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**FRESNO LOCAL AGENCY FORMATION COMMISSION (LAFCo)  
EXECUTIVE OFFICER'S REPORT**

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AGENDA ITEM NO. 10

**DATE:** April 13, 2022  
**TO:** Fresno Local Agency Formation Commission  
**FROM:** David E. Fey, Executive Officer   
**SUBJECT:** Workshop – Policy Manual Update

**Recommendation:** That the Commission consider the attached amendments and provide direction. (Continued from March 9, 2022, hearing)

**Background**

Commissioners will recall that staff has set up three levels of policy review:

- *Full Commission policy discussion* to permit a narrow focus of strategically important policies (policy sections presented to the Commission today); and
- *Subcommittee Review* for procedures and administrative activities that implement policy, to be reviewed by the subcommittee (Commissioners Magsig and Santoyo) and LAFCo Counsel Price prior to the subcommittee's recommendation to the full Commission; and
- *Omnibus updates* of requirements mandated by statute reviewed and recommended by LAFCo Counsel.

Each of these levels will be presented in workshop form for discussion prior to a scheduled hearing to consider and approval of all amendments.

Per discussion with the Commission in February, attached are recommended amendments of the Commission's policy manual, sections 001 (Introduction) and 100 (Commission Policies).

Attachment "A" consists of recommended amendments in "tracked changes" and Attachment "B" consist of the same changes in "accepted" form for clarity.

Staff has distributed the attachments to Counsel as well.

## ATTACHMENT "A"

### ~~SECTION 000 INTRODUCTION~~

#### **001 Purpose**

It is the policy of Fresno LAFCo to encourage orderly growth and development of cities and special districts in Fresno County.

**Commented [FD1]:** Introduction revised to focus on LAFCo's purpose and responsibilities up front.

The logical formation and determination of city and special district boundaries promotes orderly development and balances that development with sometimes competing state interests of discouraging urban sprawl, preserving open-space and prime agricultural lands, providing housing for persons and families of all incomes, and efficiently extending government services.

Fresno LAFCo policies promote the logical formation and modification of the boundaries of cities and special districts, with a preference granted to accommodating additional growth within, or through the expansion of, the boundaries of those local agencies which can best accommodate and provide necessary governmental services and housing for persons and families of all incomes in the most efficient manner feasible.

In order to carry out its purposes and responsibilities for planning and regulating orderly, logical and efficient growth and development, which includes the coordination of local governmental agencies subject to the jurisdiction of the commission, and advantageously providing for the present and future needs of the county and its communities, the Fresno Lafco has developed and determined the sphere of influence of each city and each special district within the county and enacted policies designed to promote the logical and orderly development of areas within the sphere.

#### **~~002 Issues~~**

Fresno County contains some 5,958 square miles of territory with a 2010 population of approximately 953,800 residents. In addition to federal, state and county agencies, there are currently 15 cities and 117 special districts that provide a wide range of varying type, level, and range of services to the residents and landowners of Fresno County.

In 1963, the California LegislatureState law has established since 1963 a Local Agency Formation Commission in each county in order to oversee plan and regulate the formationgrowth and development of cities and special districts boundaries. LAFCos are currently directed by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH) to oversee the formation and development of cities and special districts.

Since 1963, the Fresno Local Agency Formation Commission has progressively developed policies and procedures in six different resolutions, but now sees the need to develop a more comprehensive document. These Fresno Local Agency Formation Commission Policies, Standards and Procedures Manual (Manual) has been developed and adopted by the Commission to provide a framework that complies with the requirements and intent of state law, from which the Commission will conduct any necessary review or make any determination.

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### 002 Issues

~~When the Commission was created in 1963, the California Legislature intended it to discourage certain problems from recurring such as urban sprawl, disorderly agency boundaries, and proliferation of overlapping and competing local agencies. It desired LAFCo to provide for other public needs, such as formation of agencies to provide an adequate level and range of services and preservation of agricultural land and open space lands.~~

~~In Fresno County, the Commission has identified the following list of problems, and needs, and challenges in Fresno County locally, which pertain to the Commission's responsibilities. The, and have developed policies and standards, and procedures in this document Policy Manual to have been created to guide the Commission's actions to reduce or resolve these issues, resolve the problems and meet needs within the Commission's jurisdiction.~~

- ~~• Proliferation of overlapping and competing local agencies~~
- ~~• Need for more cooperation/coordination among local agencies~~
- ~~• Inadequate level or range of services in county/community~~
- ~~• Inadequate revenue base or adverse fiscal impacts for local agencies~~
- ~~• Illogical, gerrymandered agency boundaries, islands, surrounded areas~~
- ~~• Illogical agency service areas~~
- ~~• Conflicts between urban and rural/agricultural land uses~~
- ~~• Premature proposals and lack of development proposals~~
- ~~• Phasing of agency expansion/growth~~
- ~~• Determining environmental effects of proposals~~
- ~~• Determining consistency with city or county general plans~~
- ~~• Urban sprawl and leap frog urban development~~
- ~~• Guiding urban growth away from prime agricultural lands~~
- ~~• Defining agricultural lands and open space lands~~
- ~~• Opposition of proposals by residents and popularity of proposals by landowners/developers~~
- ~~• Provision of adequate noticing of LAFCo hearing and conducting authority hearing~~

**Commented [FD2]:** Conduct discussion with the Commission about use of issues as basis for policies. I Recommend remove the issues as they have proven to be transitory.

