
**FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCo)
EXECUTIVE OFFICERS REPORT**

AGENDA ITEM NO. 6

DATE: September 16, 2009

TO: Fresno Local Agency Formation Commission

FROM: Rick Ballantyne, Executive Officer
Darrel Schmidt, Deputy Executive Officer

SUBJECT: LAFCo Independence – Consider Retirement Options for LAFCo Employees

BACKGROUND

At its June 10, 2009 hearing, the Commission directed staff to initiate actions to allow the transfer of its staff from Fresno County to Fresno LAFCo employment. The Commission indicated that such transition should be as "seamless" as possible and that current staff should not experience any reduction in benefit levels as presently provided for by the County.

In order to facilitate such transfer, the Commission supported the idea that its current staff be allowed to continue their memberships in the Fresno County Employees' Retirement Association (FCERA). Staff reported during the Commission's August 12, 2009 meeting, that they had met with a FCERA representatives on August 7, 2009, and, after discussions and review, unanimously expressed a desire to continue current membership with FCERA at present benefit and contribution levels (Tier I) for current LAFCo staff following the transition from County to LAFCo employment.

However, the Commission directed staff to investigate additional retirement plan options that may be offered to future LAFCo employees. The *Discussion/Options* Section of this report identifies retirement options for future employees for the Commission's consideration. Relative advantages and disadvantages of each option are compared in the *Analysis/Comparison of Options* Section of this report that is summarized as Exhibit "A".

Staff recommends that you approve a resolution initiating LAFCo's membership in FCERA to (1) ensure that current LAFCo staff, who now have membership as County employees, receive FCERA benefits; and (2) provide a reduced level of benefits for new LAFCo employees, as described below.

DISCUSSION/OPTIONS

The Commission has a number of options for providing retirement plan benefits to future LAFCo employees. These include providing a "defined benefit" plan; a "defined contribution" plan; an "employee tax deferred contribution only" plan; or simply not providing a retirement benefits plan at all.

Staff has solicited information concerning retirement plans from other LAFCos to gain an understanding of the types of retirement benefits provided throughout the State. Staff utilized CALAFCO's list serve to gain information. Of 15 responding LAFCos, 10 indicated that their employees were "LAFCo" employees. All 10 offered a "defined benefit" retirement plan—seven offered plans through CalPERS and three through their respective County retirement systems (1937 Act Counties).

A few of the respondents (including those that maintained County employees) indicated that they provided an “employer defined contribution” plan and employee tax deferred contribution plan.

Defined Benefit Plan Option – Fresno County Employees’ Retirement Association

As indicated above, LAFCo staff is currently provided a defined benefit plan through the Fresno County’s retirement system. Retirement contributions and benefits are managed and administered by the FCERA. Government Code Section 56385 provides that the Commission may contract for retirement benefits for the Executive Officer or staff personnel pursuant to the County Employees Retirement Law of 1937. The Fresno County Employees Retirement Association was established through this act.

The Commission may, but is not required, to extend retirement benefits to LAFCo employees through FCERA. Should the Commission decide to provide such benefits to future LAFCo employees through FCERA, it has the option of providing benefits at one of three tiered benefit levels. These benefit levels and the contributions paid by both County and County employees are identified below:

- Tier 1 – 2.5% of final compensation for each year of service at age 55, maximum benefit of 3.2733% for each year of service at age 60, 1-year final compensation period.
- Tier 2 – 2.0% of final compensation for each year of service at age 55, maximum benefit of 2.4180% for each year of service at age 63, 1-year final compensation period.
- Tier 3 – 2.0% of final compensation for each year of service at age 55, maximum benefit of 3.1336% for each year of service at age 65, 3-year final compensation period.

Tier 2 and 3 employees will also receive a supplemental health benefit described in the 2000 Settlement Agreement.

The County’s contribution rate for the current Fiscal Year 2009-10, excluding any amount due to the County for repayment of the *Pension Obligation Bond* is:

- Tier 1 – 27.82%
- Tier 2 – 25.64%
- Tier 3 – 24.36%

Staff notes that County costs for repayment of the *Pension Obligation Bond* increase total County contributions an additional 8.26% to a total of 36.08% for the Tier 1 benefit level.

