

BUTTE LOCAL AGENCY FORMATION COMMISSION

POLICIES AND PROCEDURES

May 6, 2010



LOCAL AGENCY FORMATION COMMISSION

COUNTY OF BUTTE

POLICIES AND PROCEDURES

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Section 1. PURPOSE, JURISDICTION, AUTHORITY, AND COMPOSITION

1.1 Purpose of these Policies, Standards and Procedures.

LAFCO is charged with applying the policies and provisions of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 to its decisions regarding annexations, incorporations, reorganizations, and other changes of government. Pursuant to the Act, LAFCO is required to adopt written policies and procedures and to exercise its powers in a manner consistent with those policies and procedures and with the policy directives of the Act. Specifically, the policies and standards as set forth are designed to:

- Provide Information. Give applicants, for changes of organization, guidance as to the information LAFCO needs to make appropriate determinations concerning their applications. Provide information and notice to elected officials, governmental staff, and members of the general public as to the standards and procedures that LAFCO will use in evaluating applications;
- Set Criteria. Provide applicants, for changes of organization, with explicit guidance as to the criteria LAFCO will use in approving, disapproving, amending, or conditionally approving applications for changes of organization;
- Ensure Greater Consistency in LAFCO's decision-making process;
- Facilitate Communication among local agencies in the region and actively engage local decision makers in positive dialogue to promote collaboration and consistency related to the long-term development of the county, cities and special districts;
- Minimize Adverse Impacts of the social, economic and environmental results of growth; and,
- Promote Orderly Development. Provide for planned, well-ordered, efficient urban development patterns with appropriate consideration of preserving agricultural and open space lands within those patterns.

1.2 The Legislature's Creation of LAFCO.

- 1.2.1 LAFCO is an intra-local agency that was created by state legislation to ensure that changes in governmental organization occur in a manner that

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provides efficient and quality services and preserves open space land resources.

- 1.2.2 The creation of LAFCO was a legislative response to actions by local jurisdictions in the 1940's and 1950's. These agencies incorporated or annexed large, irregular portions of land, in a manner that resulted in irrational urban boundaries and stranded populations without efficient services or with no services at all. In 1963, the Legislature established Local Agency Formation Commissions in each county and delegated to them its regulatory authority over local agency boundary changes.
- 1.2.3 Additional legislation in the 1960's extended LAFCO authority. In the 1970's, the Legislature recognized the connection between decisions concerning governmental organization and the issues of urban sprawl and loss of prime agricultural land. In response to these concerns, LAFCOs were charged with implementing changes in governmental organization, in a manner that would preserve agricultural and open space land resources and provide for efficient delivery of services. Concerned that the LAFCOs were responding reactively without considering long-term regional issues, in 1972 the Legislature began requiring LAFCO to adopt a sphere of influence for each local government agency in its jurisdiction. The sphere of influence is the physical boundary and service area each agency is expected to serve, and each proposal the Commission considers must be consistent with the sphere plan. The Legislature and the courts require LAFCOs to implement the California Environmental Quality Act (CEQA) as it applies to LAFCO actions.
- 1.2.4 In 1985, the Cortese-Knox Local Government Reorganization Act consolidated all statutes relative to local government changes of organization. Later, in 1997, the Legislature assembled the Commission on Local Governance in the 21st Century to examine governance issues with special attention to the Local Government Reorganization Act. "Growth Within Bounds" is the Commission's report, and is based on four major findings: (1) the future will be marked by continued phenomenal growth, (2) California lacks a plan to accommodate growth, (3) local government is plagued by fiscal insecurity, and (4) the public is not engaged.
- 1.2.4.1 The Commission made eight recommendations designed to lead the state into the 21st Century:
- LAFCO policies and procedures should be streamlined and clarified;
 - LAFCOs must be neutral, independent and balanced in representation of counties, cities and special districts;
 - LAFCOs' powers must be strengthened to prevent urban sprawl and ensure orderly extension of government services;
 - The Legislature must strengthen LAFCOs' policies to protect agricultural and open space lands;

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- The Legislature must comprehensively revise the state-local fiscal relationship;
- the Legislature must develop incentives to encourage coordination of local plans within each region;
- the Legislature must enhance communication, coordination and procedures of LAFCOs and local governments; and,
- the Legislature must increase opportunities for public involvement, active participation, and information regarding government decision-making.

These recommendations were incorporated into the Cortese-Knox-Hertzberg Act, which was adopted by the Legislature in 2000 and became effective in 2001.

1.3 The Legislature's Policy Direction to LAFCO.

The Legislature has charged LAFCOs with carrying out changes in governmental organization to promote specified legislative policies now codified in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. The Cortese-Knox-Hertzberg Act commences with Section 56000 of the Government Code, and the reader is referred especially to Sections 56001, 56300, 56301, 56375, 56377, and 56668. The Sections contain the following major policy elements:

- Orderly Growth. LAFCO is charged with encouraging orderly growth and development. Providing housing for persons and families of all incomes is an important factor in promoting orderly development;
- Logical Boundaries. LAFCO is responsible for encouraging the logical formation and determination of boundaries;
- Efficient Services. LAFCO must exercise its authority to ensure that affected populations receive adequate, efficient and effective governmental services; and,
- Preserve Agricultural and Open Spaces. LAFCO is required to exercise its authority to guide development away from open space and prime agricultural land uses unless such actions would not promote planned, orderly, and efficient development.

1.4 LAFCO Jurisdiction.

- 1.4.1 Specific Authority. LAFCO has the specific authority to review and approve or disapprove annexations to, or detachments from, cities or districts; formation or dissolution of districts; incorporation or disincorporation of cities; consolidation or reorganization of cities or districts; the establishment of a subsidiary district(s); the development of, and amendments to, spheres of influence; authorization of extension of services beyond an agency's jurisdictional boundaries; provision of

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new or different services by districts; and, to prepare Municipal Service Reviews and Sphere of Influence studies at least every five years.

- 1.4.2 Limited Authority to Initiate Proposals. Under specific circumstances, LAFCO may initiate proposals resulting in consolidation of districts, dissolution, merger, or establishment of subsidiary districts, or reorganizations that include any of those changes of organization.
- 1.4.3 Limitation of Authority Relating to Land Use Conditions. In order to carry out the legislative policies identified above, LAFCO has the power to approve or disapprove applications, or to impose reasonable conditions on approval. However, while LAFCO is charged with consideration of the impacts of land use in its determination, it is specifically prohibited from directing specific land use or zoning actions. LAFCO can deny an application where the land use that would result violates the statutory policies of Cortese-Knox-Hertzberg.

The California Supreme Court has explained this unusual combination of power to deny coupled with no power to impose conditions to solve the same policy issue. It said the prohibition on imposing conditions regarding land use

“merely insures that final zoning decisions are made by the local agencies concerned. It certainly does nothing to detract from the power of a LAFCO to disapprove an annexation if it finds it violates the detailed criteria which LAFCO must consider” *Bozung v. LAFCO (1975) 13 Cal. 3d 263, 284.*

1.5 LAFCO Composition and Legislative Charge.

- 1.5.1 General Statutory Requirements. LAFCO is an independent, intra-local agency created by the Legislature to implement policies, which the Legislature determined must be addressed with a regional perspective.
- 1.5.2 Independent Agency. LAFCO is, by statute, a separate public agency from the county, the cities, and the special districts that collectively provide funding and appoint members to the Commission.
- 1.5.3 Intra-Local Representation. The legislative body of LAFCO is the Commission. The Legislature established the composition of the Commission to be representative of the local governmental agencies in the County by providing for city, county, special district, and public membership. (REVISED: May 4 1995)
- 1.5.4 Public Interest. While the Commission is largely composed of members appointed by individual local agencies, the Legislature requires the Commissioners to exercise their independent judgment in carrying out the provisions of the Act and to make their decisions impartially, on behalf of the public as a whole. Decisions required of LAFCO relating to the most efficient form of local government and the preservation of agricultural and open space land inherently involves the balancing of potentially competing interests of cities,

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counties and special districts. In addition, such determinations usually affect the public at large because of various options for the delivery of services.

The legislative charge to LAFCO Commissioners is to bring their experience and perspectives to bear in a manner that carries out the best policy from the perspective of the public as a whole. Commissioners are not selected to represent or to cast the vote of their appointing agencies. While Commissioners' decisions may be informed by their experience at their agency, those decisions must not be dictated by the interests of that agency.

Since Commission members are appointed by law to impartially carry out objective policies concerning public policy issues, it is presumed that they will do so. It is for this reason that the Legislature determined that it is not an automatic conflict of interest for a Commissioner to vote on issues which may affect their appointing agency. Nevertheless, if a Commissioner feels that he/she is unable to act impartially then the Commissioner should voluntarily disqualify his/her self.

1.5.5 Commission Composition. Butte LAFCO Commissioners are selected from the groups most affected by the Commission's decisions: the cities, the county, the public, and special districts. Butte LAFCO is composed of seven members, each of whom serve four-year terms. These members are:

- Two City Council members and one alternate who are appointed by the City Selection committee made up of the mayor of each incorporated city within Butte County;
- Two Butte County Supervisors and one alternate appointed by the Butte County Board of Supervisors;
- Two Special District Board Members and one alternate elected by vote of the governing boards of special districts; and,
- One Public Member and one alternate appointed by the Commission with each selection receiving at least one vote from a city commissioner, one vote from a county commissioner and one vote from a special district commissioner. (AB 2838) (REVISED: May 3, 2001)

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Section 2. LAFCO GENERAL POLICIES AND STANDARDS

The following are the general policies and standards that will apply to LAFCO considerations of any type of proposal. In certain situations, the application of one policy may conflict with the application of another; in that case, LAFCO will exercise its discretion to balance policies in a manner consistent with the Cortese-Knox-Hertzberg Act and the standards contained in this document.

2.1 Implementation of Spheres of Influence and Municipal Service Reviews.

Sphere of Influence and Municipal Service Review provisions of these policies shall be guided by the Cortese Knox Hertzberg Local Government Reorganization Act of 2000 and the Municipal Service Review Guidelines prepared by the State Office of Planning and Research. While it is the primary role of the Commission to determine the scheduling and method of preparation of sphere updates and Municipal Service Reviews, the Commission recognizes the need to work collaboratively with local agencies to ensure that the most accurate data is utilized and acceptance of the completed plans is widely supported by the affected agencies and their constituents. To this end, the Commission will consider where possible, coordinating sphere of influence plan updates and reviews with the adoption of general plans and master plans of member agencies. In keeping with this cooperative approach, the Commission will consider all options for plan preparation that will ultimately lead to the successful adoption of plans that ensure the ongoing viability, efficiency and responsiveness of each local agency to its constituency and regional planning expectations.

