:

- Continuation of services following incorporation.
- Payments and taxes required by changes in service responsibilities or for revenue neutrality.
- Disposition of money, property and rights of use, such as water or utility capacity rights.
- Disposition of special district responsibilities, district governing boards and employees.
- The effective date of incorporation.

2. Distributing the Report

Existing law states that the Executive Officer's report must be completed and distributed not less than five (5) days prior to the date of LAFCO's commission's hearing (§56665). However, this is the minimum amount of time the Executive Officer's report must be made available. OPR recommends that the Executive Officer's report be made available at the same time the notice of public hearing is published (§56154) or 21 days before the hearing.

The Executive Officer is required to notify all interested parties that the incorporation report is available for public review by publishing notice in a newspaper of general circulation serving the proposed incorporation area and by mailing notice to all affected agencies, the proponents and all persons who have filed a written request for notification (§56150 and §56160). The notice shall specify the locations where the report can be reviewed and the time period in which the State Controller's review can be requested.

3. State Controller Review of CFA

Any interested person or agency may request a review of the CFA by the Office of the State Controller. This request must be made within 30 days from the date that LAFCO's Executive Officer provides notice that the Executive Officer's report is complete and available for public review (§56801). The request by an interested person or agency must specify, in writing, any element of the comprehensive fiscal analysis that the State Controller is requested to review and the reasons the State Controller is requested to review each element.

LAFCO's Executive Officer should, in consultation with the State Controller's office, prepare an estimate of the cost of the review and deliver the estimate to the requesting individual or agency. This estimate should include the charges by the State Controller, LAFCO staff costs, and costs for any consultants required to assist the State Controller with the review. The individual or agency requesting the review will be asked to deposit the estimated cost of the analysis with LAFCO's Executive Officer.

After a request for review has been made and the appropriate deposit has been submitted to LAFCO, the Executive Officer shall contract with the State Controller for review of the CFA. The contract should specify the elements to be reviewed and the estimated cost of the review. Prior to executing the contract, the parties requesting the review must deposit with LAFCO's Executive Officer, the total estimated cost of conducting the review. If the State Controller identifies a need for an additional deposit prior to executing the contract, the party or parties requesting the review shall be notified and will be responsible for depositing the additional amount with LAFCO's Executive Officer. The State Controller will not proceed with the review until sufficient funds are deposited to cover all costs.

Within 45 days of receiving the CFA (§56801(c)), the State Controller is required to issue a report to LAFCO's Executive Officer regarding the accuracy and reliability of the information, methodologies, and documentation in the CFA. Time limits imposed upon LAFCO by the Cortese-Knox-Hertzberg Act shall be tolled while the State Controller conducts its review and prepares its report.

VI. COMMISSION HEARING AND DECISION

When an application for incorporation is deemed complete, LAFCO's Executive Officer will issue a certificate of filing, with a copy to the proponents' (§56651), specifying the date of LAFCO's hearing on the proposal. The public hearing must be set within 90 days of the issuance of the certificate of filing.

A. HEARING NOTICE

All meetings must meet the legal requirements for public notice. Notice of the hearing must be sent to the proponents, the county, affected agencies and those requesting a mailed notice in writing. Notice must also be given in all the following ways:

- Notice given in electronic format on LAFCO's website (§56150); and
- Notice posted on or near the doors of the meeting room (§56158) at least 21 days prior to the date of the hearing (§56159); and
- Notice published in one or more newspapers of general circulation (§56153) at least 21 days prior to the date of the hearing (§56154); and
- Notice mailed to affected and interested parties at least 21 days prior to the date of the hearing (§56156 and §56157).

NOTICE REQUIREMENTS

LAFCO is NOT required to mail a notice to all residents living within the incorporation boundaries. Residents may request, in writing, to be placed on the appropriate mailing list for notices of incorporation hearings and/or distribution of incorporation reports. LAFCO may charge for distribution of incorporation reports or notices.

To the extent a proposed incorporation becomes controversial, multiple public hearings may need to be held. OPR recommends that LAFCOs hold at least one public hearing in the community proposing incorporation to allow residents a convenient opportunity to provide input.

LAFCO's hearing may be continued but may not be postponed more than 70 days from the date specified in the original public hearing notice. Prior to any continuance of the incorporation hearing, LAFCO must give the proponents an opportunity to address any potential impacts or hardships on the incorporation effort that may result from a delay. The Commission is required to consider the potential impacts on the incorporation proponents prior to making a decision on the duration of any continuance (§56666(c)).

B. CONFLICTING PROPOSALS

If two or more incorporation proposals pending before LAFCO conflict or are in any way inconsistent with one another (as determined by LAFCO), LAFCO may determine the relative priority for hearing the proposals (§56655). However, in the absence of a determination by LAFCO, priority is given to the proposal first filed with LAFCO.

C. COMMISSION ACTIONS

At the conclusion of the public hearing, but no later than 35 days after the hearing, LAFCO is required to adopt a resolution that states LAFCO's determination on the incorporation proposal. LAFCO may approve, approve with conditions or disapprove the plan for incorporation (§56880).

When considering an incorporation proposal, LAFCO is required to consider the following factors (§56668):

- The population, population density, and potential for growth.
- The need for organized community services, and effect on adequacy of services.
- The effect of the proposal on adjacent areas and local government structure.
- The conformity of the proposal with adopted LAFCO policies and priorities.
- The effect of the proposal on integrity of agricultural lands.
- The definiteness and certainty of the proposed physical boundaries.
- Consistency with county General Plan and specific plans.
- The sphere of influence of any affected local agency.
- The comments of any affected agency.
- The ability of the new city to provide services, including sufficiency of revenues.
- Timely availability of adequate water supplies.
- The extent to which the proposal helps achieve its allocation of regional housing needs.
- Comments from land owners.
- Any information relating to existing land use designations.

Incorporation proposals which would result in certain conditions are prohibited by law, including incorporations which would result in unincorporated islands (§56744) and annexation of land within a Farmland Security Zone (see exceptions, (§56749).

If LAFCO approves or conditionally approves the proposal, the resolution must contain certain information including (§57100):

- A statement of the type of change of organization or reorganization being acted on.
- A description of the exterior boundaries of the territory for each change of organization or reorganization approved by the commission.
- The name or names of any new or consolidated city or district.
- All of the terms and conditions upon the change of organization or reorganization approved by the Commission.
- The reasons for the change of organization or reorganization.

- A statement as to whether the regular county assessment roll or another assessment roll will be utilized.

- A statement that the affected territory will or will not be taxed for existing general bond indebtedness of any agency.
- Any other matters that the Commission deems material.

If LAFCO approves or conditionally approves the proposal, the resolution must also contain certain findings (§56720 and §56815) including:

- The proposed incorporation is consistent with the intent of the Cortese-Knox-Hertzberg Act (see Exhibit 10).
- The Commission has reviewed the spheres of influence of the affected local agencies and the incorporation is consistent with those spheres of influence.
- The Commission has reviewed the CFA and State Controller's Report, if any.
- The Commission has reviewed the Executive Officer's report and recommendation and the testimony presented at its public hearing.
- The proposed city is expected to receive revenues sufficient to provide public services and facilities and a reasonable reserve during the three fiscal years following incorporation.

Finally, if LAFCO approves or conditionally approves the proposal, the resolution must also do the following (§56881):

- Make the findings and determinations pursuant to §56375 including the determination of property tax revenue to be exchanged by the affected local agencies.
- Determine that public service costs are likely to be less than or substantially similar to the costs of alternative means of providing the service (only applies if the incorporation proposal was initiated by the Commission pursuant to §56375 [a]).
- Determine that the proposal promotes public access and accountability for community services needs and financial resources (only applies if the incorporation proposal was initiated by the Commission pursuant to §56375 [a]).
- Assign a temporary name, if no name has otherwise been assigned to the affected territory.
- Initiate protest proceedings (see Section VII below).

After the Commission takes action, the Executive Officer must mail a copy of the resolution to the proponents and to each affected local agency whose boundaries would be changed by the proposal. Clerical errors or mistakes in the resolution may be corrected by the Executive Officer without Commission action (§56883).

If the proposal is denied, no similar proposal for incorporation involving the same or substantially the same area shall be initiated for at least one year after the date of adoption of the resolution terminating proceedings (§56884). However, the Commission has the authority to waive this restriction if found to be detrimental to the public interest.

EXHIBIT 10

IMPACT OF THE 2000 AMENDMENTS ON FINDINGS OF CONSISTENCY

When a LAFCO considers an application for incorporation, LAFCO must make a number of findings (§56720), including that the proposed incorporation is consistent the intent of the Cortese-Knox-Hertzberg Act.