Employee contribution rates are based on the member’s age at entry into the Fresno County Employee Retirement Association and consequently vary by individual. FCERA reports that the average employee contribution rates for the current fiscal year are:

- Tier 1 – 7.88%
- Tier 2 – 5.46%
- Tier 3 – 6.07%

Due to their respective hiring dates prior to establishment of the Tier 2 and Tier 3 rate structures in 2005 and 2008, respectively, Fresno LAFCo’s current staff are all within Tier 1.

Once LAFCo employees become independent, both LAFCo and its employees should experience similar, but not necessarily exactly the same contribution levels as those paid by the County and its employees. FCERA's administrators have indicated that they will seek direction from their Board of Directors to determine whether an "actuarial study" will be required to determine Fresno LAFCo and its employee's contribution levels. The Commission did previously authorize and budget funds needed for such study if required.

It is obvious through the above discussion that potential retirement benefits for future LAFCo employees through FCERA would be least costly to the agency at the Tier III level.

Staff notes that at its August 12, 2009 hearing, the Commission indicated the possibility of creating a Tier IV benefit level, which would reduce County contribution costs, had been raised by the County. FCERA staff were contacted with respect to this possibility and indicated they believe the County is in the early stages of the process of developing such a tier, but that no formal actions proposing to create a Tier IV benefit level have been proposed to FCERA.

Defined Benefit Plan Option – CalPERS

Another potential defined benefit plan which the Commission could offer future LAFCo employees would be through the California Public Employees Retirement System (CalPERS). CalPERS retirement benefits are based upon an employee's years of service, age, and highest average final compensation—similar to the County's defined retirement benefit system.

Unfortunately, specific cost and benefit information for CalPERS benefits is not readily available. CalPERS does provide "new agency packets" for its members—but does require a substantial analysis be performed before it will provide any cost information. This analysis would take into account the desired benefit level, number of employees in the agency, and the employees' respective ages. In order to perform this analysis, however, Fresno LAFCo would be required to submit specific information/forms, enter into a "pre-valuation contract" with CalPERS, and pay a \$700 analysis fee. LAFCo staff did ask whether CalPERS could provide a "ballpark figure" for costs but was told that this was not possible.

The limited responses received from other LAFCos indicated that LAFCos who are members of CalPERS contribute between 13% and 18% of employee compensation to their retirement plans. Benefits which will be received by retirees from these plans vary, as CalPERS offers five different benefit levels:

- 2% at age 60
- 2% at age 55
- 2.5% at age 55
- 2.7% at age 55
- 3% at age 60

It is also interesting to note that LAFCos operating within counties that are PERS members—chose to continue with PERS membership; whereas LAFCos tied to counties participating in the 1937 Act similarly chose to continue membership with their county's system.

CalPERS also stated that depending upon the complexity of the contract an agency desired to enter into with CalPERS, that the entire process may take between 9 and 12 months to complete. Should the Commission desire to obtain specific cost and benefit information from CalPERS, it should direct staff to submit required documents/information, enter into the "pre-valuation contract", and to pay required CalPERS fees.

Defined Contribution Plan Options – 401(a) Plan

In lieu of a defined benefit plan, the Commission may decide to provide defined contribution retirement benefits through a 401(a) plan. This plan is similar to the private sector's 401(k) plan wherein the employer provides tax-deferred contributions to an investment account controlled by the employee, but is designed for public agency employers. A 401(a) plan allows a number of contribution options:

- Employer contribution of a fixed dollar or percentage amount of an employee's compensation, either with or without a required employee contribution.
- Employer contribution matching a fixed percentage of employee contributions.
- Employer contribution matching the employee's contribution within a given range.

The employee is always fully-vested in any of his/her personal contributions to the 401(a) plan. The employee may also be immediately fully vested in the employer's contributions or the Commission has the option of establishing a vesting schedule for LAFCo's contributions to the plan which would identify when the employee gains "ownership" of LAFCo contributions and associated earnings. At the time an employee separates from service with LAFCo, the vesting schedule would determine how much of the employer's contributions are "owned" by the employee and would be payable to the employee or available for roll-over into another account.

Other aspects of a 401(a) plan are:

- Contributions for 2009 are limited to \$49,000 per employee. This contribution limit may change in future years.
- The employee would maintain control over how contributed funds are allocated among available investment options.
- Funds may be rolled over to another 401(a) plan, 457 plan, or IRA if the employee separates from LAFCo employment.