2.2 Communication Between Local Agencies.

- 2.2.1 LAFCO considers that an important and necessary part of its role is to encourage communication and collaborative planning and studies between public agencies (such as the county, cities, and special districts), members of the public, community groups, and private sector service providers.
- 2.2.2 LAFCO staff shall participate, when appropriate to LAFCO issues, in local agency hearings, meetings and actions, to facilitate the consideration of LAFCO concerns.

2.3 Urban Development.

- 2.3.1 LAFCO will encourage proposals that result in urban development to include annexation to a city wherever reasonably possible, and discourage proposals for urban development without annexation to a city. LAFCO will also encourage cities to annex lands that have been developed to urban levels as defined below, particularly areas that receive city services.
- 2.3.2 The term "Urban Development" shall mean development of a character and intensity that is normally found in urban and suburban areas and demands municipal services. The following types of uses are typically considered "urban development": residential development at densities in excess of one unit per acre;

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and, industrial or commercial development in excess of 5,000 square feet, other than agricultural processing facilities or related agricultural accessory structures.

2.4 Environmental Consequences (CEQA).

LAFCO shall operate in accordance with the California Environmental Quality Act (CEQA), and Public Resources Code Section 21000 et. seq.. LAFCO shall assess the environmental consequences of its actions and decisions, and take actions to avoid or minimize a project's adverse environmental impacts, if feasible, or approve a project despite significant effects because it finds overriding considerations exist. To comply with CEQA, the Commission will operate in accordance with this Operations Manual ("CEQA Guidelines").

2.5 Balancing Jobs and Housing.

LAFCO will normally encourage those applications, which improve the regional balance between jobs and housing within the jurisdiction of the affected local agency. LAFCO will consider the impact of a proposal on the regional supply of residential housing for all income levels. The agency that is the subject of the proposal must demonstrate to the Commission that any adverse impacts of the proposal on the regional affordable housing supply have been mitigated.

2.6 Compact Urban Form and Infill Development Encouraged.

When reviewing proposals that result in urban development, LAFCO will consider whether the proposed development is timely, compact in form and contiguous to existing urbanized areas. LAFCO will favor development of vacant or under-utilized parcels already within a city or other urbanized area prior to annexation of new territory. However, the Butte LAFCO recognizes that under certain circumstances the redevelopment of underutilized land and infill parcels are subject to the desires of the property owners necessitating the annexation of vacant lands on the periphery of the city boundaries.

2.7 Adequate Services.

LAFCO will consider the ability of an agency to deliver adequate, reliable and sustainable services, and will not approve a proposal that has significant potential to diminish the level of service in the agency's current jurisdiction. The agency must provide satisfactory documentation of capacity to provide service within a reasonable amount of time.

2.8 Efficient Services.

Community needs are normally met most efficiently and effectively by proposals that:

- Utilize existing public agencies rather than create new ones;
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- Encourage collaboration between public agencies in order to obtain the greatest level of public support for the provision of consolidated services;
- Consolidate services and service providers if such consolidations enhance the efficiency and quality of service; and,
- Restructure agency boundaries and service areas to provide more logical, effective, and efficient local government services.

2.9 Community Impacts.

LAFCO will consider the impacts of a proposal and any alternative proposals on adjacent areas, on mutual, social and economic interests, and on the local government structure. The Commission may deny a proposal if adverse impacts are not mitigated to an acceptable level, as determined by the Commission.

2.10 Conformance with General and Specific Plans.

2.10.1 Consistency with General and Specific Plans. LAFCO will approve changes of organization or reorganization only if the proposal is consistent with the General Plan and relevant Specific Plans of the applicable planning jurisdiction.

2.10.2 Planning Jurisdiction. The applicable planning jurisdiction is as follows:

- For areas within a city's sphere of influence, the city is the applicable planning jurisdiction; and,
- For areas outside a city's sphere of influence, County is the applicable planning jurisdiction.

2.10.3 Notification of Consistency. Prior to consideration of the proposal by LAFCO, the applicable planning jurisdiction shall advise LAFCO in writing whether the proposal meets all applicable consistency requirements of state law, including internal consistency. If the applicable planning jurisdiction is also applying to LAFCO by Resolution of Application, such finding may be included in the Resolution.

2.10.4 Consistency Found Adequate. For purposes of this standard, the proposal shall be deemed consistent if the proposed use is consistent with the applicable General Plan designation and text, the applicable General Plan is legally adequate and internally consistent, and the anticipated types of services to be provided are appropriate to the land use designated for the area. While LAFCO will ordinarily accept the finding of the planning jurisdiction as to consistency, LAFCO shall retain discretion to independently determine consistency where appropriate. LAFCO may require additional information, if necessary, particularly where the proposal involves an amendment to the General Plan of the applicable planning jurisdiction. (REVISED: May 4, 1996)

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2.10.5 Prezoning or Planning. All territory proposed for annexation must be specifically planned and/or prezoned by the planning agency. The city prezoning or zoning of the territory must be consistent with its General Plan and sufficiently specific to determine the likely intended use of the property. No subsequent change to the zoning by a city is permitted by state law for a period of two years under most circumstances. [GC§56375(e)]

2.11 **Boundaries.**

2.11.1 Definite Boundaries Required. LAFCO will not accept as complete any application for a proposal unless it includes boundaries that are definite, certain, and fully described.

2.11.2 Boundary Criteria. LAFCO will normally favor applications with boundaries that do the following:

- Create logical boundaries within the affected agency's sphere of influence, and where possible, eliminate previously existing islands or other illogical boundaries; and,
- Follow natural or man-made features and include logical service areas, where appropriate.

Project boundaries should conform to the boundaries of existing parcels.
(REVISED: August 6, 1998)

2.11.3 Boundary Adjustments. LAFCO will normally amend applications with boundaries that:

- Split neighborhoods or divide an existing identifiable community, commercial district, or other area having a social or economic identity;
- Result in islands, corridors, or peninsulas of incorporated or unincorporated territory or otherwise cause or further the distortion of existing boundaries;
- Are drawn for the primary purpose of encompassing revenue-producing territories;
- Create areas where it is difficult to provide services;
- Split existing parcels with lines of assessment (REVISED: August 6, 1998); or,
- Are drawn to accommodate specific jurisdictional representation or political influence.

2.11.4 Boundary Disapprovals. If LAFCO cannot suitably adjust the boundaries of a proposal to meet the criteria established in item 2.11.2 above, it will normally deny the proposal.

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2.12 Revenue Neutrality.

Revenue Neutrality Applicable to All Proposals. LAFCO will approve a proposal for a change of organization or reorganization only if the Commission finds that the proposal will result in a similar exchange of both revenues and service responsibilities among all affected agencies. A proposal is deemed to have met this standard if the amount of revenue that will be transferred from an agency or agencies currently providing service in the subject territory to the proposed service-providing agency is substantially equal to the expense the current service provider bears in providing the services to be transferred.

- 2.12.1 Adjustment to Create Revenue Neutrality. In the event the expense to the new service provider is substantially greater than or less than that amount of revenue transferred from the current service provider, the current service provider and new service-providing agency must agree to revenue transfer provisions to compensate for the imbalance. Such provisions may include, but are not limited to, tax-sharing, lump-sum payments, and payments over a fixed period of time.
- 2.12.2 Failure to Achieve Revenue Neutrality. Where achieving substantial revenue neutrality is not possible because of the limitations of state law, the Commission shall impose all feasible conditions available to reduce any revenue imbalance, or it may deny the proposal. The Commission recognizes that strict compliance with the revenue neutrality standard may be infeasible for certain proposals and that the need for service may sometimes outweigh the requirement for complete revenue neutrality. Where the failure to achieve revenue neutrality is primarily due to the disagreement of the affected agencies, the Commission shall independently determine the affect on the proposal and work with the agencies to achieve the revenue adjustments determined reasonable by LAFCO.
- 2.12.3 Revenue Sharing Agreements. The paragraphs located in item 2.12 of this section will be considered to be complied with if:
- The affected agencies have agreed to a specific revenue split for the proposal and have filed a copy of that agreement with the Executive Officer with a statement that the agreement adequately provides for substantial revenue neutrality;
 - A Master Tax Exchange Agreement or an agreed upon formula is in effect between the affected agencies and the agencies confirm, in writing, that such agreement is applicable to this proposal and that it provides for a balanced exchange of service costs and revenues; or,
 - A change of organization, that proposes the annexation of property to the incorporated territory of the City of Chico, which is in compliance with the provisions of the municipal Affairs Agreement between the City of Chico and the County of Butte, dated November 4, 1987, shall be deemed revenue neutral without any further action by the city or county. (REVISED: May 4, 1995)

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2.13 Agricultural and Open Space Land Conservation.

Among LAFCO's core purpose is the preservation of open space lands and prime agricultural lands. The Commission will exercise the powers to conserve prime agricultural land as defined in Section 56064 of the Government Code, open space land as defined in Section 65560 of the Government Code, and unique farmland and land of statewide importance defined in PRC 21060.1, pursuant to the following standards. In order to more effectively carry out this mandate, the Commission may develop local standards to define and identify prime agricultural and open space lands.

2.13.1 Conditions for Approval of Prime Agricultural/Open Space Land Conversion.

LAFCO will apply a heightened level of review when considering proposals for changes of organization or reorganization that are likely to result in the conversion of prime agricultural/open space land use to other uses. Only if the Commission finds that the proposal will lead to planned, orderly, and efficient development, will the Commission approve such a conversion. For purposes of this standard, a proposal leads to planned, orderly, and efficient development only if all of the following criteria are met:

- The land subject to the change of organization or reorganization is contiguous to either lands developed with an urban use or lands within the sphere and designated for urban development;
- The proposed development of the subject lands is consistent with the Sphere of Influence Plan, including the Municipal Service Review of the affected agency or agencies and the land subject to the change of organization is within the current 10-year Sphere of Influence boundary;
- The land subject to the change of organization is likely to be developed within five years. In the case of very large developments, annexation should be phased wherever feasible. If the Commission finds phasing infeasible for specific reasons, it may approve annexation if all or a substantial portion of the subject land is likely to develop within a reasonable period of time;
- Insufficient vacant non-prime or open space land exists within the existing agency boundaries or applicable 10-year Sphere of Influence that is planned and developable for the same general type of use; and,
- The proposal will have no significant adverse effect on the physical and economic integrity of other agricultural/open space lands.