Amendments to the Act in 2000 (AB 2838, Chapter 761, Statutes of 2000) have modified and strengthened the link between approval of proposed incorporations and orderly development. AB 2838 added more specificity to the purpose of the Act by amending several intent and procedural sections including Government Code Sections 56001, 56301 and 56300.

MORE DEFINITION TO ORDERLY GROWTH AND THE ROLE OF LAFCO

While promoting orderly development has always been a fundamental purpose of LAFCO, the 2000 amendments added emphasis by stating that: the provision of affordable housing, discouraging sprawl, preserving open space and prime agricultural lands and efficiently extending government services are all important elements of promoting orderly development.

Further, the 2000 amendments included provisions that state that a preference should be granted to accommodating additional growth within or through the expansion of the boundaries of those agencies which can best accommodate and provide necessary governmental services and housing to persons and families of all incomes.

Historically, the impact of a proposed incorporation on the future development of housing affordable to lower income households did not necessarily come into question when a LAFCO was considering an application for incorporation.

The support for protecting prime agricultural lands was also enhanced in the 2000 amendments through the inclusion of language which states that one of the purposes of LAFCO is to preserve prime agricultural lands (56301).

The Act still directs LAFCO to guide development away from existing prime agricultural lands unless the development would promote the planned, orderly efficient development of the area (§56377). In practice, this could mean that once one farm was converted to residential or commercial purposes other adjacent or nearby areas could also be included in incorporation proposals with the clear intent that ultimately these lands would very likely be converted to non-agricultural uses.

Although the 2000 amendments did not change §56377, the new purpose and intent language emphasizes the responsibility of LAFCO to consider the preservation of prime agricultural land.

WRITTEN POLICIES

The 2000 amendments also require LAFCO to establish written policies and procedures that encourage and provide planned and well-ordered, efficient urban development patterns. Prior to these amendments, LAFCO was only directed to establish policies with no requirement that they be written or be implemented through specific procedures. This new requirement for written policies and accompanying procedures may challenge some LAFCOs as it will take some consensus building to draft and adopt language which a Commission can support.

OPR recommends that LAFCOs do not postpone the review and adoption of its policies and procedures on incorporations until a proposal is before the Commission. Fair and equitable procedures are best developed in the absence of a specific application. A LAFCO may want to review the incorporation policies and procedures of other LAFCOs as part of its consideration and approval process.

IMPACT OF 2000 AMENDMENTS

The requirement for written policies and procedures coupled with the changes to the purposes of LAFCO and definition of orderly growth will impact the deliberative process of the Commission. In some cases, the Executive Officer's report will be more extensive than the Commission may have previously seen.

Findings of consistency of the proposed incorporation with the adopted policies and procedures will also increase the areas in which LAFCO's decision is open to legal challenge. The Commission, in the exercise of its legislative authority is generally protected from challenges related to the specific content of the decision. Commissions are however, open to procedural challenges. To the extent that a LAFCO previously operated under unwritten policies and procedures, LAFCO will now be evaluated on how well it follows its own process.

D. REQUEST FOR RECONSIDERATION

Any person or affected agency may file a written request with LAFCO's Executive Officer requesting reconsideration of any resolution approving incorporation. The request must comply with the provisions of §56895 and policies adopted by LAFCO. There may be a fee for filing the reconsideration request.

The request must state the specific change requested and what new or different facts or applicable new law warrant the reconsideration. The request must be filed within 30 days of the adoption of a resolution by LAFCO.

If LAFCO receives a request for reconsideration, it shall not take any further action on the incorporation proposal until LAFCO Commission acts on the request. The Executive Officer must place the request on the agenda of the next LAFCO hearing for which public notice can be provided, to receive oral and written testimony. The hearing may be continued from time to time but the continuance shall not exceed 35 days from the date in the original public hearing notice. The person or agency that filed the request may withdraw it at any time prior to the conclusion of LAFCO's hearing.

At the conclusion of its consideration, LAFCO Commission may approve or disapprove with or without amendment, wholly, partially, or conditionally, the request. The determination of LAFCO is final and conclusive. No person or agency shall make any further request for the same change or a substantially similar change, as determined by LAFCO.

VII. CONDUCTING THE PROTEST HEARING

A conducting authority has the responsibility to hold a public hearing to count protests received for an incorporation proposal. LAFCO is designated by law as the "conducting authority" for city incorporations. LAFCO Commission may delegate its conducting authority function to LAFCO's Executive Officer (§57000(c)).

Within 35 days following the adoption of the Commission's resolution of approval and reconsideration period (§57002), LAFCO must issue a "Notice of Hearing" scheduling the date for the conducting authority protest hearing on the incorporation. The notice must be provided in all of the following three ways (§57025):

1) Publication in a newspaper of general circulation in the incorporating area (§56153). The publication must occur at least 21 days prior to the hearing date (§56154).
2) Posting of a notice on or near the doors of the meeting room or on any official bulletin board (§56158). The notice must be posted at least 21 days prior to the hearing (§56159).
3) Direct mailing to each affected city, county, district, proponents, landowners and to persons requesting special notice. The mailed notice must be sent by first class and deposited in the US mail at least 21 days prior to the hearing date (§56155 and §56157).

The purpose of the hearing is to collect and count written protest from registered voters within the incorporating area. LAFCO, acting as the conducting authority, does not have the discretion to modify the incorporation proposal or to terminate incorporation proceedings without sufficient protest being recorded. LAFCO's conducting authority hearing may be continued for up to 60 days.

Within 30 days of the conclusion of the hearing, the Commission shall make a finding regarding the value of the written protests and take one of the following actions (§57077):

- Terminate the proceedings if a majority protest exists (§57078); or
- Call an election on the question of incorporation if there is no majority protest.

Following the protest determination, the County Registrar of Voters begins the process of preparing the incorporation for a vote at the next general election unless a special election is requested and approved by LAFCO. If proceedings are terminated by majority protest, no substantially similar proposal for the same territory may be filed within two years of the date of adoption of the resolution terminating proceedings (§57090). However, the Commission may waive this restriction if found to be detrimental to the public interest.

VIII. VOTING: THE INCORPORATION ELECTION

Elections for incorporation are usually placed on the ballot of the next general election. Incorporation elections are considered county elections for the purpose of administering the Election Code and the Political Reform Act. If a special election is requested, the incorporation proponents may be required to pay for the costs of the special election. If the incorporation is successful, the new city will be liable for payment of election costs (§57150(b)). In the event the issue fails, the county absorbs the election costs.

LAFCO's Executive Officer must draft an impartial analysis (§56898) of the incorporation issue for inclusion in the incorporation ballot. The Commission may review the text of the impartial analysis and approve or modify it, if the Commission has instituted a review procedure. The review must be completed in sufficient time to consider and approve or modify the analysis and submit the analysis to the officials conducting the election, not later than the last day for submitting rebuttal arguments.

Existing law specifies how the ballot language is required to be stated beginning with Government Code §57133 including identification of terms and conditions which may have the effect of imposing or increasing liability for payment of taxes, assessments or service charges.

IX. CERTIFYING THE ELECTION RESULTS

Following an incorporation election, the County Board of Supervisors is required to certify the election results by adoption of a resolution and must forward a copy to LAFCO. If the election approves the incorporation, LAFCO staff must prepare a "Certificate of Completion", which signals the end of the incorporation process (§57178).

If the incorporation is disapproved by majority vote, the Commission must execute a "Certificate of Termination" (§57179). No substantially similar proposal for the same territory may be filed within two (2) years of the adoption of the Certificate of Termination (§57090).

The effective date of the new city should have been identified as part of the Commission resolution of approval. The Commission has exclusive authority to set the incorporation effective date (§57202). The Executive Officer must record the Certificate of Completion with County Recorder's office within 90 days of the election (§57203).

X. POST INCORPORATION

After incorporation, LAFCO's work is complete. However, the work of the new city has just begun.

Appendix F is an example of an agenda for the first meeting of a newly incorporated city. This is only an example; all newly incorporated cities should seek legal advice regarding the requirements for a newly incorporated city and newly elected city council.

OPR recommends that all new cities contact the League of California Cities, which offers several publications, classes and workshops for new city councils. It is also recommended that all LAFCOs obtain a copy of the League of California Cities publication, "A Guide For New Incorporated Cities" (March 1986) for distribution to newly incorporated city councils.

LEAGUE OF CALIFORNIA CITIES

It may seem for a brief moment after the incorporation results certify the creation of your new city that the hard work is over. Fortunately, it has just begun—fortunately because shepherding a new city through its formative stages is a rewarding and exciting endeavor, one that will shape the character and direction of the city for years to come. The purpose of this publication is to make this process easier by providing practical advice and guidance to new city officials as to what must typically be accomplished during the periods immediately prior to and following the first council meeting. Newly elected officials in a new city often feel somewhat at a loss as to what to do immediately following the election; this manual is intended to provide pragmatic step-by-step assistance so that new officials can devote their time not to trying to reinvent the wheel, but to consideration of the important issues facing them… It is critical that council members have a basic understanding of conflict of interest laws…After the city is officially incorporated, all meetings of the city council are to be open and public in accordance with the Brown Act…Action of a city council can be taken only at duly convened public council meetings, at a place designated by ordinance…before the city can undertake to approve any discretionary project, it must review the possible environmental impact of the project pursuant to the California Environmental Quality Act…..