If the Commission elects to provide defined contribution benefits through a 401(a) plan, it should determine the level of benefits to be provided (fixed amount, percentage of gross pay, or matching contribution, and whether employee contributions are required). The exact cost of providing a 401(a) plan is not known, however, it is possible that such a plan could be provided with relatively little cost to LAFCo.

LAFCo staff was informed by Council of Fresno County Governments (COG) staff (which does offer a 401(a) plan to its employees) that ICMA-RC Services provides its "deferred compensation" plan and does not charge COG or its employees for this service. ICMA-RC Services generally charges a \$1,500 fee for administering a 401(a) plan but this fee may be lessened or eliminated depending on the amount of assets contained within the plan. If the Commission determines to provide a 401(a) plan—it would be necessary for LAFCo to contract with an investment company that provides/administers/manages such plan.

With respect to the 401(a) contribution level LAFCo might be expected to provide to future employees, LAFCo staff is unaware of a "standard" contribution level for a public agency or private sector employer that might offer such retirement benefit. COG indicated that it does annually contribute an amount equal to 15% of each employee's gross pay. COG employees are not required to contribute to this plan in order to receive future benefits.

Given that administrative or management costs for providing a 401(a) plan would be relatively low, the cost of providing such a plan to future LAFCo employees appears to be largely dependent upon the contribution level the Commission would choose to provide.

A comparison of costs between providing a 15% contribution to a 401(a) plan versus costs currently born by LAFCo to cover retirement benefits through FCERA indicates a 401(a) plan would cost the Commission significantly less money. LAFCo's current budget projects salaries for full-time LAFCo staff will total \$241,941 for the year (not including the anticipated "Annual Leave Payout" for the retiring Executive Officer's unused annual leave). LAFCo's retirement contribution for these staff is projected to be \$87,292, approximately 36.08% of total salaries. In contrast, providing a 15% contribution toward individual employees' 401(a) plans would cost LAFCo \$38,717, a significant savings.

Employee Elective Deferred Compensation Plan Options – 457(b) Plan

Another type of contribution retirement plan offered by many agencies, including the County of Fresno and Fresno COG is a 457(b) plan. Similar to a 401(k) plan but designed for public agencies rather than private employers—457(b) plans allow employees to make tax deferred contributions to their own individual plans. A 457(b) plan is entirely voluntary and employees have full control over their individual accounts up to a maximum annual amount as provided by law. They are fully funded by employee contributions and do not receive contributions from the employer. Fresno LAFCo is currently provided an opportunity to participate in such system through the County.

The 457(b) plan during this year allows a maximum annual contribution of \$16,500. A LAFCo employee may contribute up to this maximum amount regardless of whether he/she is also enrolled in a 401(a) plan. COG administrators have indicated that they do not pay an administrative cost to provide 457(b) plans to their employees. ICMA-RC Services (COG plan administrators) indicate that their fees are derived from a percentage of the employee's contributions.

Regardless of whether or not the Commission chooses to provide a "defined" benefit plan or a "defined" contribution plan [i.e. 401 (a)], staff believes it would be appropriate for LAFCo to provide an optional 457(b) plan because there is little or no cost to the agency and offers potentially significant tax savings and retirement benefits to LAFCo employees. Also, a 457(b) plan is already provided to current employees and should be made available to the future LAFCo staff.

No Retirement Benefits

The Commission does also have the option of not providing retirement benefit(s) to future LAFCo employees. Staff does not recommend this option since it would likely result in great difficulty in finding and retaining qualified employees.

ANALYSIS/COMPARISON OF OPTIONS

Each of the above identified retirement benefit options has relative advantages and disadvantages for both LAFCo and its future employees when compared to the other options. Each could appear as a viable option depending upon various factors and priorities as established by the Commission—be they be based solely upon cost savings to LAFCo; providing more attractive (but more costly) retirement benefits in order to attract and retain highly qualified personnel; or other factors. The following section summarizes the relative advantages and disadvantages of each identified option:

FCERA – Defined Benefit Plan

Advantages:

- Retirement benefits provided through FCERA at any of the three tier benefit levels are relatively generous and will attract prospective employees. Defined benefits are considered extremely stable.
- Providing retirement benefits through FCERA would likely be an incentive to prospective employees that are currently enrolled within a defined benefit retirement system since they may transfer benefits
- FCERA offers reciprocity with CalPERS which could be an incentive to prospective employees who are CalPERS members.
- For similar reasons, retirement benefits through FCERA may positively affect retention of current LAFCo employees.