2.13.2 Approved Sphere of Influence Plan Required. The Commission will not make the affirmative findings that the proposed development of the subject lands is consistent with the Sphere of Influence in the absence of an approved Sphere of Influence Plan, containing all of the elements required by item 3.2 below.

2.13.3 Finding with Respect to Alternative Sites. The Commission will not make the affirmative findings that insufficient vacant non-prime or open space land exists

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within the Sphere of Influence Plan unless the applicable jurisdiction has identified within its Sphere of Influence all “prime agricultural land” and “open space land”; enacted measures to preserve prime agricultural/open space land identified within its Sphere of Influence for agricultural or open space use; and/or adopted as part of its General Plan specific measures to facilitate and encourage in-fill development as an alternative to the development of agricultural/open space lands.

2.13.4 Determining Impact on Adjacent Agricultural/Open Space Lands. In making the determination whether conversion will adversely impact adjoining prime agricultural or open space lands, LAFCO will consider the following factors:

- The agricultural/open space significance of the subject and adjacent areas relative to other agricultural/open space lands in the region;
- The use of the subject and the adjacent areas;
- Whether public facilities related to the proposal would be sized or situated so as to facilitate the conversion of adjacent or nearby agricultural/open space land, or will be extended through or adjacent to any other agricultural/open space lands which lie between the project site and existing facilities;
- Whether natural or man-made barriers serve to buffer adjacent or nearby agricultural/open space land from the effects of the proposed development; and,
- Applicable provisions of the County’s General Plan Agricultural Element, Open Space and Land Use Elements, applicable growth-management policies, or other statutory provisions designed to protect agriculture or open space. (Refer to www.buttecounty.net/dds/planning.htm to locate Butte County’s General Plan.)

2.13.5 Comment On Prime Agricultural/Open Space Projects. LAFCO will comment upon, whenever feasible, Notices of Preparation for Environmental Impact Reports or projects which involve the development of large tracts of open space or agricultural land.

Chico Urban Area “Green Line” Policy. Within the Chico sphere of influence, the Commission will give consideration to the “Green Line Policy” adopted by the City of Chico and County of Butte in 1982 as the determinant whether the agricultural lands shall be considered “prime agricultural land” to be considered for preservation under the provisions of item 2.13. As a guide, land currently used for agriculture on the urban use side of the Green Line (generally east of the Green Line) shall not be considered “prime agricultural land” while all land on the other side of the Green Line (generally west of the Green Line) will be considered “prime agricultural land”.

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- 2.13.6 Special Provisions for Williamson Act Territory. [GC§51233, §51243.5, §56738 and §56752]_The Williamson Act provides that a property owner may enter into a contract with a city or county whereby the assessed property taxes are reduced in return for keeping the property in an agricultural preserve for a minimum of ten years. Any resolution of application received from a city for annexation of lands subject to the Williamson Act shall state whether the city shall succeed to the contract or whether the city intends to exercise its option to not succeed to the contract.
- 2.13.6.1 LAFCO staff shall provide public notice as required and notify the Director of Conservation of the proposal. This notice shall include the contract number, the date of the contract's execution and a copy of any protests filed prior to execution of the contract.
- 2.13.6.2 If a change of organization or reorganization would result in annexation to a city of land that is subject to a Williamson Act contract, the commission, based on substantial evidence in the record shall determine whether the city has the right to succeed to the contract or whether the city may exercise its option to not succeed to the contract.
- 2.13.6.3 Specific requirements relating to updates and amendments to spheres of influence are included in Section 3 of this document.

2.14 **Need for Services.**

A need for services that will be made available must be established. LAFCO will normally determine that a need for service exists if any of the following situations are present.

- 2.14.1 Public Health and Safety Threat. If the lack of the service creates a demonstrated threat to the public health and safety.
- 2.14.2 Five-year Urbanization. If a proposal will result in the extension of services that may reasonably be expected to result in urbanization of the subject territory, the area growth patterns must indicate that the subject area is likely to be developed for urban use within five years, if permitted, and local planning regulations provide all of the following:
- It is designated for urban uses in the appropriate land use authority's General Plan;
 - If the proposal includes annexation to a city, the subject territory has been rezoned for urban uses; and,
 - Development at the site is consistent with the policies of that General Plan and the policies of Cortese-Knox-Hertzberg.

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2.14.3 Community Needs. Community needs shall be given great weight by the Commission if a proposal includes the extension or provision of community services that are not considered growth inducing, such as fire protection, recreation, road maintenance, etc., and the residents of the area have indicated a desire for the service.

2.15 **Exceptions.**

LAFCO may make exceptions to any of the standards in these Policies and Procedures if it determines that such exceptions can be justified under one or more of the following grounds:

- Unique. The project has a unique physical constraint, which is so unusual and inconsistent with other similar locations that granting an exception would not be a grant of a special privilege;
- Standards Conflicts. Are required to resolve conflicts between standards of these policies;
- Quality/Cost. Result in significantly improved quality or substantially lower cost of services available;
- No Alternative. Are required because no feasible or logical alternative exists; or,
- Public Involvement. Are in response to substantial participation of the general public in the open meeting process and a significant number of written comments submitted to the Commission demonstrating substantial support for a particular proposal.

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Section 3. SPHERES OF INFLUENCE

- 3.1 **General Policies.** LAFCO must adopt a sphere of influence for each city and each district in its jurisdiction and must review and, if necessary, update each sphere of influence at least every five years. All LAFCO actions must be consistent with a sphere plan based on the Municipal Service Review adopted for the affected agency. A sphere of influence is defined in Section 56425 of the Government Code as “a plan for the probable physical boundary and service area of a local agency or municipality as determined by the Commission.” Sphere plans serve a function in LAFCO determinations similar to that served by General Plans for cities and counties. Consistency with the adopted sphere plan is mandatory and changes to the plan require careful review.
- 3.1.1 **Concurrent Amendments.** A request for a Sphere of influence amendment may be made by separate application concurrently with an application for reorganization; however, such a concurrent amendment of a sphere will generally be limited to minor sphere amendments only.
- 3.1.2 **Time Factor.** Sphere of influence amendments will ordinarily take longer to process than applications for a change of organization or reorganization and will generally require more detailed information.
- 3.1.3 **Updated Plans Encouraged.** Agencies are encouraged to keep the supporting documentation (such as capital improvement plans, master plans, general plans, etc.) for their Sphere of Influence Plans up to date so that individual applications for changes of organization or reorganization are not burdened with time delays.
- 3.1.4 **Sphere Boundaries.** When establishing the boundaries of a sphere of influence for an agency, LAFCO will consider the factors listed in Section 56425 of the Government Code as well as the following factors:
- 3.1.4.1 LAFCO will discourage including lands that are:
- Unlikely to require the services provided by the agency, for example, lands not designated for inclusion to a city by the applicable general plan;
 - Areas where development is constrained by topographical factors;
 - Areas where the projected and/or historical growth rates do not indicate a need for service within the time frame of the Sphere Plan;
 - Areas in an agency's sphere of influence which cannot feasibly be served by the agency within a 20 year time frame consistent with the Sphere Plan.
- 3.1.5 **Inconsistent Spheres Prohibited.** Sphere of Influence changes occasioned by an individual application for changes of organization or reorganization that would render such a Sphere inconsistent with other policies or standards herein will not be approved.

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- 3.1.6 Areas of Concern. LAFCO may, at its discretion, designate a geographic area beyond the sphere of influence as an Area of Concern to any local agency.
- 3.1.6.1 An Area of Concern is a geographic area beyond the sphere of influence in which land use decisions or other governmental actions of one local agency (the “Acting Agency”) impact directly or indirectly upon another local agency (the “Concerned Agency”). For example, approval of a housing project developed to urban densities on septic tanks outside the city limits of a city and its sphere of influence may result in the city being forced subsequently to extend sewer services to the area to deal with septic failures and improve city roads that provide access to the development. The city, in such a situation, would be the Concerned Agency with appropriate reason to request special consideration from the Acting Agency in considering projects adjacent to the city.
- 3.1.6.2 LAFCO will notify any Concerned Agency when LAFCO receives notice of a proposal of another agency in the Area of Concern to the Concerned Agency, and will give great weight to its comments.
- 3.1.6.3 If requested, LAFCO will seek to obtain a Joint Powers Agreement or other commitment between the agencies so that the Acting Agency provides advance notice to the Concerned Agency of any actions, or projects being considered within the Area of Concern, and commits to considering any comments made by the Concerned Agency.
- 3.1.7 Internal Consistency Required. Sphere of Influence Plans shall be internally consistent.
- 3.1.8 Sphere Changes that include Williamson Act Lands. The Butte LAFCO shall not approve a change to a sphere of influence to include lands that are subject to a Williamson Act contract if the annexing agency has the ability to provide sewer service, nonagricultural water, streets and/or roads unless these facilities or services specifically benefit the land uses that are allowed under the contract and the landowner consents to the sphere change.
- 3.1.8.1 The Commission may, at its discretion, approve a sphere update or amendment if it finds either of the following:
- The update or amendment would facilitate planned, orderly and efficient patterns of land use or provisions of services, and the public interest in the change substantially outweighs the public interest in the current continuation of the contract beyond its current expiration date; or
 - That the change is not likely to adversely affect the continuation of the contract beyond its current expiration date.

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3.1.8.2 In making the above determination, the Butte LAFCO shall consider the following:

- Policies and implementation measures adopted by the city or county that would administer the contract, both before and after annexation, relative to the continuation of agriculture or other uses allowable under the contract;
- The infrastructure plans of the annexing agency; and,
- Other factors that the Commission deems relevant.

3.1.8.3 Section 3.1.10 does not apply to land that is subject to a contract for which a notice of non-renewal has been served, land that has tentative approval of a cancellation, and land for which the governing body of a city or county has given its written approval to the change and the landowner consents to the change. [GC§51245, §51282]

3.1.9 Overlapping Spheres. In instances where the Commission determines that more than one agency appears equally qualified to serve an area with one or more approved services, and if fiscal considerations or community input do not clearly disfavor a specific agency, overlapping spheres may be approved on a case by case basis.