From "A Guide For New Incorporated Cities" League of California Cities, March 1986.

STATE OF CALIFORNIA

Gray Davis
GOVERNOR

Tal Finney
INTERIM DIRECTOR

A GUIDE TO THE LAFCO PROCESS FOR INCORPORATIONS

APPENDICES

Governor's Office of Planning and Research

October 2003

ATTACHMENT G

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APPENDIX A

INCORPORATION PRIMER

The purpose of this document is to provide basic information and practical advice on the entire incorporation process—starting with a group of residents discussing their community's future to the first months of a newly incorporated city's life. It is hoped this will help both citizens and Local Agency Formation Commission (LAFCO) staff unfamiliar with incorporations to avoid potential risks or pitfalls.

I. INTRODUCTION

This primer is **NOT** intended to be an all-inclusive and definitive guide to the requirements for incorporations. Interested parties should obtain a copy of The Governor's Office of Planning and Research (OPR) Incorporation Guidelines which explain the minimum legal requirements of the Cortese-Knox-Hertzberg Act of 2000. In addition, many individual LAFCOs have adopted policies and procedures augmenting the minimum legal requirements. It is critical that any individual, group, agency or community interested in incorporation carefully review the OPR Incorporation Guidelines and meet with your LAFCO staff.

LAFCO'S ROLE IN AN INCORPORATION

Incorporation proposals are often motivated by dissatisfaction with the status quo.

One of LAFCO's roles is to be an intermediary and facilitator that is required, by law, to identify issues and to resolve them in an equitable manner.

LAFCO staff must communicate clearly the standard of review, the requirements, the estimated cost and the probable timing of an incorporation proposal.

II. BEFORE YOU START

Incorporations usually start with a group of residents forming a committee to explore the possible incorporation of their community. An incorporation committee defines and articulates incorporation goals, raises funds, collects signatures, assembles application materials, works with LAFCO staff and consultants, testifies at hearings and negotiates changes in the proposal. While each incorporation is unique, a committee of interested local residents is typically the impetus for incorporation.

A. Be Realistic

For any incorporation to succeed, it must have widespread community support since the voters must approve all successful incorporations. Therefore, ensuring that the residents are educated about the incorporation is critical during the incorporation process. It is recommended that the incorporation committee meet with people living in the incorporation area and in adjoining communities which may be directly affected by the proposal. Fund raising is another crucial task because the proponents of the incorporation are responsible for developing the information that will go into an application and for paying the costs of processing the application.

INCORPORATIONS CAN BE EXPENSIVE

Proponents are generally required to pay for LAFCO fees and staff costs, consultant costs, preparation of the CFA, application, map and legal descriptions as well as environmental review. It is not unusual for an incorporation to cost more than $100,000.

B. Look at Alternatives

Most unincorporated communities face the same challenges that cities face—changes in the character of their community, housing/jobs balance, provision of services, increased traffic and growth. Some communities see incorporation as a means to help address their problems without being aware of other alternatives. OPR strongly encourages any community investigating incorporation to explore a range of alternatives with their fellow residents, elected representatives, LAFCO and county officials before embarking on an incorporation effort.

WHAT IS A LOGICAL INCORPORATION BOUNDARY?

A logical incorporation boundary does the following:

- Is realistic in its recognition of political opportunities and constraints.
- Recognizes existing jurisdictional boundaries of other agencies including special districts and cities.
- Includes a variety of land uses for a balanced community. While LAFCO has no direct authority to set or alter existing land use patterns, it will consider if a proposed new city will have a variety of land uses for fiscal balance.
- Considers topography, geography, historic boundaries and urban limit lines if adopted.
- Recognizes existing spheres of influence (SOI).
- Recognizes communities of interest or areas which may have financial, geographic or other various links to the incorporation area.
- Recognizes the ability and readiness of the area to provide municipal level services.
- Is consistent with the stated goals of incorporation. If the goal of incorporation is to give an area control over land use decisions, then the boundary should include areas which might have an impact on land use decisions.
- A logical incorporation boundary should not, if at all possible: Split a parcel by city boundaries.
- A logical incorporation boundary should not, if at all possible: Create islands which are unincorporated areas surrounded by incorporated territory. LAFCO is prohibited by law from creating islands.
- A logical incorporation boundary should not, if at all possible: Use school districts, zip codes, postal addresses or other boundaries which often serve multiple jurisdictions.

C. Consult with LAFCO

Of all the actions incorporation proponents can take which will help to ensure a successful incorporation process, early and frequent consultation with LAFCO is the most important. The incorporation process can seem long and complicated and LAFCO staff can help the incorporation proponents avoid the most common pitfalls. It is strongly recommended that proponents develop the proposed boundaries of the new city with LAFCO staff early in the process—even before deciding to move forward with any incorporation efforts. The inclusion (or exclusion) of territory has a profound impact on the incorporation proposal and the preparation of the comprehensive fiscal analysis (CFA).

D. Why Incorporate?

Incorporation shifts local government responsibility for an unincorporated area under the jurisdiction of a county board of supervisors to a newly established city council. The reasons for incorporation efforts may vary and can include, but are not limited to, the following:

SERVICES: Incorporations can be proposed to improve local public services. Cities can provide extensive services but are also required to fund their share of the cost to provide countywide services though a process called "revenue neutrality" which is explained in following sections.

WHO PROVIDES WHAT SERVICES AFTER INCORPORATION?

Services Which A New City May Assume

- Law enforcement
- Fire protection and paramedics (some cases)
- Water and sewer (some cases)
- Planning (land use, environmental review, zoning, building inspection, etc.)
- Public works (streets, engineering, traffic signals, streetlights, drainage, etc.)
- Local parks and recreation
- Libraries (in some cases)
- Animal control

Services that the County May Continue to Provide

- Special services (welfare, child protective services, etc.)
- Health services
- Criminal justice (courts, prosecution, jails, probation, etc.)
- Regional parks
- Elections and voters services
- General government (assessor, treasurer, recorder, tax collector, etc.)

REVENUES: Incorporation may be proposed to capture increased revenues to support local services.

LOCAL CONTROL: An incorporation may be proposed to give a community more local control over land use, growth, planning policy and other governmental activities.

MUNICIPAL REVENUES

Cities can use a variety of revenue. A good source of information about the types of revenues available to cities is the California State Controller's Annual Cities report which is available online. Another source is the League of California Cities' library which contains many city budgets.

REPRESENTATION: Incorporations may also be proposed to create a politically accountable governing body (a city council) in a limited geographic area. Some incorporations are proposed because residents feel that a city council may be more accessible, more visible and responsive to the needs of their particular community.

E. But Can It Fly? An Initial Feasibility Review

If incorporation seems to be a potentially feasible option, the next step may be to conduct an initial fiscal analysis of the proposed incorporation. Some communities have found that a preliminary assessment of the potential to incorporate a community has been valuable. An initial feasibility review is designed to help community groups conduct a quick appraisal of the potential for incorporation. Many incorporation groups focus on the fiscal impacts of incorporation—does the community have the financial resources to support a municipality? However, there are other issues which must also be addressed which would help a community determine if incorporation is right for them.

WARNING!

An initial feasibility review is NOT a comprehensive fiscal analysis (CFA). It is only an educational tool. Use of the initial feasibility review as a CFA may result in inadequate financial information, longer processing times and more expense

At a minimum, any community which is considering incorporation should first think about the following questions (taken from Institute of Governmental Affairs booklet "Choices for the Unincorporated Community"):

- What is the problem, if any, driving the desire for change in the existing governmental structure? Can the problem be addressed by other, more efficient means?
- What is the role of the County government in the community? Is the county willing or able to address the identified problems?
- What is the community's relationship to other adjacent communities?
- What would the proposed boundaries look like and how would that affect other agencies and communities?
- What is the past history of local efforts to incorporate?
- How is the community changing?
- What is the community's capacity for self-governance?
- How are services currently provided and how would they change?
- Who is likely to benefit from a change and who is likely to lose?

Incorporations have to be financially feasible. While this is often seen as the primary test for incorporation, it is only one of many standards of review LAFCO will use.