Disadvantages:

- Benefits provided through FCERA are likely the most costly of the identified benefit options—with the possible exception of CalPERS.
- The exact cost of providing future retirement benefits through FCERA is not known. LAFCo and employee contribution levels may fluctuate depending upon gains or losses experienced by retirement investment funds. Notably, LAFCo may be required to increase its contributions if fund losses result in an “unfunded liability”.

CalPERS – Defined Benefit Plan

Advantages:

- While exact benefit levels cannot be determined until an analysis is performed by CalPERS, CalPERS benefits are likely to be attractive to prospective employees because they are defined and considered stable.
- Prospective LAFCo employees may already be CalPERS members through their current or past employment. They most likely would view continued membership with CalPERS through LAFCo as a significant incentive.
- While exact costs for providing retirement benefits through CalPERS are unknown, they are likely to cost somewhat less than benefits provided through FCERA since they are perceived as providing a lower benefit level than FCERA.
- CalPERS maintains reciprocity with FCERA that may provide an incentive for current or past Fresno County employees to seek employment with LAFCo.

Disadvantages:

- Costs for providing retirement benefits through CalPERS are unknown at this time, but are likely to be greater than costs of providing a 401(a) defined benefit contribution plan.
- LAFCo and employee contribution levels may fluctuate from year to year.
- While CalPERS does maintain reciprocity with FCERA, benefit levels are likely less than those offered by FCERA. This may discourage prospective Fresno County employees from seeking employment with Fresno LAFCo.
- Becoming a CalPERS member would take between 9 and 12 months to take place following submittal of an initial request. It is unlikely, therefore, that CalPERS benefits could be in place by January 11, 2010 (Scheduled transition date).

401(a) Plan – Defined Contribution Plan

Advantages:

- Contribution costs to LAFCo are known and relatively fixed, as the Commission would set LAFCo's contribution levels either as a fixed amount or as a percentage of an employee's compensation. These contribution costs may be significantly less than contributions necessary to fund retirement benefits through FCERA and possibly CalPERS, as identified above.
- The Commission may "cap" its total contributions.
- Provides potential for significant retirement savings, dependent on LAFCo's contribution level and the success of the individual employee's investment portfolio.
- Contributions made by LAFCo to an employee's individual plan are tax deferred.
- Annual costs charged by a firm to manage the 401(a) plan are likely to be relatively low – possibly around \$1,500.

Disadvantages:

- An employee's ultimate retirement savings are dependent on the fluctuations of the employee's investment portfolio, which may be less stable or certain than retirement benefits offered through a defined benefit plan.
- A defined contribution may be considered less attractive than a defined benefit plan—especially to a prospective employee(s) who are presently or have been part of a defined benefit plan (i.e. FCERA or CalPERS) and would cease accruing benefits through such plans.

457(b) Plan – Employee Elective Deferred Compensation Plan

Advantages:

- Provides potential for significant, tax deferred retirement savings for employees who choose to contribute, depending on the level of the contribution and success of the employee's investment portfolio.
- There is little or no cost to LAFCo for providing this benefit.
- There is no perceived disadvantage to LAFCo or the employee for providing this plan, unless this is the **only** retirement benefit provided to future LAFCo employees.

Disadvantages:

- Tax deferred, employee sponsored retirement contribution plans are offered by many public and private sector employers. If a 457(b) is the **only** retirement benefit offered by LAFCo, it most likely would serve as a disincentive for future LAFCo employment. Such is especially true for employees who may maintain current membership in FCERA or CalPERS.
- Providing only 457(b) plan retirement benefits may require LAFCo to increase compensation and/or other benefit levels to attract and retain highly qualified employees.

No Retirement Benefits

Advantages:

- There is no cost to LAFCo.

Disadvantages:

- Providing no retirement benefits would likely significantly lower the attractiveness of working for LAFCo, especially for highly qualified employees and/or those who are already part of FCERA, CalPERS, or another retirement system(s).
- Providing no retirement benefits may require LAFCo to increase compensation and/or other benefit levels to attract and retain highly qualified employees.