3.1.10 Special Study Areas. In instances where the Commission determines territory should logically be included in an agency's sphere but the sphere category cannot be immediately assigned until additional information is available, a special study area may be designated until more information is available. Annexation of territory within a special study area may not occur until the Commission, through the amendment process, removes the special study area designation and assigns a specific sphere category to the area.

3.1.11 Sphere Boundary Options. In order to provide the most accurate depiction of sphere boundaries based on criteria in 3.1.4.1, the Commission may comprehensively or by service category, consider, and establish one or more of the following types of spheres:

The Commission may adopt a traditional “**growth**” sphere of influence which contains territory beyond the jurisdictional boundary of the local agency and is an indication that the need for public services in the area has been established and the agency has the ability to effectively and efficiently extend the full spectrum of services provided by the agency.

The Commission may adopt a “**coterminous**” sphere of influence which coincides with the jurisdictional boundary of the local agency and is an indication that there is no anticipated need for the agency's services outside of its existing boundaries, or the agency lacks the capacity or ability to serve additional territory or there is insufficient information to make such a determination.

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The Commission may adopt a “**zero**” sphere of influence (encompassing no territory) for an agency when the Commission has determined that one or more of the public service functions of the agency are either non-existent, inadequate, no longer needed, or should be reallocated to some other agency of government. Adoption of a “zero” sphere indicates the agency should ultimately be reorganized or dissolved. The Commission may initiate dissolution of an agency when it deems such appropriate.

The Commission may adopt a “**minus**” sphere when it has determined that some territory within the agency’s jurisdictional boundaries is not in need of all or some of the agency’s services, or when the agency has no feasible plans to provide efficient and adequate service to the territory in question.

The Commission may adopt a “**limited or service specific**” sphere designation for territory outside the agency’s jurisdiction that may require some-but not all-of the services that the agency is authorized to provide. Assigning a service specific sphere allows LAFCO to retain review authority over the provision of important governmental services in order to promote the timely and orderly expansion of services.

3.2 Contents of the Sphere of Influence Plan.

3.2.1 General Requirements. The Sphere of Influence Plans for all governmental agencies within LAFCO jurisdiction shall contain the following:

- A map defining the sphere boundary not to exceed the probable 20-year boundary of its service area and identifying a near term development horizon for lands likely to be annexed prior to the next review of its municipal service review and sphere (typically a five period, but not to exceed 10 years);
- Maps and explanatory text delineating the present land uses in the area, including, without limitation, improved and unimproved parcels; actual commercial, industrial, and residential uses; agricultural and open space lands; and the proposed future land uses in the area;
- The present and probable need for public facilities and services in the sphere area. The discussion should include consideration of the need for all types of major facilities, not just those provided by the agency;
- The present capacity of public facilities and adequacy of public services which the agency provides or is authorized to provide;
- Identification of any relevant social or economic communities of interest in the area. (For example, an area which is completely within one subdivision governed by a single Homeowner’s Association should be noted, in order to assist in avoiding unnecessary division of the territory between service agencies.);

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- Existing population and projected population at build-out of the proposed sphere of the agency; and,
- Supported by a Municipal Service Review.

3.2.2 Specific Requirements for City Sphere Plans.

- City/County Agreement. The Cortese-Knox-Hertzberg Act requires the representatives of each city and the county to meet and confer prior to submitting a LAFCO application for a new or updated sphere of influence as set forth in Government Code Section 56425.

If an agreement is reached between the city and county, the Butte LAFCO shall consider and adopt a sphere of influence for the city consistent with the policies adopted by the Commission and shall give great weight to the Agreement in the Commission's final determination. If the Commission's final determination is consistent with the Agreement as adopted by the city and county, both agencies shall amend their general plans to reflect said Agreement and any development within the sphere shall be consistent with the terms of that Agreement.

If no agreement is reached between the city and the county, LAFCO shall consider a sphere of influence consistent with the adopted policies of the Commission.

- Parcel Inventory and Absorption Study. The Commission must be able to make a positive determination that the city's sphere is consistent with its historical and expected growth rates, and that the territory within the sphere is likely to be annexed within the anticipated 20-year timeframe. The Commission's determination will be based on information provided by the city, including:

- 1) An inventory of parcels available for development;
- 2) An analysis of the parcels available for development to determine their suitability for development, and
- 3) An absorption study to determine the absorption rate of the parcels available for development.

The preparation of parcel inventories and absorption studies is presumed to be at the discretion of the affected jurisdiction as a means of providing a justification for establishing a sphere boundary. If the affected jurisdiction is unable to supply such information, LAFCO will make a sphere determination after considering the city's historical growth rates for each land use designation, pertinent city land use and zoning regulations, and the physical characteristics of the property intended to be included in the sphere.

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3.2.3 Specific Requirement for District Sphere Plans.

A district's sphere plan must document that the territory within the district's sphere is likely to require the district's services and that the district has or will have the capacity to serve the area at the appropriate level.

- Multiple-service Districts. LAFCO shall adopt a sphere of influence plan for each district function or class of service provided by the district. These sphere plans may or may not be coterminous. Each sphere shall establish the nature, location, and extent of the functions or classes of services provided by the district.
- Spheres for New Districts. LAFCO will adopt a Sphere of Influence Plan for a newly formed district within two years of the completion of formation proceedings.

3.3 Municipal Service Review.

In order for LAFCO to establish an appropriate sphere for an agency, LAFCO must have adequate information on the service capabilities of the agency. This specific information shall be provided in the form of a report called a "Municipal Service Review." LAFCO must have a current Municipal Service Review to ascertain whether the agency can provide adequate and efficient services to the areas included within the agency's sphere.

General Adequacy Standards. A Municipal Service Review must be in substantial compliance with the provisions of Government Code §56430.

A Municipal Service Review must provide information specific to each agency to support the Commission's written determinations with respect to the following:

- Growth and population projections for the affected area.
- Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies.
- Financial ability of agencies to provide service.
- Status of, and opportunities for, shared facilities.
- Accountability for community service needs, including governmental structure and operational efficiencies.
- Any other matter related to effective or efficient service delivery.

3.3.1 Uses of the Municipal Service Review. Upon approval of the Municipal Service Review by LAFCO, it shall be utilized both in establishing the agency's sphere of influence and in the consideration of all proposals affecting that agency.

3.3.2 Current Municipal Service Review Required. Any agency submitting a proposal for a change of organization or reorganization to LAFCO for consideration must have an existing Municipal Service Review and Sphere of Influence Plan. LAFCO will approve a proposal only if the proposed service provider is the most

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efficient provider of services with an acceptable cost, as demonstrated in the provider's Municipal Service Review.

3.4 Reviews, Amendments and Updates of Spheres of Influence.

Spheres of influence must be reviewed and evaluated periodically and, if necessary updated in order to function as effective planning tools. LAFCO will adopt, affirm, amend, or update Sphere of Influence Plans after a public hearing and pursuant to the procedures set forth in Section 56427 of the Cortese-Knox-Hertzberg Act. Sphere actions are subject to the provisions of the California Environmental Quality Act. Sphere of Influence Plans shall be reviewed, affirmed or revised as deemed necessary by the Commission, but in all cases, at least every five years. Wherever possible, city Sphere updates shall be scheduled to coincide with city General Plan updates. Cities and special districts can request that LAFCO set a special schedule for updating their sphere if they have a particular need.

3.4.1 Preliminary Sphere Evaluations.

At approximately five year intervals, a "preliminary sphere evaluation" will be conducted by LAFCO staff in cooperation with the affected agency to determine what, if any changes to the agency's sphere boundary or plan are warranted or desired by either LAFCO staff or the agency. The preliminary evaluation will review the adopted municipal service review for the agency and be augmented by the completion of a sphere questionnaire by the agency that will request the most current information related to issues such as changes in land use, planning policy, demographics, service demands and capabilities, fiscal concerns and other related factors identified in a questionnaire to be completed by the agency. Following the preliminary evaluation, the Executive Officer will make a preliminary recommendation as to whether the agencies MSR needs to be updated and if a minor sphere amendment or affirmation is warranted, or conclude that a comprehensive sphere update should be initiated by the agency. The failure of an agency to respond to the sphere questionnaire will be regarded as concurrence with the Executive Officer's determination.

The Executive Officer will present the preliminary sphere evaluation and recommendation to the Commission for concurrence at a noticed public hearing. If the Commission determines that either a sphere amendment or affirmation is applicable, a comprehensive update will not be required.

3.4.2 Affirmations, Amendments and Comprehensive Updates.

Affirmations generally involve a request of the local agency for any new and pertinent information available since the last sphere and municipal service review and an evaluation of the agency's sphere of influence and municipal service review to determine if any significant changes have occurred or are

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warranted. If the Commission determines no significant changes have occurred or are warranted, it may affirm the existing sphere of influence for an additional five year period in which annexations may be considered.

Amendments or minor amendments as they are sometimes termed, generally involve discrete changes to a Sphere of Influence map or plan that are proposed by an agency or individual to accommodate a specific proposal that is determined to not have substantial influence or impact to the agency's ability to provide comprehensive services. An amendment may or may not involve changes to a Municipal Service Review.

Updates generally involve a comprehensive review of the entire Sphere of Influence Plan, including map and Municipal Service Review. A single new project may be considered a "major amendment" in that it could have such a significant impact to the agency's ability to provide services to the existing population that it would require a comprehensive update of the agency's sphere plan.

- 3.4.3 Amendments Required. An amendment to the Sphere of Influence Plan and/or Municipal Service Review will be required in the following circumstances:
- When an agency seeks to add new territory to its sphere or remove territory from its sphere;
 - When a district seeks to provide a new or different function or class of service; and,
 - When a significant change in an agency's plan for services makes the current sphere plan impractical.
- 3.4.4 General Requirements. LAFCO will generally treat an update or a proposed amendment to an agency's sphere of influence similarly to an application for approval of a sphere of influence. Each of the following sets of policies will apply to amendments and to updates of the spheres of influence: General Policies, specific policies and standards for Spheres of Influence, and Updates and Amendments.
- 3.4.5 Precedence of Amendments Over Annexations. Sphere of influence amendments shall procedurally precede the Commission's considerations of proposals for change of annexation or reorganization.
- 3.4.6 Consistency Required. Amendment proposals must be consistent with an updated Sphere of Influence Report and Municipal Service Review.
- 3.4.7 Demonstrated Need Required. An application for an amendment to a sphere of influence must demonstrate a projected need or (in the case of reduction of the sphere) lack of need for service.