F. The Comprehensive Fiscal Analysis (CFA)

The primary issue for most incorporations is the fiscal feasibility of the proposed new city and the law requires that a Comprehensive Fiscal Analysis (CFA) be prepared. Determining the fiscal feasibility of an incorporation through preparation of the CFA can be expensive and the cost is usually borne by the incorporation proponents. The OPR Incorporation Guidelines recommend that a CFA be started after an application is submitted to LAFCO to help keep costs at a minimum.

The OPR Incorporation Guidelines contain detailed information on the preparation of a CFA, sources of revenues, examples of financial calculations and a one-year fiscal feasibility spreadsheet to help incorporation proponents.

III. THE MAIN STEPS IN THE INCORPORATION PROCESS

The procedure for the incorporation of an unincorporated community in the State of California may require at least a year of formal review. The purpose of such a process is to ensure that any proposed incorporation is economically feasible, in the best interests of the community and environmentally and logically sound. The procedures for incorporation should be followed carefully to avoid delays and to reduce the risk of potential litigation.

The processing of an incorporation proposal can be divided into several separate stages. These are:

1) Initiating the incorporation process;
2) Application to LAFCO;
3) LAFCO staff review;
4) LAFCO Commission hearing;
5) Election and the first year;

A. Initiating the Incorporation Process

Incorporation can be initiated in one of three ways--by resolution of a public agency, by petition of registered voters or by petition of landowners. A notice of the proponents' intent to circulate a petition must be filed with LAFCO before starting and there are strict, legal time limits for gathering signatures. Proponents and LAFCO should use the "Notice of Intent" filing as an opportunity to review the petition and schedule to ensure legal conformance.

Once enough signatures are collected, the petitions are submitted to LAFCO and must be verified by the appropriate agency. If there are irregularities with petitions or signatures, some signatures may be disqualified which may mean that additional signatures may need to be obtained.

COLLECT MORE THAN YOU NEED

Incorporation proponents should plan on collecting at least 10% to 15% more signatures than the minimum requirement to compensate for invalid signatures.

B. Application to LAFCO

Once the petitions are verified, proponents must prepare a LAFCO application. The application must include:

- A map and legal description of the boundaries of the proposed incorporation area;
- Justification for the proposal;
- A plan for the transfer/provision of public services; and
- Other information as requested by LAFCO.

FIRST THINGS FIRST!

It is recommended that the incorporation boundaries be developed with LAFCO prior to submitting an application but that the CFA be started after submitting the application to LAFCO.

If the application is deemed complete by LAFCO, the Executive Officer will issue a Certificate of Filing and schedule a public hearing.

C. LAFCO Staff Review

The staff reviews all the application materials submitted, conducts its own analyses, performs the environmental review, determines the property tax transfer and revenue neutrality payments, solicits comments and produces a final report. The comprehensive fiscal analysis (CFA) is also usually prepared at this stage.

The CFA is one of the crucial elements of an incorporation application. It provides the financial information LAFCO needs to ensure that the proposed new city is fiscally stable, self-sufficient and the reallocation of revenues among affected agencies is equitable. The preparation of a CFA is complex, must satisfy legal requirements and should not be started without consulting with LAFCO.

REVENUE NEUTRALITY

The law states that an incorporation should not occur primarily for financial reasons and should result in a substantially equal exchange of both revenue and service responsibility. LAFCO cannot approve an incorporation unless it finds that the revenues currently received by the county are substantially equal to expenditures for services being transferred to the new city. Consult the OPR Incorporation Guidelines for more information on revenue neutrality.

LAFCO's Executive Officer can request the submittal of additional information/studies or make changes in the original proposal. LAFCO's staff review can take as long as twelve (12) months.

Incorporation proponents are required to pay fees and costs for processing of the application and providing any additional information requested by LAFCO.

LAFCO staff works cooperatively with all interested parties to ensure that a thorough, complete and accurate proposal is developed for LAFCO's Commission's consideration. When the proposed incorporation is ready for a public hearing, LAFCO's Executive Officer will schedule the item for a public hearing and prepare a report with a recommendation which will be sent to the proponents, interested parties and LAFCO's Commission prior to the public hearing.

WHY WASN'T I NOTIFIED?

LAFCO is NOT required to mail a notice to all residents living within the incorporation boundaries. Residents may request, in writing, to be placed on the appropriate mailing list for notices of incorporation hearings and/or distribution of incorporation reports.

D. LAFCO Commission Hearing

LAFCO's Executive Officer is responsible for preparing a staff report that will be considered at the public hearing. At the public hearing, LAFCO's Commission hears the staff report and testimony of interested parties both supporting and opposing the incorporation. LAFCO's Commission may continue the hearing to a future date or close the public hearing and act on the proposal.

LAFCO's Commission has the authority to approve, deny or conditionally approve the incorporation proposal. If LAFCO's Commission approves the proposed incorporation, it must adopt a written resolution approving the incorporation and it must contain the following information:

- Confirmation that LAFCO has considered all the information and factors that it is legally required to consider,
- Written findings regarding consistency between the incorporation and the intent of the Cortese-Knox-Hertzberg Act,
- Conditions of approval, if any,
- Any other terms and conditions,
- A description of the final boundaries of the incorporating area,
- A temporary name for the new city if none has been assigned, and
- The effective date of the incorporation.

If LAFCO's Commission denies the proposed incorporation, no similar application can be filed for at least one year unless LAFCO's Commission waives that prohibition.

E. Request for Reconsideration

Any person or agency may file a request for reconsideration with LAFCO's Commission within 30 days after the resolution of approval is adopted. LAFCO must not take any further action on the incorporation proposal until a public hearing is held and the Commission acts on the request.

F. Protest Hearing

If the approval of the incorporation still stands after a request for reconsideration, LAFCO's Commission will hold a public hearing to count protests to the incorporation. A protest hearing will be held after being duly noticed. LAFCO does not have the discretion to modify the incorporation proposal. LAFCO must terminate the incorporation proceeding if a majority protest is recorded.

G. Election and First Year

If not terminated by a majority protest, the incorporation will be placed on the ballot of the next general election (unless a special election is requested). LAFCO's Executive Officer must draft an impartial analysis of the incorporation issue for inclusion on the ballot. The Commission may review and approve the impartial analysis. A simple majority vote is required for final approval of the incorporation.

AFFORDABLE HOUSING AND THE NEW CITY

State law recognizes the vital role local governments play in the affordability of housing. Every city council in California is required to adopt a comprehensive, long-term housing element in its general plan which provides for, and does not unduly constrain, affordable housing development. Housing element law also requires the Department of Housing and Community Development (HCD) to review local housing elements for compliance with State law.

After the incorporation is approved by the voters, LAFCO's work is complete. However, the work of the new city has just begun. It is recommended that all new cities contact the League of California Cities which offers several publications, classes and workshops for new city councils.

APPENDIX B

GLOSSARY

Affected agency: An affected agency can be a city, county or special district which contains, or whose sphere of influence contains any territory for which an incorporation is proposed or ordered either singularly or as part of a reorganization.

Auditor's ratio: The Auditor's ratio is the ratio of property taxes allocated to the general fund of the county and each affected agency to all revenues received by the county and affected agencies for general purposes during the prior fiscal year.

Base year costs: Base year costs are the costs that would have been incurred to provide municipal level services if the incorporation area had been a city during the base year.

CEQA: California Environmental Quality Act, the law regulating the environmental review process. Public Resources Code Section 21000 et. seq.

Certificate of Completion: The document prepared by LAFCO's Executive Officer and recorded with the county recorder that confirms the final successful resolution of a change of organization or reorganization.

Certificate of Filing: A certificate issued by a LAFCO Executive Officer when an application is accepted for filing. A certificate of filing shall be in the form prescribed by the Executive Officer and shall specify the date upon which the proposal shall be heard by LAFCO's Commission.

Certificate of Sufficiency: A certificate of sufficiency indicates whether the requisite number of signers signed the petition. If the petition does not contain the requisite number of signatures, a notice or certificate of insufficiency shall be provided by the appropriate reviewing agency.

Change of Organization: A change of organization means any of the following: city incorporation; district formation; annexation to, or detachment from, a city or district; disincorporation of a city; district dissolution; consolidation of cities or special districts; and, merger or establishment of a subsidiary district.

Comprehensive Fiscal Analysis (CFA): An analysis of the projected revenues and expenditures resulting from a proposed incorporation.

Conducting Authority: LAFCO's Commission of the principal county of the entity proposing a change of organization or reorganization, unless another conducting authority is specified by law.

Contract City: A city that provides municipal services through a contract(s) with service providers such as special districts, the county or private companies providing municipal services.

County Auditor-Controller: The Auditor and Controller of most counties typically performs fiscal management and control of County revenues and appropriations, administration of the secured and unsecured real property tax system, payment of all claims, payroll and travel accounting, tabulation of the annual County and special district budget, grants accounting, and other fiscal services. Specific duties may vary by county.