Recommended Actions:

1. Direct LAFCo Counsel to prepare a resolution(s) reflecting Commission initiating LAFCo's membership within the Fresno County Employee Retirement Association (FCERA). Such resolution(s) shall include the following:
 - A. Current LAFCo employees shall continue to receive LAFCo funded retirement benefits through the Fresno County Employees Retirement Association at their current level of benefit (Tier 1).
 - B. The Tier III benefit level shall be provided to future LAFCo employees.

Alternative Action--If the Commission determines to offer future employees a 401 (a) defined contribution benefit retirement plan rather than membership within FCERA as identified in "B" above, staff recommends the following:

- B. The Commission should determine whether LAFCo will provide a fixed contribution to a 401(a) plan and the amount of that contribution; or whether the Commission will contribute an amount equal to a percentage of the employees' compensation and the percentage amount. Other factors should include:
 - The Commission should identify whether employees will be required to contribute to their 401(a) plans in order to receive a matching contribution from LAFCo; and if so, identify the required employee contribution amount (eg. 1:1 ratio, or other) and the maximum LAFCo contribution amount.
 - The Commission should identify a "cap" contribution level, if any.
 - The Commission should identify whether a vesting period is required before LAFCo contributions are "owned" by the employee, and if so, what the vesting schedule will be (e.g. 50% after one year of service and 100% after two years of service, or other).
 - Direct staff to contact firms experienced in managing 401(a) Retirement Plans for Commission consideration and approval.
2. Continue to provide a 457(b) retirement plan for LAFCo employees as approved by the Commission.

Exhibit A

	Relative Advantages	Relative Disadvantages
FCERA	<ul style="list-style-type: none"> • Retirement benefits at any of the three tier benefit levels are relatively generous and are likely to attract prospective employees. • Defined benefit plans are considered extremely stable. • Would likely be an incentive to employees currently enrolled within a defined benefit retirement system since they may be able to transfer benefits. • Offers reciprocity with CalPERS, which could be a significant incentive to prospective employees who are CalPERS members. • May positively affect retention of LAFCo employees. 	<ul style="list-style-type: none"> • Retirement benefits are likely the most costly of potential options, with the possible exception of CalPERS. • Exact LAFCo and employee contribution levels cannot be predicted as they may fluctuate, depending on gains or losses experienced by retirement investment funds. Notably, LAFCo may be required to increase its contributions if fund losses result in an “unfunded liability”.
CalPERS	<ul style="list-style-type: none"> • While exact benefits are not known at this time, they are likely to be attractive to prospective employees because benefits are defined and considered stable. • Prospective LAFCo employees may already be CalPERS members, and would likely view continued membership through LAFCo as a significant incentive. • While exact costs for providing retirement benefits through CalPERS are unknown at this time, they are likely to cost somewhat less than benefits provided through FCERA since they are perceived as providing a lower benefit level than FCERA. • Maintains reciprocity with FCERA that may provide an incentive for current or past Fresno County employees to seek employment with LAFCo. 	<ul style="list-style-type: none"> • Costs for providing retirement benefits through CalPERS are unknown at this time, but are likely to be greater than costs of providing a 401(a) defined contribution plan. • LAFCo and employee contribution levels may fluctuate from year to year. • While CalPERS does maintain reciprocity with FCERA, benefit levels are likely less than those offered by FCERA. This may discourage prospective Fresno County employees from seeking employment with Fresno LAFCo. • Becoming a member of CalPERS may take nine to 12 months following submittal of the initial request and would likely not be in place on January 11, 2010, LAFCo’s projected transition date.