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- 3.4.8 Open Space and Prime Agricultural Land. Amendment proposals involving sphere expansion, which contains open space or prime agricultural land, will not be approved by LAFCO if there is sufficient developable alternative land available for annexation within the existing sphere of influence.
- 3.4.9 Inconsistent Sphere Amendments Prohibited. LAFCO will not approve requests for sphere of influence amendments if the amendment will result in a sphere that is inconsistent with other LAFCO policies and standards.
- 3.4.10 Adverse Impacts on Other Agencies or Service Recipients. LAFCO will generally deny proposals that would result in significant unmitigable adverse effects upon other service recipients or other agencies serving the affected area unless the approval is conditioned to a level acceptable to the Commission.

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Section 4. Annexations and Detachments.

4.1 **General Standards for Annexation and Detachment.** These standards govern LAFCO determinations regarding annexations to and detachments from all agencies. The annexation or detachment must be consistent with the general policies set forth in these Policies and Procedures. [GC§56375(g)]

4.1.1 **Consistency with Spheres and Municipal Service Reviews.**

The annexation or detachment must be consistent with the sphere of influence.

The annexation must also be consistent with the applicable Municipal Service Review. An annexation or detachment shall be approved only if the Municipal Service Review and the Sphere of Influence Plan of the affected agency(s) demonstrates that adequate services will be provided within the time frame needed by the inhabitants of the annexed or detached area. If a detachment occurs, the sphere will be modified.

4.1.2 **Plan for Services Required.** Every proposal must include a Plan for Services that addresses the items identified in Section 56653 of the Government Code. This Plan for Service must be consistent with the Municipal Service Review of the agency. [GC§56375(h)]

4.1.3 **Contiguity.** If required by the statute, or if necessary to ensure efficient service provision, territory proposed for annexation must normally be contiguous to the annexing city or district. Territory is not contiguous if its only connection is a strip of land more than 300 feet long and less than 200 feet wide, the width exclusive of roadways. [GC§56031]

4.1.4 **Piece-Meal Annexation Prohibited.** LAFCO requires annexations and detachments to be consistent with the schedule for annexation of sphere territory that is contained in the agency's Sphere of Influence Plan. LAFCO will modify small, piece-meal annexations, to include additional territory in order to promote orderly annexation and logical boundaries, while maintaining a viable proposal.

4.1.5 **Annexations to Eliminate Islands.** Proposals to annex islands and to otherwise correct illogical distortion of boundaries will be approved unless they would violate another provision of these standards.

4.1.6 **Annexations that Create Islands.** An annexation will not normally be approved if it will result in the creation of islands of incorporated or unincorporated territory or otherwise cause or further the distortion of existing boundaries. The Commission may nevertheless approve the annexation where it finds the annexation, as proposed, is necessary for orderly growth and that reasonable effort has been made to include the island in the annexation, but that inclusion is not feasible at this time. [GC§56375(m)]

4.1.7 **Island Annexations.** It is the policy of LAFCO to encourage the most efficient delivery of public services through the elimination of island areas, promote

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orderly city boundaries and reduce the cost and time of processing applications and to this end, all annexations to cities require that applications for lands meeting the criteria of the island annexations law shall be so configured and supported by the appropriate resolution of application. Applications not complying with this policy would be rejected by the Commission staff as not supporting the creation of logical and orderly boundaries unless the local agency provides clear and substantial arguments that the elimination of island areas would be detrimental to the health, safety or welfare of the affected community of interest. (REVISED: September 6, 2001) [GC§56375.3]

4.1.8 Island Definitions. The following definitions will be utilized for making a determination concerning the use of island annexation provisions of state law.

4.1.8.1 “Surrounded” territory is that which is wholly enveloped by incorporated territory which includes privately owned lands, publicly owned lands, and associated rights-of-way including roads, railroads and deeded easements. [GC§56375.3]

4.1.8.2 “Substantially Surrounded” territory is that which is contiguous to incorporated territory that includes privately owned lands, publicly owned lands, and associated rights-of-way including roads, railroads and deeded easements, in one or more of the following ways:

- Greater than 75% of the total length of the external boundary of the proposed area is contiguous to incorporated territory;
- The proposed area, due to existing irregular or illogical boundaries, and/or geographical or logistical constraints, has been effectively predisposed to utilizing municipal services for existing or proposed development of the area; or,
- The annexation of the proposed area is deemed essential to the health, safety and welfare of the community in that the efficient delivery of emergency or essential services is, or would be, substantially impacted. (REVISED: December 5, 2002)

4.1.8.3 Special Islands. The Commission must approve an annexation to a city and order the annexation without an election, or waive the protest proceedings if the annexation is proposed by resolution of the affected city and the Commission finds that territory contained in the annexation meets all of the following requirements. [GC§56375.3]

- The territory does not exceed 150 acres in area and constitutes the entire island;
- The territory constitutes an entire unincorporated island located within the limits of a city, or constitutes a reorganization containing a number of individual unincorporated islands;

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- The territory meets the definition of surrounded or substantially surrounded as listed above;
- The territory is substantially developed, or developing. This finding shall be based on one or more factors, including, but not limited to, the availability of public services, the presence of public improvements, the presence of physical improvements upon the parcel or parcels within the area, it is not prime agricultural land as defined by Government Code Section 56064, and it will benefit from annexation or is receiving benefits from the annexing city; and,
- These special provisions expire on January 1, 2007.

4.1.8.4 Regular Islands. Regular islands exceed the maximum size requirement for waiver of protest proceedings as identified above.

- The Commission must approve the regular island annexation to a city and order the annexation subject to the outcome of a protest hearing if written objections are submitted prior to the close of the public hearing. [GC§56663(d)]
- The Commission may waive the protest hearing if all landowners agree to the annexation and there is no written demand from an affected public agency.
- The island must meet the definition of surrounded or substantially surrounded as listed above.
- There is no sunset provision for regular islands.

4.1.9 Service Requirements. An annexation or detachment shall not be approved merely to facilitate the delivery of one or a few services to the detriment of the delivery of a larger number of services or services more basic to public health and welfare.

4.1.10 Adverse Impacts of Annexation on Other Agencies or Service Recipients. LAFCO will deny annexation proposals that would result in significant adverse effects upon other service recipients or other agencies serving the affected area unless the approval is conditioned to mitigate such impacts as determined by the Commission.

4.1.11 Action Options. LAFCO shall take one of the following four actions on an application for annexation or detachment:

- Approve the application if the territory proposed for annexation is contiguous to an existing city boundary and within that city's adopted Urban Service Area; (REVISED: May 4, 1995)

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- Approve the application proposal if it has found the change to result in the most efficient delivery of services for the affected population and to comply with other applicable standards;
- Modify or conditionally approve the proposal to ensure efficient service delivery and meet other policy objectives. These may include, but are not limited to: waiver of detachment from an existing service provider, or, in the alternative, appropriate detachment fees; entering into a Joint Powers Agreement with another service provider; and, requiring the inclusion of additional territory or exclusion of territory in order to achieve more logical boundaries, subject to a protest hearing if required; such other conditions as authorized by Section 56886 of Cortese-Knox-Hertzberg; or,
- Disapprove the annexation. In the event of such a disapproval, LAFCO may, where appropriate, provide direction as to changes in the proposal that could cause the Commission to consider approving a revised application.

4.2 Determination of the Most Efficient Service Provider.

LAFCO will normally approve an annexation or detachment only if the Commission determines that the annexing agency possesses the capability to provide the most efficient delivery of applicable services for the affected population. [GC§56886.5]

- 4.2.1 Optimum Combination of Service and Cost. For purposes of this standard, the most efficient services are those, which are provided at the optimum combination of service cost and service level. In the case of providers with similar service costs, the provider with higher service levels shall be deemed more efficient. In the case of providers of similar service levels, the provider at the lowest cost shall be deemed more efficient. In comparing the providers of adequate but low-cost services, with high-quality, high-cost services, the Commission shall retain discretion to determine the optimum efficiency based on compliance with the other provisions of the standards and the preferences of the affected population.
- 4.2.2 “Affected Population” Defined. For purposes of this standard, "affected population" means any of the following: the population that inhabits or will inhabit the area to be annexed; the population already being served by the annexing agency; or, the population of existing or potential alternative service providers.
- 4.2.3 Factors to be Considered. In evaluating the capability of an annexing agency or of alternative agencies to provide the required service, LAFCO shall utilize its written determinations pursuant to applicable municipal service reviews, the service elements of the proposed annexing entity, current service providers, and potential alternative service providers. In addition, LAFCO shall take into account all of the following factors in addition to those listed in GC§56668 et. seq.:

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- Physical accessibility of the territory to the agency's service provision resources (For example, is the agency the provider of sewer service whose plant can most easily gravity-feed or pump from the subject territory?);
- The agency's possession of or ability to acquire resources necessary to provide the needed service (For example, an agency may be judged unable to acquire water rights necessary to provide the water services needed by a territory proposed for annexation.);
- The agency's historic service provision effectiveness and efficiency (For example, an agency may be judged an inefficient service provider if it has a previously documented history of service interruptions, accidents, safety hazards, excessive complaints, non-compliance with CEQA, illegal activities or excess costs/charges.);
- The appropriateness of the agency's organizational structure to meet service needs (For example, LAFCO may question whether a dependent district of a city is an appropriate provider of services outside the city boundaries, where the population will have no ability to vote for the board of directors of that district.);
- The legislative policy established in Cortese-Knox-Hertzberg to favor consolidation of services in a single multi-service provider over allowing the proliferation of single-purpose service agencies; and, [GC§56001]
- The effect on alternative service providers and those who use their services.

4.2.4 LAFCO Responsibility for Determination. LAFCO shall determine the most efficient overall service provider or combination of providers, not the affected agencies.

4.3 **City Annexation.**

4.3.1 Annexation of Streets. Annexations shall reflect logical allocation of streets and rights of way. Specifically:

- LAFCO may require inclusion of additional territory within an annexation in order to assure that the city reasonably assumes the burden of providing adequate roads to the property to be annexed. LAFCO will require cities to annex streets where adjacent lands that are in the City will generate additional traffic or where the annexation will isolate sections of county road, but will not require annexation of roads that will create isolated sections of city-maintained road; and,
- LAFCO will favorably consider annexations with boundary lines located so that all streets and rights-of-way will be placed within the same jurisdiction as the properties, which either abut thereon or use the streets and rights-of-way for access. Except in extraordinary circumstances, cities shall annex an

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entire roadway portion when 50% or more of the frontage on both sides of the street will be within the city after completion of the annexation.