Determination: A decision of LAFCO's Commission contained within LAFCO's resolution of approval as required by Government Code Section 56880.

Direct costs: Direct costs are costs associated directly with providing a service such as salaries, benefits, supplies, maintenance, equipment and professional services costs.

Effective date: The effective date is the date upon which the new city is deemed organized or incorporated.

Feasible: A term defined by law as capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, legal, social, and technological factors.

Findings: Government Code Section 56720 states LAFCO's Commission may not approve or conditionally approve any incorporation, unless the Commission finds, based on the entire record, that the proposed incorporation is consistent with the intent of the law, that the Commission has reviewed the spheres of influence of the affected local agencies and the incorporation is consistent with those spheres of influence, that the Commission has reviewed the comprehensive fiscal analysis, that it has reviewed the executive officer's report and recommendation and that the proposed city is expected to receive revenues sufficient to provide public services and facilities and a reasonable reserve during the three fiscal years following incorporation. These findings must be made in writing in the Resolution of Approval.

Franchise fees: Franchise fees are fees currently paid to the county by the affected utilities including gas, electric and cable TV providers. Franchise fees may also be received from solid waste disposal/recycling services, if applicable.

Full service city: A city which provides all municipal level services (such as fire, police, garbage collection, water, sewer, etc.) through city employees in departments governed by the city council.

Gann Limit: The Gann limit is a constitutional appropriations limit on governmental agencies. The appropriations limit is the amount of money that a governmental agency can spend in a fiscal year.

General Fund: General funds are unrestricted or discretionary revenues used to fund any municipal service expenditure. Examples of General Fund revenues include, but are not limited to, general property taxes, sales taxes, transient occupancy taxes, franchise fees and property transfer taxes.

Incorporation: The incorporation, formation, creation, and establishment of a city with corporate powers.

Indirect costs: Costs associated with supporting a direct service function that may include, but are not limited to: personnel support; administration and policy, legal, accounting/financial support; general insurance; and facility operation and maintenance.

Initial feasibility review: A preliminary fiscal assessment of a community's potential to incorporate, as described in the OPR Incorporation Guidelines.

Initiation by petition: A method of starting the incorporation process involving a registered voter or landowner petition for incorporation, requiring the signatures of a specific percentage of the total number of registered voters or landowners residing in the area to be incorporated.

Islands: An island is unincorporated territory completely surrounded by a city or by territory of a city on one or more sides and the Pacific Ocean on the remaining sides.

LAFCO: An acronym for the Local Agency Formation Commission.

Metes and bounds legal description: A *metes and bounds* description (metes refers to directions and distances, bounds refers to monuments, both physical and legal), describes the perimeter of a parcel of land. A metes and bounds description is often lengthy, as it may contain bearings and distances for each line, descriptive geometry of each curve, and references to other adjacent or nearby parcels of land.

Mitigation: Mitigation includes: avoiding environmental impacts by not taking a certain action or parts of an action; minimizing impacts by limiting the degree or magnitude of the action and its implementation; rectifying the impact by repairing, rehabilitating, or restoring the impacted environment; reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; and, compensating for the impact by replacing or providing substitute resources or environments.

Motor Vehicle In-Lieu fees: Motor vehicle fees consist of vehicle license, registration, weight, and driver's license fees, and various other charges related to vehicle operation. The vehicle license fee (VLF) is imposed for the privilege of operating a vehicle on the public highways in California. This tax is imposed in lieu of a local personal property tax on automobiles and is administered by the State Department of Motor Vehicles. All of the revenues from this tax, other than administrative costs and fees on trailer coaches and mobile homes, are constitutionally dedicated to local governments.

Municipal level services: Services typically provided by cities such as fire, police, garbage collection, water, sewer, etc.

Municipal Service Review: A review of the municipal services provided in the county or other appropriate area such as a proposed incorporation area designated by LAFCO's Commission.

Notice of Intent: (to Circulate a Petition) A notice filed by incorporation proponents with LAFCO prior to circulating any petition for change of organization.

Ordinance: An ordinance is a law adopted by the state, county, city or other appropriate agency.

Primer: The Primer is a brief overview of the incorporation process that can be used as general information by people unfamiliar with incorporations.

Proponent: A proponent is the person or persons who file a Notice of Intent to circulate a petition.

Reorganization: A reorganization is two or more changes of organization initiated in a single proposal.

Resolution: A document prepared by LAFCO's Commission indicating approval of a proposed incorporation and initiating confirmation by the voters.

Revenue Neutrality: The intent of the California Legislature (Government Code Section 56815) that any incorporation should result in a similar exchange of both revenue and responsibility for service delivery among the county, the proposed city, and other affected agencies and that an incorporation should not occur primarily for financial reasons.

Sales Tax: Sales taxes are taxes charged on qualifying retail sales by businesses within the proposed incorporation area.

Service Plan: A service plan is a proposal submitted by the incorporation proponents detailing which municipal services, after incorporation, will be provided by the new city and by other agencies.

SOI: A Sphere of Influence (SOI) means a plan for the probable physical boundaries and service area of a local agency, as determined by LAFCO.

Special district: An agency of the state, formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries.

State Controller: The State Controller is the state's chief financial officer and is elected by a vote of the people every four years. Duties of the State Controller are prescribed by the Constitution with additional powers or functions set by statute.

TOT: Transient Occupancy Taxes (TOT) are taxes collected on hotels and motels.

Transition period: The period of time between the successful election for an incorporation and the date upon which the new city is deemed organized or incorporated.

Unincorporated communities: Territory not within the boundaries of an incorporated city.

APPENDIX C

INITIAL FISCAL FEASIBILITY SPREADSHEET

INITIAL FISCAL FEASIBILITY ANALYSIS*

GENERAL FUND	
General Fund Revenues	
Property Tax	0
Property Transfer Tax	0
Sales and Use Tax	0
Transient Occupancy Tax	0
Motor Vehicle In-Lieu	0
Franchise Fees	0
Fines & Forfeitures	0
Total Revenues	**0**
General Fund Expenditures	
City Council	0
City Manager	0
City Clerk	0
City Attorney	0
Finance	0
Community Development	0
Law Enforcement	0
Fire Protection	0
Animal Control (Net Cost)	0
Parks and Recreation	0
Non-Departmental	0
Subtotal	0
Contingency (@ 5%)	0
Total Expenditures	**0**
General Fund Operating Surplus (Deficit)	**0**

ROAD FUND	
Road Fund Revenues	
Gas Taxes	0
Transportation Related Sales Tax	0
Total Revenues	**0**
General Fund Expenditures	
Street Maintenance	0
Contingency (@ 5%)	0
Total Expenditures	**0**
General Fund Operating Surplus (Deficit)	**0**

***WARNING: The initial fiscal feasibility spreadsheet is only to be used for educational purposes. It should not be used as the basis or as a substitute for a CFA.**

Appendix D

Civil Rights and Environmental Justice Issues

This appendix includes background on the civil rights and environmental justice responsibilities of LAFCO.

A. Federal Framework

The Constitutional basis for environmental justice lies in the Equal Protection Clause of the U.S. Constitution. The Fourteenth Amendment expressly provides that the states may not "deny to any person within [their] jurisdiction the equal protection of the laws" (U.S. Constitution, amend. XIV, §1).

LAFCO EJ PROGRAMS

In response to these recent federal actions, many state and local agencies that receive federal funding have initiated environmental justice programs of their own. OPR recommends that LAFCOs consider whether it would be useful to implement their own environmental justice program in order to further their responsibilities under CKH Act.

On February 11, 1994, President Clinton signed Executive Order (E.O.) 12898, titled "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations." The executive order followed a 1992 report by the U.S. Environmental Protection Agency (U.S. EPA) indicating that "racial minority and low-income populations experience higher than average exposures to selected air pollutants, hazardous waste facilities, and other forms of environmental pollution." E.O. 12898 directed federal agencies to incorporate environmental justice into their missions.

In a memorandum accompanying E.O. 12898, President Clinton underscored existing federal laws that could be used to further environment justice. These laws include Title VI of the Civil Rights Act of 1964 and the National Environmental Policy Act (NEPA), among others. Title VI prohibits any recipient (state or local entity, or public or private agency) of federal financial assistance from discriminating on the basis of race, color, or national origin in their programs or activities (42 USC §2000d to §2000d-7).

State and local agencies that receive federal funding must comply with Title VI. Under the Civil Rights Restoration Act of 1987, this requirement is not limited to the programs and activities that receive direct federal funding, but applies to all agency activities.

B. State Framework

Anti-discrimination laws existed in California prior to the passage of the first environmental justice legislation in 1999. The California Constitution prohibits discrimination in the operation of public employment, public education, or public contracting (Article I, §31). State law further prohibits discrimination under any program or activity that is funded or administered by the state (§11135).