Exhibit A

<p>401(a)</p>	<ul style="list-style-type: none"> • Contribution costs to LAFCo are known and relatively fixed, as the Commission would set LAFCo's contribution level either as a fixed amount or as a percentage of an employee's compensation. These contribution costs may be significantly less than contributions necessary to fund benefits through FCERA and possibly CalPERS. • The Commission may "cap" its total contributions. • Provides potential for significant retirement savings, dependent on LAFCo's contribution level and the success of the employee's investment portfolio. • LAFCo contributions are tax deferred. • Annual costs charged by a firm to manage the 401(a) plan are likely to be relatively low – possibly around \$1,500. 	<ul style="list-style-type: none"> • Ultimate retirement savings are dependent on the fluctuations of the employee's investment portfolio, and thus less stable or certain than retirement benefits offered through a defined benefit plan. • A defined contribution plan may be considered less attractive than a defined benefit plan, especially to prospective employees who are presently or have been part of a defined benefit plan (i.e. FCERA or CalPERS) and who would cease accruing benefits through those plans by accepting a position with LAFCo.
<p>457(b)</p>	<ul style="list-style-type: none"> • Provides potential for significant, tax deferred retirement savings, depending on the level of the employee's contribution and the success of the employee's investment portfolio. • There is little or no cost to LAFCo for providing this benefit. • No perceived disadvantage to LAFCo or the employee for providing this type of plan, unless this is the only retirement benefit provided to future LAFCo employees. 	<ul style="list-style-type: none"> • Tax deferred, employee funded retirement contribution plans are offered by many public and private sector employers. If this is the only retirement benefit offered by LAFCo, it most likely would serve as a disincentive for future LAFCo employment, especially for employees who maintain current memberships with FCERA or CalPERS • Providing only a 457(b) plan retirement benefits may require LAFCo to increase compensation and/or other benefit levels to attract highly qualified employees.
<p>No Retirement Benefits</p>	<ul style="list-style-type: none"> • No cost to LAFCo. 	<ul style="list-style-type: none"> • Significantly lowers the attractiveness of working for LAFCo, especially to highly qualified employees and/or those who are already a part of FCERA, CalPERS, or another retirement system(s). • May require LAFCo to increase compensation and/or other benefit levels to attract and retain highly qualified employees.

RESOLUTION NO.
FRESNO LOCAL AGENCY FORMATION COMMISSION
FRESNO COUNTY, CALIFORNIA

IN THE MATTER OF

LAFCo DETERMINATION

INCLUSION OF THE FRESNO)
LOCAL AGENCY FORMATION)
COMMISSION IN THE FRESNO)
COUNTY EMPLOYEES RETIREMENT)
ASSOCIATION AND DETERMINATION)
OF BENEFITS FOR TRANSITIONED)
EMPLOYEES)

WHEREAS, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 contains provisions providing for Local Agency Formation Commissions to seek independence when possible and practicable; and

WHEREAS, the Fresno Local Agency Formation Commission (this "Commission") has taken action to initiate an amendment of that Certain Professional Services Agreement with the County of Fresno (the "Agreement"), the Second Amendment of which is dated September 18, 2007, in which LAFCo would no longer use County personnel for LAFCo business and would employ its own staff; and

WHEREAS, Government Code section 56385 states that a Commission may contract for retirement benefits for the executive officer and other Commission personnel pursuant to the County Employees Retirement Law of 1937; and

WHEREAS, the County of Fresno has established a retirement association under the County Employees Retirement Law of 1937 known as the Fresno County Employees Retirement Association ("FCERA"); and

WHEREAS, this Commission desires to become a member of FCERA, and that current County personnel assigned to this Commission shall be eligible to receive benefits from FCERA as Commission employees effective on January 11, 2010, or as soon thereafter as practicable; and

WHEREAS, the Commission desires that all employees as of such transition date shall receive retirement benefits at the Tier 1 level, the same level of benefit that they currently receive as County employees.

NOW, BE IT FURTHER RESOLVED that the Fresno Local Agency Formation Commission does HEREBY STATE, FIND, RESOLVE, DETERMINE, AND ORDER as follows:

Section #1. The Commission hereby requests that the Commission be included as a member of FCERA, and that FCERA initiate all actions necessary to make the Commission a member of FCERA effective on January 11, 2010, or as soon thereafter as practicable.

Section #2. The Commission hereby requests that all staff presently receiving TIER 1 benefits as County employees receive the same level of retirement benefits from FCERA as Commission employees.

ADOPTED THIS 16th DAY OF SEPTEMBER, 2009, BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

**STATE OF CALIFORNIA)
COUNTY OF FRESNO)**

CERTIFICATION

I, Victor Lopez, Chairman of the Fresno Local Agency Formation Commission, Fresno County, State of California, hereby certify that the foregoing resolution was adopted by the Commission on the __ day of September, 2009.

**Victor Lopez, Chairman
Fresno Local Agency Formation Commission**