- 4.3.2 Urban Boundaries. LAFCO will normally adjust annexation boundaries to include adjacent urbanized areas to maximize the amount of developed urban land inside a city, and to minimize piece-meal annexation. As used herein, "urbanized areas" are areas that are developed for industrial, commercial, or residential use with a density of at least one unit per acre and which receive either public water or sewer.
- 4.3.3 Prezoning Required. The Cortese-Knox-Hertzberg Act requires the City to prezone territory to be annexed, and prohibits subsequent changes to the General Plan and/or zoning designations for a period of two years after completion of the annexation, unless the city council makes a finding at a public hearing consistent with the provisions of Government Code Section 56375(e). The city's zoning must take into account the likely intended development of the specific property. [GC§56375(a)(3), §56375(e), §56375.5]

In instances where LAFCO amends a proposal to include territory, the Commission's approval of the annexation will be conditional upon completion of zoning the new territory.

4.4 Detachments from Cities and Districts.

- 4.4.1 General Requirements. LAFCO shall normally discourage the detachment of territory from a high-quality service provider unless the following can be demonstrated:
- The detachment is necessary to ensure delivery of services essential to the public health and safety; or,
 - The successor provider will be the most efficient service provider to the area as determined pursuant to item 4.2 above and the detachment will not significantly reduce the efficiency of service delivery to the remaining inhabitants of the current service provider's territory.
- 4.4.2 Service Plan Considerations. The service plans of special districts which lie within a city's sphere of influence should provide for orderly detachment of territory from the district or merger of the district as district territory is annexed to the city, unless LAFCO determines during the updating of the Spheres of the two agencies, that the district should continue to provide service within certain areas even after annexation to the city.
- 4.4.3 Bonded Indebtedness. Detachment from a city or special district shall not relieve the landowners within the detaching territory from existing obligations for bonded indebtedness or other indebtedness incurred previously by the city or district to

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provide service to the detaching property unless the following applies: the relief from indebtedness is part of a revenue exchange agreement applying to the detachment; or, the agency is legally authorized to, and agrees to, assume the cost and spread it over the remaining property within the agency. [GC§57351-57354]

4.5 Extended Services by Contract or Agreement

4.5.1 Background

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 includes provisions requiring cities and special districts to request and receive written approval from the Commission before providing new or extended services by contract or agreement outside their jurisdictional boundaries with limited exemptions (Government Code Section 56133). The Commission may authorize a city or special district to provide new or extended service outside their jurisdictional boundary in anticipation of a subsequent change of organization, such as an annexation. The Commission may also authorize a city or special district to provide new or extended service outside their jurisdictional boundary and sphere of influence to address an existing or future threat to the public health or safety.

4.5.2 Purpose

The purpose of these policies is to guide the Commission in reviewing city and special district requests to provide new or extended services by contract or agreement outside their jurisdictional boundaries. This includes making policy statements and establishing consistent procedures with respect to the form, review, and consideration of requests.

4.5.3 Objective

The objective of the Commission in implementing these policies is to ensure the extension of services by cities and special districts outside their jurisdictional boundaries is consistent with State Law (Section 56133), is logical and consistent with an agency's MSR, and supports orderly growth and development in Butte County. The Commission recognizes the importance of considering local conditions and circumstances in implementing these policies.

4.5.4 Extended Services by Contract Policies

A. General Policies

- 1) Extension of Services within Sphere. Annexation to cities and special districts involving territory located within the affected agency's sphere of influence is generally preferred to extending services by contract or agreement. The Commission recognizes, however, there may be local

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circumstances that justify approval of extended services by contract or agreement within the affected agency's sphere of influence.

Such local circumstances most frequently involve extension of service to meet an existing health and safety need, where annexation is not practical or deemed undesirable for other policy reasons. The Commission will give great weight to properly documented existing health and safety needs when considering justification of such extensions. The Commission discourages use of contract service extensions for the purpose of extending services to new development. The Commission will approve such extensions only under extraordinary circumstance and may apply strict limitations on such services.

- 2) Extension of Services Outside Sphere. The Commission shall authorize a city or special district's request to provide new or extended services outside their jurisdictional boundary and sphere of influence only in response to an existing or future threat to public health or safety in accordance with Government Code Section 56133(c).
- 3) Administrative Approval Under Urgent Circumstances. The Commission authorizes the Executive Officer to administratively approve a city or special district's request for extended services by contract or agreement if there is an existing and urgent public health or safety emergency in accordance with Subsection E below. The Commission shall ratify the Executive Officer's determination at the next regularly scheduled meeting.
- 4) Exceptions to LAFCo Approval Requirement. Commission approval may not be required for cities or special districts to provide new or extended services outside their jurisdictional boundaries in accordance with the provisions of Government Code Section 56133(e)
- 5) Anticipation of Later Annexation. Section 56133(b) authorizes the Commission to approve contracts for extension of services "in anticipation of a later change of organization". The Commission defines the term "anticipation of a later change of organization" as follows:

The inclusion of the area to be served within the sphere of influence of the serving agency shall be sufficient to comply with this provision.

B. Form of Request

Request to authorize extended services by contract or agreement shall be filed with the Executive Officer by the affected city or special district. Requests shall be made by resolution of the affected agency or their authorized designee with a cover letter accompanying a completed *Extension of Services* application. Requests shall also include a check in

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the amount prescribed under the Commission's adopted fee schedule along with a copy of the proposed service agreement. Any such request shall explain the specific circumstances that make annexation infeasible and justify extension of service by contract.

C. Review of Request

The Executive Officer shall review and determine within 30 days of receipt whether the request to authorize the extended services by contract or agreement is complete. If a request is deemed incomplete, the Executive Officer shall immediately notify the applicant and identify the information needed to accept the request for filing.

D. Consideration of Request

Once a request is deemed complete, the Executive Officer will prepare a written report with a recommendation. The Executive Officer will present his or her report and recommendation at a public hearing for Commission consideration. The public hearing will be scheduled for the next regular meeting of the Commission for which adequate notice can be given but no later than 90 days from the date the request is deemed complete. The Executive Officer's written report will be made available to the public for review prior to the scheduled hearing and include an evaluation of the following five factors:

- 1) The ability of the local agency to provide service to the proposal area without detracting from current service levels.
- 2) The proposal's consistency with the policies and general plans of all affected local agencies.
- 3) The proposal's effect on growth and development within and adjacent to the affected land.
- 4) Whether the proposal contributes to the premature conversion of agricultural land or other open space land.
- 5) The likelihood of a later change of organization being initiated by the affected agency.

The Commission may approve or deny the request, and if approved, such approval may be with or without conditions. The conditions may include a requirement that the affected agency submit an application for annexation by a specific date and that the owner bind the property to consent to annex as set forth in Subsection G below.

If denied, the affected agency can ask for reconsideration within 30 days of Commission action.

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E. Administrative Approval for Emergency Extension Requests

- 1) An administrative approval may be allowed for those projects which pose an urgent health or safety concern. The determination that an administrative approval is appropriate shall be made by the LAFCO Executive Officer, based upon the criteria outlined below:
 - a. The lack of service being requested constitutes an immediate health and safety concern.
 - b. The property is currently developed.
 - c. There are physical restrictions on the property that prohibit a conventional service delivery method typically suited to the unincorporated area (i.e., septic tank, private well, etc.)
- 2) The subject city or special district shall submit to the Executive Officer an *Emergency Extension of Services* application, a check in the amount prescribed under the Commission's adopted fee schedule, and documentation attesting to the emergency condition(s) that exist.
- 3) Within 30 days of approval of the emergency extension request by the Executive Officer, the affected agency shall submit an *Extension of Services* application and all required fees pursuant to Subsection B above. The Executive Officer shall review and present the application to the Commission pursuant to Subsections C and D above.

F. Service Extensions Outside of Spheres of Influence

- 1) The Commission may authorize a city or district to provide new or extended services outside its jurisdictional boundaries and outside its sphere of influence to respond to an existing or impending threat to the public health or safety of the residents of the affected territory if both of the following requirements are met:
 - a. The entity applying for the contract approval has provided the Commission with documentation of a threat to the health and safety of the public or the affected residents.
 - b. The Commission has notified any alternate service provider, including any water corporation as defined in Section 241 of the Public Utilities Code, or sewer system corporation as defined in Section 230.6 of the Public Utilities Code, that has filed a map and a statement of its service capabilities with the Commission.

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G. Agreements Consenting to Annex

Whenever the Commission determines to condition the approval upon a later annexation of the affected property, the condition shall normally include a requirement that the owner record an agreement consenting to annex the territory, which agreement shall bind future owners of the property. The agreement shall be prepared by LAFCo legal counsel and provided to the landowners for execution and recording. Proof of recordation will be required before the LAFCo contract approval becomes final and effective.

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Section 5. INCORPORATIONS, FORMATIONS, PROVISION OF NEW SERVICES BY DISTRICTS, CONSOLIDATIONS, DISSOLUTIONS, AND DISINCORPORATION

5.1 Incorporation of Cities.

- 5.1.1 Consistency with LAFCO Policies. A proposal for incorporation of a new city must be consistent with the General Policies set forth in these Policies and Procedures, as well as the following specific policies for incorporation.
- 5.1.2 Need for Incorporation. LAFCO will normally only favor a proposal for incorporation if the Commission finds that there is a significant unmet need for urban services or need for improved urban services within the territory for which incorporation is proposed. In determining whether such a need for urban services exists, the Commission will base its determination on the following: [GC§56720 refers to §56001, §56300, §56301, and §56377]
- Current levels of service in the area to be incorporated;
 - Whether the area proposed for incorporation is already substantially urbanized or applicable General Plans, Specific Plans, or Area Plans and/or realistic population and growth projections demonstrate the need for urbanization of the affected area within the next five years; [GC§56720]
 - The Sphere of Influence Plans for the jurisdictions currently providing services to the area; and, [GC§56720(b)]
 - The preferences of the community proposing to incorporate.
- 5.1.3 Efficiency Required. LAFCO shall approve a proposal for incorporation only if it finds that the new city will provide the most efficient and consolidated forms of urban services to the affected population.
- 5.1.4 Public Benefit Considered. LAFCO will consider whether the proposed incorporation will benefit the affected population as a whole, or only a select group. Absent other considerations, LAFCO will not approve an incorporation proposal that amounts to a grant of governmental powers to a special interest group.
- 5.1.5 Balancing Adverse Impacts. In making its decision on the incorporation, LAFCO shall weigh the benefits of the incorporation against its adverse impacts on particular communities or groups in the incorporating area or affected unincorporated area, other service providers within the area of the proposed incorporation, including the county, and prime agricultural and open space lands and the prevention of urban sprawl.