The Planning and Zoning Law prohibits any local entity from denying any individual or group of the enjoyment of residence, land ownership, tenancy, or any other land use in California due to the race, sex, color, religion, ethnicity, national origin, ancestry, lawful occupation, or age of the individual or group of individuals (GC §65008).

The Fair Employment and Housing Act (FEHA) specifically prohibits housing discrimination on the basis of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, disability, or source of income (§12900, et seq)

In 1999, Governor Davis signed SB 115 (Solis, Chapter 690, Statutes of 1999), that defines environmental justice in statute and establishes OPR as the coordinating agency for state environmental justice programs (GC §65040.12).

As the primary agency with responsibility for approving changes in boundaries, LAFCO play an important role in coordinating growth and ensuring that proposed changes are consistent with environmental justice obligations.

C. Forms of Inequity

Problems of environmental justice can be broken down into two categories: procedural inequity and geographic inequity. In other words, unfair treatment can manifest itself in terms of process or in terms of results.

Procedural inequity occurs when the planning process is not applied uniformly. Examples of procedural inequity include:

"Stacking" commissions or committees with certain interests while ignoring the interests of other segments of the community, such as minority and low-income residents.

Holding meetings at times or locations that minimize public participation by certain groups or individuals.

Using English-only written or verbal communication when a non-English speaking population will be affected by a planning decision.

Requiring lower levels of mitigation for projects affecting low-income or minority populations.

Unevenly enforcing environmental rules.

Geographic inequity describes a situation in which the burdens of undesirable land uses are concentrated in certain areas of the county while the benefits are received elsewhere. Municipal service reviews can play a key role in identifying these inequities and should therefore, when available, be used in reviewing incorporation proposals. LAFCO may need to adjust boundaries to ensure that geographic inequities are not exacerbated by the establishment of a new city. Examples of geographic inequity include:

Certain areas of the county have a disproportionate share of industrial facilities that handle or produce hazardous waste, while the economic benefits are distributed to other areas (in the form of jobs and tax revenue).

Certain areas have a disproportionate share of waste disposal facilities, while the benefits of such facilities are received by the community or region as a whole.

Certain areas experience more of the environmental benefits associated with community centers, parks, and open space, while other neighborhoods have fewer such amenities.

D. Information and Analysis

As discussed throughout these guidelines, informed decisions regarding the incorporation proposal requires good information. A clear identification of the lands, population and facilities (existing and proposed) is essential in analyzing the information in the application. When evaluating the issues identified in this chapter that relate to environmental justice, LAFCO may wish to consider the following data layers:

Base map of the study area.

General plan designations of land use (existing and proposed).

Current demographic data: Population (location and density); Income (distribution of very-low, low, moderate and above moderate income groups); Ethnicity (distribution of minority populations); Age (distribution of seniors and children throughout the community)

Location of public facilities that enhance community quality of life, including open space, water quality, and fire protection.

Location of industrial facilities with its existing and projected service needs and other uses that contain or produce materials that, because of their quantity, concentration, or physical or chemical characteristics, pose a significant hazard to human health and safety.

Location of existing and proposed schools.

Location and density of existing and proposed residential development.

Preventing and reversing historical problems of procedural and geographic inequity requires accurate information in order to develop policies and prioritize implementation measures.

EJ INFORMATION HAS MANY USES

Data obtained in the incorporation review process can be used by LAFCO and other public agencies for:

- Improving the community participation process.
- Identifying low-income/minority neighborhoods under-served by public facilities and services that enhance quality of life.
- Considering the equitable distribution of public facilities and services.
- Considering infrastructure and housing needs.
- Identifying low-income/minority neighborhoods where facilities and uses that pose a significant hazard to human health and safety may be over-concentrated.
- Screening of issues for potential environmental justice implications.

APPENDIX E

SAMPLE FORMS

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

Part I: NOTICE OF INTENT TO CIRCULATE PETITION

Proponents are required to file a NOTICE OF INTENT TO CIRCULATE PETITION with the Executive Officer of the Local Agency Formation Commission before a petition to initiate a change of organization or reorganization can be circulated (Govt. Code § 56700.4).

1. Notice is hereby given to circulate a petition proposing to _____

_____

2. The reason(s) for the proposal are: _____

_____

_____

_____

Proponent's Name (print) Signature of proponent or representative

_____

Proponent's Address City, State, Zip

Pursuant to Section 56700.4 of the California Government Code, this NOTICE OF INTENT TO CIRCULATE PETITION was filed with me on _____
Date

_____
_____, Executive Officer

PART II: DISCLOSURE REQUIREMENTS

The Political Reform Act prohibits a person appointed to the Local Agency Formation Commission from soliciting or accepting campaign contributions or more than $250 within the preceding 12 months from parties, participants, or their agents while a proceeding is pending before LAFCO and for three months following the decision. LAFCO commissioners who receive such contributions are required to disqualify themselves from participating in the proceedings. Both commissioners and contributors who are parties to the proceeding are required to disclose the contributions received or made. Names of current LAFCO commissioners and LAFCO disclosure forms are available at _____or by calling _____.

Expenditures for political purposes related to a change of organization or reorganization proposal which has been submitted to a commission, and contributions in support of, or in opposition to such measures, shall be disclosed and reported to the same extent and subject to the same requirements as provided for local initiative measures to be presented to the electorate [Govt. Code § 56700.4(a)].

PETITION FOR THE INCORPORATION
OF THE CITY OF----------, CALIFORNIA

We, the undersigned registered voters, do hereby petition the Local Agency Formation Commission pursuant to the Cortese/Knox/Hertzberg Local Government Reorganization Act of 2000 commencing Section 56000 of the California Government Code, for the Incorporation of the City of ----------, California within the boundaries of the community of ----------, more particularly described on the Legal Description and Map attached hereto as Exhibit "A".

The reasons for the proposed incorporation are: 1) ----------; 2) ----------; and 3) to ----------.

The Chief Petitioners for this proposal are: (name), ---(address)---------, (name), ---(address)---------, and (name), ---(address)---------.

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

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

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

AFFIDAVIT OF CIRCULATOR

I, _____residing at_____

_____

Precinct Number _____

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

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

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

DATED: _____ SIGNATURE OF CIRCULATOR _____

LOCAL AGENCY FORMATION COMMISSION

LANDOWNER PETITION INITIATING PROCEEDINGS

We, the undersigned Landowners, do hereby petition the Local Agency Formation Commission, pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Sections 56000 et seq.), as follows:

_____

_____

_____

(List all proposed changes of organization)

To the best of our knowledge, the proposal is consistent with the adopted sphere(s) of influence for an affected agency or agencies, and we understand that this proposal cannot be considered unless and until such spheres are consistent.

We certify that we are true and legal landowners of the named property and understand that these petitions may not be circulated separately from a current legal description and a current map showing the area of review.

The names and addresses of the Chief Petitioners for this proposal are as follows (not to exceed three persons):

_____ _____ _____

_____ _____ _____

_____ _____ _____

The reason(s) for this proposal is (are):

_____

_____

The requested terms and conditions for this proposal, if any, are as follows: _____

_____

We hereby request that the Local Agency Formation Commission for _____ County conduct proceedings on this proposal pursuant to the provisions of Government Code Sections 56000 et seq.

The landowner must sign his/her name, residence address, and the date of signing in his/her own handwriting. His/her parcel number must be included.

SIGN NAME PRINT NAME	RESIDENCE ADDRESS	DATE	PARCEL NUMBER
SIGN NAME PRINT NAME	RESIDENCE ADDRESS	DATE	PARCEL NUMBER
SIGN NAME PRINT NAME	RESIDENCE ADDRESS	DATE	PARCEL NUMBER
SIGN NAME PRINT NAME	RESIDENCE ADDRESS	DATE	PARCEL NUMBER
SIGN NAME PRINT NAME	RESIDENCE ADDRESS	DATE	PARCEL NUMBER

Form courtesy of San Bernardino County LAFCO

APPENDIX F

SAMPLE CITY COUNCIL MEETING AGENDA

GOLETA CITY COUNCIL

Special Meeting - Friday, February 1, 2002 – 5:30 PM

Goleta Community Center

AGENDA

- Agendas are posted on the City's internet web site: www.GoletaCity.com
- A complete packet of information containing staff reports and exhibits relating to each item on the agenda is available for public review prior to each City Council meeting at the City Hall (Address)
- Agendas may be picked up at the City Hall located at (address) for no charge or to request information regarding being placed on the annual subscription list please contact the City Clerk.

A. SWEARING IN CEREMONY FOR CITY COUNCIL MEMBERS – COUNTY CLERK

B. OPENING MATTERS

1. Call to Order
2. Pledge of Allegiance to the flag
3. Roll Call
4. Individual Council Member Comments

C. PUBLIC COMMENTS

At this time the public is permitted to address the City Council on non-agendized items only. COMMENTS SHOULD NOT EXCEED THREE (3) MINUTES.