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- 5.1.6 Plan for Services Required. A proposal for incorporation must include a Plan for Services that addresses the items identified in Section 56653 of the Government Code.
- 5.1.7 Prime Agricultural and Open Space Land. Prime agricultural and open space land that is not designated for urbanization within the next five years of the date of the receipt of the application shall not be included within the boundaries of a proposed city unless the Commission determines that the proposal is structured to ensure the long-term preservation of open space or agricultural lands. [GC§56377]
- 5.1.8 Comprehensive Fiscal Analysis Required. Section 56800 of the Cortese-Knox-Hertzberg Act requires the Executive Officer to prepare or cause to be prepared a Comprehensive Fiscal Analysis (CFA) of the projected fiscal condition of the new city. Normally, LAFCO will contract with an independent consultant for this analysis, and the charge for this study will be included with the other project-related charges paid by the applicant. The CFA shall project income and expense for a period of seven years after incorporation. The Commission may approve the CFA after a required public hearing. [GC§56800]
- 5.1.9 Revenue Neutrality and Fiscal Solvency Required. LAFCO will only approve a proposal for an incorporation if the proposed city will be able to fund municipal services and remain financially solvent after making adjustments to attain revenue neutrality. As used herein, the term “revenue neutrality” shall mean an exchange of revenue and service delivery costs between the new city and the various affected agencies, as more specifically required by Section 56815 of the Cortese-Knox-Hertzberg Act. The determination of whether the proposed incorporation meets this standard will be the objective of the Comprehensive Fiscal Analysis described above. [GC§56815]
- 5.1.10 Financial Review Request. In accordance with the provisions outlined in Section 56801 of the Cortese-Knox-Hertzberg Act, any interested person or agency may request a review of the CFA by the Office of the State Controller within thirty (30) days of the Commission's acceptance of the CFA as complete approval of the document. The requesting party will be responsible for the State Controller's charges to conduct the review, and is required to deposit the estimated cost before the review will be initiated. If the requesting party fails to deposit the estimated cost and execute a payment agreement for the balance within seven days of being notified of the amount, the request will be deemed withdrawn. [GC§56800]
- 5.1.11 Competing Application Relative to the Proposed Incorporation. Where LAFCO receives more than one application affecting an area proposed for incorporation, and such competing applications are received within sixty (60) days of the initial application for incorporation, the Commission shall consider such competing applications prior to approval of the incorporation proposal. [GC§56655, §56657]

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5.2 District Formation.

- 5.2.1 Consistency with LAFCO Policies. The formation of a special district must be consistent with the General Policies set forth in these Policies and Procedures, as well as specific policies for formations.
- 5.2.2 Need for New District Required. LAFCO will only approve special district formations in areas that demonstrate a need for the proposed services and where no existing agency can adequately or efficiently provide such services, in an accountable manner as required by Government Code Section 56886.5.
- 5.2.3 Sphere of Influence Plan and Municipal Service Review. LAFCO will adopt a sphere of influence for a newly formed district within two years of the completion of formation proceedings.
- 5.2.4 Plan for Services Required. Every proposal for formation of a new special district must include a Plan for Services that addresses the items identified in Government Code Section 56653.
- 5.2.5 Consistency Required. LAFCO will only approve district formation applications that accommodate development that is consistent with the General and Specific Plans of all affected land use authorities.
- 5.2.6 Conflicts Not Allowed. LAFCO will not approve a district formation proposal if the Plan for Services conflicts with the Municipal Service Review of other agencies unless higher quality, more efficient service provision will occur as determined under item 4.2.
- 5.2.7 Public Benefit Considered. LAFCO will consider whether the proposed district formation will benefit the affected public as a whole or only a select group. Absent other circumstances, LAFCO will not approve a formation proposal that amounts to a grant of governmental powers to a special interest group.
- 5.2.8 Fiscal Solvency. LAFCO will prepare, or cause to be prepared, a fiscal analysis for the proposed district which projects services to be provided, costs to service recipients, and revenue and expenses for a period of at least five years. LAFCO will not approve an application for district formation unless the fiscal analysis demonstrates the district can provide the needed services and remain fiscally solvent. If the financing element of the Plan for Services requires voter or landowner approval (for instance, a special tax or benefit assessment), LAFCO's approval of the proposal will require voter approval of the funding mechanism as a condition for completion of the formation. [GC§56653]
- 5.2.9 County Service Areas. LAFCO may reduce or waive these district formation requirements in connection with the formation of routine County Service Areas.

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5.3 Provision of New Services by Districts.

- 5.3.1 Policies Applicable to New Service Proposals. LAFCO will evaluate a proposal for a district to provide new services using the policies and standards applicable to the formation of a new district.
- 5.3.2 Plan for Services Required. A proposal must include a Plan for Services that addresses the items identified in Section 56653 of the Government Code.
- 5.3.3 New Services Not Subsidized. LAFCO will not approve a proposal for the provision of new service where it is reasonably likely that existing ratepayers and/or taxpayers will have to subsidize the new service.

5.4 Consolidations and Merger of Districts into Cities.

- 5.4.1 Policies Applicable to Consolidations and Mergers. As stated in the General Policies, LAFCO generally supports the consolidation of agencies to obtain economies from the provision of consolidated services. For the purposes of LAFCO's Policies, a consolidation of cities or districts will be treated as an incorporation or a district formation. The merger of a district into a city will be treated as if it were an annexation of the district's territory combined with a detachment or dissolution.
- 5.4.2 General Requirements. Based upon the Municipal Service Review, the Plan for Services, and any other data provided, LAFCO will determine whether the cities' or districts' organizations and operations can feasibly be combined. LAFCO will give particular attention to the following: service plans and safeguards to ensure uniform and consistent service quality throughout the newly consolidated or merged jurisdiction; staffing levels, personnel costs, and employment contracts; potential for cost efficiencies and economies of scale; potential for improved governance and accountability; plans for restructuring agency debt; provisions for combining capital reserves and improvement plans; and, provisions for establishing zones of benefit.
- 5.4.3 Special Consolidation Procedures. [GC§56853] If two or more local agencies file an application to consolidate, that meets the standards established in Government Code Section 56853, the Commission will either approve the proposal or require conditions that will ensure the proposal is consistent with LAFCO policy. The Commission will notify the agencies of changes in the proposed conditions in the application, in accordance with the provision established in Section 56853.
- 5.4.4 Procedure for Formation of Subsidiary Districts. Proposals for the merger of a district into a city or establishment of the district as a subsidiary district of the city shall follow the special procedure set forth in Government Code Sections 56861-56863.

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5.5 LAFCO Initiated Consolidations. [GC§56375(a)]

5.5.1 General. LAFCO may initiate proceedings for consolidation of districts; the dissolution, merger, or establishment of subsidiary district(s); or, reorganizations that include any of these changes of organization in accordance with all relevant provisions of the Cortese-Knox-Hertzberg Act. Such changes of organization shall hereinafter be referred to as LAFCO initiated proposals for the purposes of this section.

5.5.1.1 Initiation of a proposal must be consistent with the recommendation of a study prepared pursuant to Government Code Sections 56378, 56425, or 56430, that evaluates the factors listed in item 5.4.2 above. The Commission will publicly consider a request from any interested person or agency to conduct such a study.

5.5.2 Procedure for Initiation of Proposals by the Commission.

5.5.2.1 The Commission may initiate a proposal for any combination of change of organization or reorganization consistent with the recommendation of a consolidation study conducted pursuant to this section. [GC§56378]

5.5.2.2 The Commission shall adopt a resolution of application to initiate a proposal at a public meeting. The Executive Officer shall provide each affected agency with notice of the meeting at least 21 days in advance. [GC§56375]

5.5.2.3 The Commission may decide to refer the matter to a reorganization committee constituted pursuant to Section 56826 of the Government Code.

5.5.2.4 A proposal initiated by the Commission will be processed in accordance with all normal and specific procedural requirements of the Cortese-Knox-Hertzberg Act and these policies.

5.6 Disincorporation and District Dissolution.

5.6.1 Grounds for Disincorporation and District Dissolution. LAFCO will approve a proposal for disincorporation/dissolution only if it determines that the services offered or authorized are no longer necessary, the services can be provided more efficiently by another agency or provider and that agency agrees to provide the services, or the agency is insolvent and unable to provide the services.

5.6.2 Bonded Indebtedness. Where possible, LAFCO shall condition any dissolution to provide for the repayment of any bonded indebtedness or other obligations of the dissolved agency.

5.6.3 Disposition of Remaining Funds. A disincorporated city must turn its treasury over to the County Treasurer within thirty (30) days of disincorporation. A

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dissolved district shall turn over its funds to the successor agency as determined in Government Code Section 57451.

5.7 Reorganizations.

- 5.7.1 Evaluation Process. LAFCO will independently evaluate each component organizational change, which makes up a reorganization proposal following the standards of these Policies and Procedures applicable to that component of the reorganization. LAFCO will then balance the overall benefits against the costs and adverse impacts in deciding on the reorganization as a whole.
- 5.7.2 LAFCO will approve a proposal for reorganization, which results in significant adverse effects only if effective mitigating measures are included in the proposal.
- 5.7.3 Mitigations Required. The service quality, efficiency, and effectiveness of mitigations available prior to reorganization shall constitute a benchmark for determining significant adverse effects upon an interested party.

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Section 6. GENERAL PROCEDURES

6.1 Fees and Indemnity Authorized.

- 6.1.1 A fee shall be charged to a project applicant for the processing of any application in accordance with the standard approved LAFCO fee schedule. A project application shall not be approved by the Commission nor processing completed after approval until all fees are paid.
- 6.1.2 Applicants will be required to indemnify LAFCO for any costs or legal fees as a result of any challenge.

6.2 Notice and Public Participation.

- 6.2.1 Public Participation Encouraged. LAFCO encourages participation in its decision-making process. LAFCO shall endeavor to provide the widest possible dissemination of notice and shall not necessarily be limited to the minimums required by law and policy. The Commission will provide opportunity to be heard at LAFCO meetings in accordance with the procedures set forth in the Bylaws.
- 6.2.2 Unnecessary Public Hearings Eliminated. Where LAFCO is authorized by Cortese-Knox-Hertzberg Act to consider a proposal without public hearing, the proposal will be considered by the Commission without a public hearing, unless the Executive Officer or the Commission determines that the matter is of sufficient public interest or controversy to warrant a public hearing.
- 6.2.3 Notice to Agencies, Media and Community Groups. LAFCO shall give individual mailed notice to all affected public agencies within the area of the proposed reorganization and to the local media, and to such community groups and individuals who submit written request for notice and pay the reasonable cost of providing such notice.
- 6.2.4 Notice to Landowners and Registered Voters (Occupant). LAFCO shall give individual notice to all landowners and registered voters within a proposed project boundary and within 300 feet of the project boundary or additional parcels as determined by the Executive Officer, provided there are fewer than 1,000 notices to be mailed. If there are more than 1,000 notices to be mailed, then published legal notice, as required by law, will be given. The notice shall specify whether a public hearing is to be held on the project. For purposes of this policy, notices to registered voters will be accomplished through mailings to all residential units within an annexation area and be addressed to 'Registered Voter'. See appendix for sample notices.
- 6.2.5 Specific Notice Requirements. There are several requirements for 'notice' to be given to the public and affected agencies. Public notice may be published in a general circulation newspaper, mailed to affected parties, and/or posted on or near the doors of the meeting room. Time lines are [GC§56150 et. seq.]:

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- Publication, 21 days prior to a hearing;
- Mailing, postmarked 21 days prior to a hearing;
- Posting, five continuous days prior to a meeting and 21 continuous days prior to a meeting for a hearing;
- Electronic Notice: Notice of all public hearings shall be posted at www.buttelafco.org in compliance with Government Code Section 56661; and,
- Public Notice may be provided in post card format to those landowners or registered voters located outside of the project area unless the Commission or the Executive Officer determines that more extensive notice is necessary. (REVISED: July 3, 2003)

6.2.6 Notice to Landowners Being Added to an Annexation at a Hearing of the Commission. When adding parcels where the landowner has not received specific public notice that the parcel is affected by annexation, the Commission shall continue the hearing for one month in order for staff to provide notice of the intended action. (REVISED: July 3, 2003)

6.2.7 Urban Service Area Annexation Policy – (Section reserved for future policy.)

6.2.8 Public Participation Assistance. The Commission staff shall make available to the public procedural guides to assist them in effective participation in the LAFCO process. If such guides are not already available from other sources, staff shall develop guides for more common LAFCO actions.

6.3 **Processing Applications and Time Lines.**

It is the intent of LAFCO to process properly submitted applications in a timely manner. There are, however, statutory, as well as self-imposed deadlines, which LAFCO shall meet. Where these deadlines are statutory, the numbers in parentheses after the paragraph indicate the applicable statutory authority imposing the deadline. Code Sections beginning with 15000 are from the State Guidelines for Implementation of CEQA (California Administrative Code), Sections 20000 are from CEQA (Public Resources Code), and Sections 56000 are from Cortese-Knox-Hertzberg Act (Government Code).

6.3.1 Application Submittal. An application to LAFCO requires the submittal of an application form, supporting documentation, and fees in the amount established by the LAFCO Fee Schedule. In addition, the application shall be accompanied by either a Resolution of Application from an affected local agency or a sufficient landowner or voter petition in accordance with the requirements of Cortese-Knox-Hertzberg Act of 2000.

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- 6.3.2 Application by Resolution of Application Preferred. While Cortese-Knox-Hertzberg permits initiation of applications to LAFCO either by Resolution of an affected agency or by direct landowner/voter petition, LAFCO prefers that the Resolution procedure be utilized wherever feasible. Use of the Resolution of Application procedure is preferable because it both involves the affected public agency early in the process to assure that the agency's needs are considered; and, better integrates CEQA processing by the affected public agency as lead agency. Each applicant shall be advised of this policy at the earliest possible time.
- 6.3.3 Application by Petition. LAFCO shall only accept a petition-based application where the applicant provides satisfactory evidence that diligent effort has been made to obtain the consent of the affected public agency to initiate the application and that such consent has been denied by the legislative body of that agency. The application shall also request explanation of any specific reasons the agency did not want to initiate the application.
- 6.3.4 Notification of Receipt of Application. When an application is received, the Executive Officer must give immediate written notification to any agency affected by an application [GC§56658(b)], and to the County Assessor and Auditor so they may calculate assessed value and other information required to complete a tax exchange. (Revenue and Taxation Code Section 99.)
- 6.3.5 Review of the Application for Sufficiency. The Executive Officer shall then review the application for sufficiency. The Executive Officer will notify the proponent of whether or not the application is complete within thirty (30) days of receipt of the application [GC§56658(d)]. If the application is not complete, the Executive Officer will inform the applicant of what documentation is required to make the application complete.
- 6.3.5.1 An application shall not be deemed complete until the lead agency has provided sufficient documentation that addresses the impacts of the project to the satisfaction of the Executive Officer pursuant to Government Code Sections 56662 and 56841. If/when an affected agency submits documentation to the Executive Officer substantiating an impact to said agency, and an agreement between the affected agency and the lead agency to mitigate impacts cannot be documented, the Executive Officer will advise the applicant and the affected agency that the application is incomplete until the agencies have addressed the impact. If the agencies cannot reach an agreement within 30 days, the lead agency and/or the affected agency shall request the Executive Officer to mediate the dispute prior to requesting a hearing by the Commission. The mediation process shall not exceed a period of 45 days at which time the lead agency may request an extended mediation term or request the Executive Officer to schedule the matter for the next regularly scheduled meeting and the completeness determination will be made by the Commission. (*Adopted July 1, 1999.*)

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- 6.3.5.2 Where LAFCO is the Lead Agency under CEQA, the application shall not be deemed complete until adequate environmental documentation is prepared.
- 6.3.5.3 The application shall not be deemed complete until the affected agencies have reached a Tax Exchange Agreement [R&T Code, Section 99(b)(6)] and certified that the proposal will be substantially revenue neutral as required under item 2.12 above.
- 6.3.6 Sufficiency of the Petition. When the application is accompanied by a petition, the Executive Officer shall within thirty (30) days of receipt of the petition, review it for legal sufficiency and issue a Certificate of Sufficiency if the petition has the requisite number of proper signatures, and otherwise meets the requirements of Cortese-Knox-Hertzberg. [GC§56706]
- 6.3.7 Certificate of Filing. Upon determining that an application is sufficient and complete, the Executive Officer shall issue a Certificate of Filing to the applicant. [GC§56658(g)]
- 6.3.8 Conflicting Applications. In the event of conflicting applications, LAFCO may set the priority of which application to consider first. Normally, the application first submitted will be heard first [GC§56655]. Special provisions apply for conflicting proposals for incorporation, district consolidation, dissolution, merger, or establishment of a subsidiary district, or a reorganization that includes any of these changes of organization. [GC§56657]
- 6.3.9 Setting the Matter for Hearing. The Commission must consider at an agendaized public hearing any application that has received a Certificate of Filing within ninety (90) days. [GC§56658(i)]
- 6.3.10 Preparation of the Staff Report. The Executive Officer shall prepare a staff report with recommendations on each application. The report shall be available at least five days prior to the hearing on the application. [GC§56665]
- 6.3.11 Completion of the Commission Hearing. The Commission may continue the hearing on an application one or more times, but it may not continue the hearing beyond seventy (70) days after the initial hearing date. [GC§56666] The Commission shall adopt its Resolution making a final determination on the application within thirty-five (35) days after the close of the hearing. [GC§56880]
- 6.3.12 Reconsideration. Any interested person may request reconsideration of the LAFCO determination within thirty (30) days of the date of adoption of the Resolution making the determination. [GC§56895]
- 6.3.13 Re-application After Denial. Any application that is denied by LAFCO cannot be brought back in substantially the same form within one year of the date of denial

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unless the Commission finds this prohibition detrimental to the public interest.
[GC§56884]

6.3.14 Certification of Completion. The Executive Officer shall file a Certificate of Completion for each approved proposal in accordance with the provisions of Government Code Section 57200 and the following:

- If the Commission has waived the protest proceedings in accordance with Government Code Section 56663, the Executive Officer shall file a Certificate of Completion immediately after the end of the reconsideration period and payment of appropriate fees; and,
- If the proposal requires a protest hearing, the Executive Officer shall determine the value of written protests and either file the Certificate of Completion for the proposal, forward the proposal to the appropriate official for submittal to the affected voters, or terminate the proposal, in accordance with the provisions of Government Code Section 57075. Normally, the change of organization or reorganization will become effective on the date the certificate is filed.

6.4 **Protest Proceedings.**

6.4.1 Waiver of Protest Proceedings. The Commission may waive final Protest proceedings and authorize the Executive Officer to file a Certificate of Completion upon approval of a change of organization pursuant to Government Code Section 56663.

6.4.2 If the proposal has been approved by the Commission and the protest proceedings have not been waived, approval is conditional upon the outcome of a protest proceeding, which will be publicly noticed and conducted in compliance with Government Code Section 57000 et. seq..

6.4.3 The Commission has delegated the responsibility of formally securing protests from affected parties on the appropriate protest forms and conducting a protest hearing to the Executive Officer as provided under Government Code Section 57000(c). (See appendix for sample protest forms.)

6.4.4 Upon conclusion of the protest hearing, the Executive Officer shall determine the value of written protests filed and not withdrawn.

6.4.5 If there is not sufficient protest to initiate an election, the Executive Officer shall file the Certificate of Completion.

6.4.6 If sufficient protest occurs to require an election, the Executive Officer shall notify either the board of supervisors or the city council to direct the elections official to conduct the necessary election.

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- 6.4.7 Upon conclusion of the election, the Executive Officer shall present the appropriate resolution to the Commission in order to complete the annexation or terminate proceedings.

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Section 7. ADOPTION AND AMENDMENT

7.1. **Amendments.**

Amendments to the Butte LAFCO's Policies and Procedures shall be made in compliance with the Commission's Bylaws.

7.2. **Filing of Policies and Procedures.**

Upon approval of these Policies and Procedures, and any amendments thereto, a certified copy shall be filed with the Clerk of the Board of Supervisors of Butte County.

PASSED AND ADOPTED BY THE BUTTE LOCAL AGENCY FORMATION COMMISSION by unanimous vote this 6th day of May, 2010.

CARL LEVERENZ, Chairman
Butte Local Agency Formation Commission

ATTEST:

Stephen Lucas, Executive Officer
Butte Local Agency Formation Commission