In accordance with State Law no City Council action or discussion may take place on any item not appearing on the posted agenda. The Council may respond to statements made or questions asked, and may direct staff to report back at a future meeting regarding the matter.

Members of the public may contact the City Clerk's Office related to the proper procedure to place an item on a future City Council agenda.

The exceptions under which the City Council MAY discuss and/or take action on items not appearing on the posted agenda are contained in Government Code Section 54954.2 (b) (1) (2) (3).

D. DISCUSSION/ACTION ITEMS

1. Waive the reading and adopt urgency ordinance providing for all County ordinances to remain in effect for 120 days.

Note: This ordinance adopts the Santa Barbara County Code as the ordinances within the City for 120 days. Adoption is required by Government Code §56376.

2. Adopt resolution designating (name) as the Mayor and (name) as the Mayor Pro Tem effective immediately, and (name) as Mayor beginning on January 1, 2003.

Note: The Council will: (a) adopt resolution establishing the procedure for selecting the mayor and mayor pro tempore and their responsibilities and (b) by motion select the Mayor and Mayor Pro Tempore for the initial city council.

3. Adopt resolution designating the place and time for regular City Council meetings.

Note: This resolution will designate the place and time of regular Council meetings as required by Government Code 54954(a). The regular meetings will be held on the (week, day of week) of each month at (time and place of meeting).

4. Adopt resolution establishing procedures for conduct of Council meetings.

Note: This resolution establishes procedures for the conduct of Council meetings.

5. Waive the reading and adopt urgency ordinance creating and establishing a City Manager form of government and the position of City Manager, to be effective immediately.

Note: This ordinance establishes a City Manager form of government for the City. It is effective immediately and requires a 4/5th vote

6. Adopt resolution appointing (name) as City Manager and approving agreement for interim City Manager services

Note: This resolution appoints (name) as the Interim City Manager and includes terms of appointment including compensation.

7. Adopt resolution appointing (name) as City Attorney and approving an agreement for legal services with (name of firm).

Note: This resolution appoints (name) as the City Attorney and approves an agreement for legal services including compensation.

8. Waive reading and introduce ordinance imposing a Sales and Use Tax to be administered by the State Board of Equalization and providing penalties for violations; adopt resolution approving agreement for State administration of local Sales and Use Taxes and adopt a resolution authorizing and examination of Sales and Use Tax records.

Note: The Council will take three actions that establish but do not increase sales and use tax rates within the City.

First, waive the reading and introduce ordinance to adopt a sales and use tax within the City consistent with the Bradley-Burns Act. The ordinance will be continued to the (date) Council meeting for second reading and adoption.

Second, approve an agreement with the State Board of Equalization for collection of the tax.

Third, adopt a resolution authorizing the State Board of Equalization to examine records.

9. Waive reading and adopt an urgency ordinance to continue the existing Transit Occupancy Tax.

Note: The ordinance continues the County's transient occupancy tax (hotel tax) in effect at the current County rate. The ordinance will become effective immediately and requires a 4/5th vote.

10. Waive reading and adopt urgency ordinance to continue the existing business license tax.

Note: The ordinance continues the County's business license tax in effect at the current County rate. The ordinance will become effective immediately and requires a 4/5th vote.

11. Waive reading and adopt urgency ordinance to continue the existing documentary transfer tax.

Note: The ordinance continues the County's documentary (real property) transfer tax in effect at the current County rate. The ordinance will become effective immediately and requires a 4/5th vote.

12. Adopt resolution setting the Provisional Appropriations Limit for Fiscal Year 2001-02.

Note: The California Constitution Article XIIIB and Government Code §7900 et seq. require the City to adopt an "appropriations limit." LAFCO Resolution 99-20 establishes an provisional appropriations limit pursuant to Government Code §56842.6 as $24,100,000. This resolution will formally adopt that amount as the City's appropriations limit until subsequent voter approval.

13. Adopt resolution selecting (name of bank) as the City's bank and providing for authorized signatures on warrants and checks.

Note: This resolution will designate the (name) Bank, (name) branch as the city's bank. It will also designate the City Manager (and/or Finance Director or City Clerk) and Mayor as the officials authorized to sign warrants and checks over $2,500, with the City Manager authorized to sign checks for less than $2,500.

14. Adopt resolution authorizing investment of City monies in the Local Agency Investment Fund.

Note: This resolution authorizes the City to invest monies in the State's Local Agency Investment Fund. The City Manager and the Finance Director are authorized to deposit or withdraw monies.

15. Adopt resolution authorizing a petty cash fund.

Note: This resolution establishes a petty cash fund of $250 for minor expenses for the daily operations of the City.

16. Adopt resolution approving a budget for fiscal year 2001-02.

Note: This resolution will adopt a budget for the City for Fiscal Year 2001-2002 based on the City Manager's recommendation.

17. Adopt resolution consenting to cancellation of uncollected taxes, penalties and costs based on the consent of the County legal advisor.

Note: This resolution authorizes the City Council to consent to canceling uncollected taxes, penalties and costs on behalf of the City.

18. Waive the reading and adopt urgency ordinance establishing a Special Gas Tax Street Improvement Fund.

Note: This ordinance establishes a special fund into which all gas tax revenues will be deposited. The ordinance will become effective immediately and requires a 4/5th vote.

19. Adopt a resolution adopting the County General Plan on an interim basis as the City's General Plan.

Note: This resolution will adopt the County General Plan and Goleta Valley Community Plan as the general plan for the City, to be effective until the City adopts its own general plan.

20. Adopt resolution adopting County zoning atlas on interim basis.

Note: This resolution will adopt Santa Barbara County's zoning atlas (map) in effect on February 1, 2002 as the zoning map of the City.

21. Adopt resolution authorizing Count officials to enforce laws in City during transition year.

Note: The County is required to continue to provide all services in the City that it provided prior to incorporation through June 30, 2002. This resolution will authorize County employees performing services within the City to enforce any laws within the City while the County is providing such services.

22. Adopt resolution requiring bonds for City employees.

Note: This resolution will establish the amount of the official bonds for designated city employees.

23. Waive the reading and adopt urgency ordinance continuing County fees, charges and rates in effect.

Note: This ordinance will continue County fees, charges and rates in effect as the City's fees, charges and rates for programs and services. The ordinance will become effective immediately and requires a 4/5th vote. It does not apply to development impact fees.

24. Adopt resolution establishing cost recovery program for land use applications.

Note: This resolution will require applicants for land use approvals to pay the cost of processing such applications, including all staff time, overhead and the City's actual out-of-pocket costs for legal and other services required to review and process applications.

25. Waive reading and introduce ordinance providing for reimbursement of City Council member expenses.

Note: This ordinance will provide a policy for members of the Council to be reimbursed for actual reasonable and necessary expenses incurred in performing their duties, as authorized by Government Code §36514.5. It will require a second reading and adoption at the February (date) Council meeting.

26. Adopt resolution providing for posting of ordinances.

Note: This resolution will allow the City to provide notice of proposed actions when notice is legally required by posting in three (3) public places.

27. Waive reading and introduce ordinance establishing a local claims procedure and authorizing the City Manager to reject or settle claims.

Note: This ordinance will require that claims be presented to the City before filing a law suit for those types of claims that are exempt from the California Tort Claims Act. The ordinance would also authorize the City Manager to reject or settle claims less than $2,500, all as authorized by Government Code §935 and 935.4. It will require a second reading and adopt at the February (date) Council meeting.

28. Adopt resolution adopting CEQA guidelines.

Note: This resolution will adopt the State CEQA Guidelines as the City's CEQA Guidelines pending adoption of other local guidelines.

29. Adopt resolution requesting Federal Tax Identification Number and directing filing of information with Secretary of State.

Note: This resolution will authorize the City Manager to (a) file with the California Secretary of State information pursuant to Government Code §53051 and (b) file with the Federal Government to obtain a Federal taxpayer identification number for the City as required.

30. Adopt resolution of intent to adopt Conflict Of Interest Code and invite public comments.

Note: A 60-day public comment period is required prior to adopting a conflict of interest code for the City. This resolution will provide notice of the intent for the County to adopt the conflict of interest code.

31. Adopt resolution consenting to enforcement by County health officer of all health laws within the City.

Note: This resolution will consent to the enforcement by the County Health Officer of all laws related to public health, as authorized by Health & Safety Code §101375.

32. Adopt a resolution regarding insurance.

Note: This resolution will authorize the City Manager to obtain insurance for the City.

33. Waive reading and introduce ordinance declaring the need for a redevelopment agency to function in the community.

Note: This ordinance will declare the need for a redevelopment agency in the City and declare the Council to be the Goleta Redevelopment Agency, consistent with the provisions of LAFCO Resolution 99-20.

34. Consideration of ordinance providing for City Council member salaries

Note: Consideration will be given to adopting an ordinance to would provide salaries for members of the City Council.

E. REPORTS TO COUNCIL

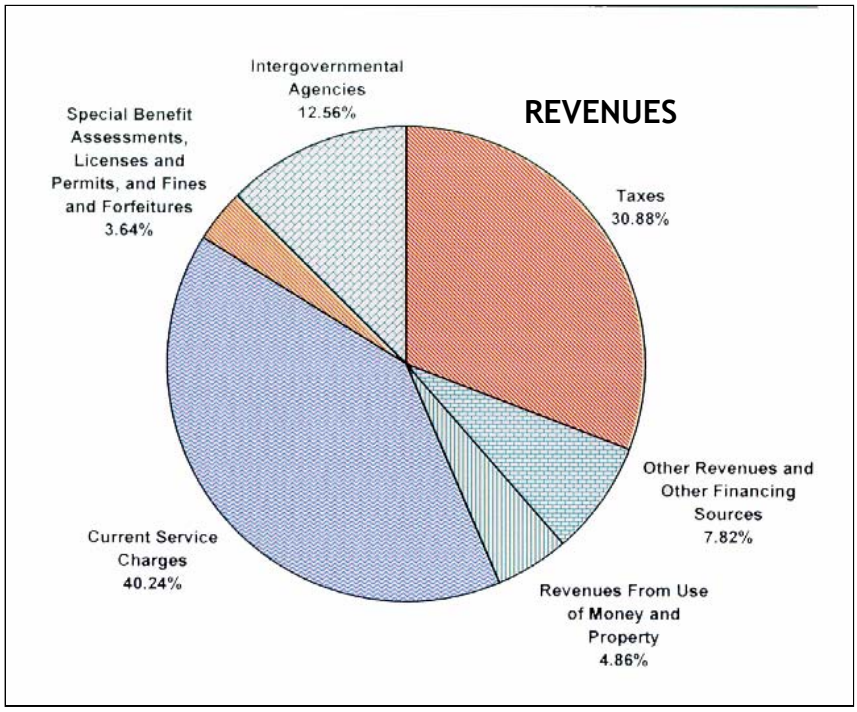
F. CLOSING COMMENTS

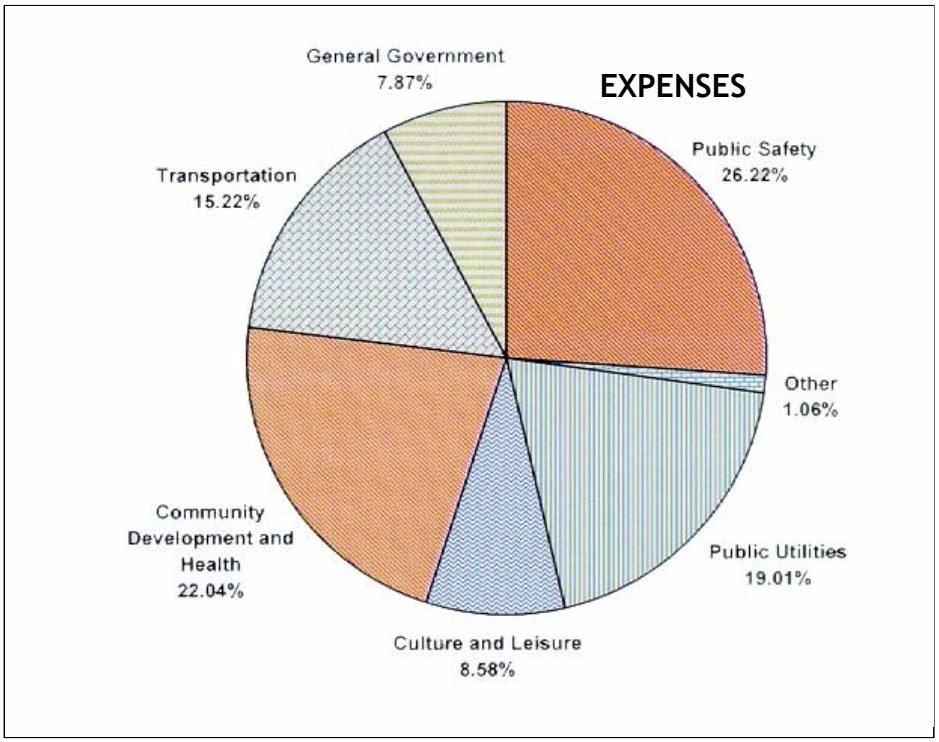
G. ADJOURN

Note: The public is invited to an open house at (location) at 4:30 p.m. to celebrate the successful incorporation of the City of Goleta.

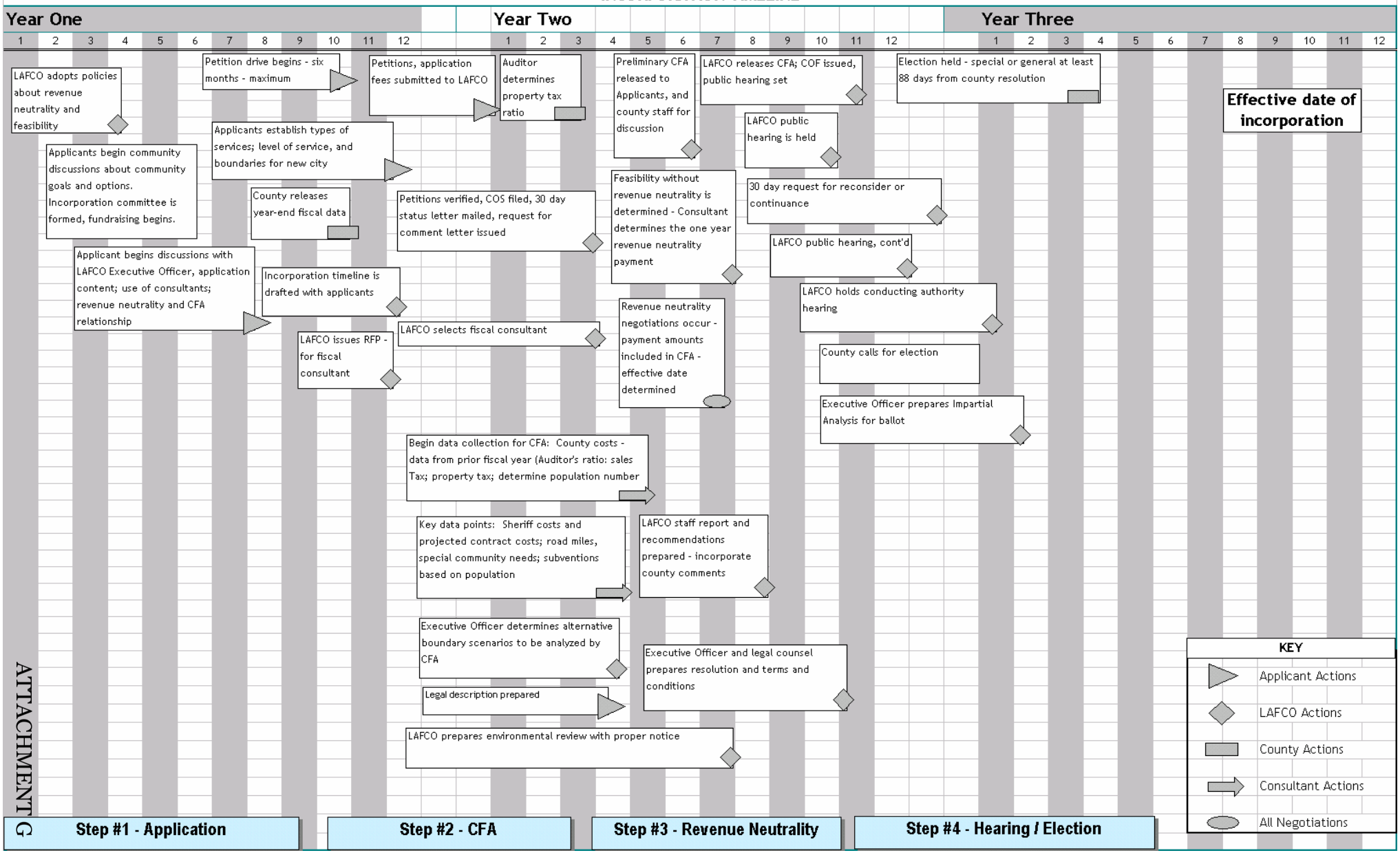
APPENDIX G

TYPICAL SOURCES AND USES OF MUNICIPAL FUNDING





APPENDIX H
INCORPORATION TIMELINE



ATTACHMENT G