~~On February 18, 2015, the following Special District issues were presented to the Commission:~~

- ~~— No adopted annual budget, by laws, or procedures.~~
- ~~— No services.~~
- ~~— District board nonfeasance.~~
- ~~— Special district is the subject of a Grand Jury reports.~~
- ~~— Lack of staff or staff lacks technological/managerial/financial (T/M/F) expertise.~~
- ~~— Board members fulfill both policy and operational functions.~~
- ~~— Lack of coordination of similar services between and among different special districts.~~
- ~~— Lack of transparency and/or Brown Act compliance.~~
- ~~— Changing demographics, antiquated mission.~~
- ~~— The special district does not cooperate with LAFCo on the MSR.~~

~~Other special district issues have since emerged:~~

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- ~~The district board frequently lacks a quorum.~~
- ~~Board members lack technical, managerial, and/or financial expertise.~~
- ~~Board members continue to serve after terms expire (though frequently permitted by the district's principal act).~~
- ~~District does not file annual financial statements with County Auditor Controller Treasurer Tax Collector.~~

003 Document Authority and Organization

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

004 Definitions

The following definitions shall be used (supplemental definitions can be found in sections 541, 550, and 551):

"Agricultural Lands"

~~Land currently used for the purpose of producing an agricultural commodity for commercial purposes, land left fallow under a crop rotation program, or land enrolled in an agricultural subsidy or set-aside program (See GC sec. 56016).~~

"Conducting Authority"

~~The Commission, unless another conducting authority is specified by law.~~

"Development"

- ~~A. The placement or construction of an urban use (commercial, industrial, or urban density residential);~~
- ~~B. Indication of future development for annexation application includes the filing of a preliminary or pre-application, or of a development application for a discretionary or ministerial entitlement, or amendment to the zoning ordinance;~~
- ~~C. Assurance of development (by LAFCo condition) includes filing of final tract map, application for site plan or building permit, with the city.~~

"Incorporation"

~~The incorporation, formation, creation, and establishment of a city with corporate powers. Any area proposed for incorporation as a new city shall have at least 500 registered voters residing within the affected area at the time commission proceedings are initiated (GC sec. 56043).~~

"Open Space Lands"

**Commented [FD3]:** Recommend deleting definitions section and incorporate definitions in sections where they are relevant.

**Commented [FD4]:** Generally out of date/obsolete.

**Commented [FD5]:** Why are there three criteria? Do they each perform a separate function? B and C deleted and are used in more appropriate place later in policies

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~~Lands which are in public parks use, river bottom lands subject to flooding, storm drainage ponds, or other permanent open space use, as opposed to vacant parcels planned for other urban development.~~

~~"Policy"~~

~~A specific statement guiding action and implying clear commitment.~~

~~"Prime Agricultural Lands"~~

~~Section 56064 of State Law defines prime agricultural land for purposes of changes of organization. The commission defines prime agricultural land for purposes of any changes of organization or to a sphere of influence as being a parcel of land which is:~~

~~A. Five acres or greater in area, and~~

~~B. Located in an irrigation or water district having a sufficient water allocation; or the ground water is of sufficient quality and quantity and available for irrigation, and~~

~~C. Has not been developed for a use other than agricultural, and which meets any of the following qualifications:~~

~~1. Land which qualifies for rating as Class I or Class II in the Soil Conservation Service Land Use Capability Classification.~~

~~2. For the following agricultural land use criteria, consideration of agricultural product value will give priority to preservation of lands with higher value products than those of lower value.~~

~~a. Land planted with fruit or nut bearing trees, vines, bushes, or crops which have a nonbearing period of less than five years and which will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than two hundred dollars (\$200) per acre, or~~

~~b. Land which has returned from the production of unprocessed agricultural plant products an annual gross value of not less than two hundred dollars (\$200) per acre for three of the previous five calendar years, or~~

~~c. Land which supports livestock used for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Handbook on Range and Related~~

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Grazing Lands, July, 1967, developed pursuant to Public Law 46, December 1935, or

d. Land which is used to maintain livestock for commercial purposes.

"Standard"

A specific, often quantified guideline defining the relationship between two or more variables.

"Substantial Development"

A. Development of a majority of the territory.

"Substantially Surrounded"

In determining whether an area is substantially surrounded, at least one of two criteria must exist:

A. The proposal must have at least three sides contiguous with city boundaries.

B. The proposal must have at least 75% of its perimeter contiguous with city boundaries.

"Urban Service"

Service provided to urban communities as opposed to rural areas, such as community water or sewer service.

Commented [FD6]: This is an outdated "policy."

"Urban Service Area"

GC sec 56080 defines Urban Service Area which shall also meet all criteria established by LAFCo in Sec. 318 of the Commission Procedures.

Commented [FD7]: Urban Service Area is not needed in Fresno County

"Urban Sprawl"

Development pattern where residential and commercial development is significantly separated from the rest of the community by vacant or agricultural land resulting in an increase in cost of providing urban services. Urban sprawl may differ in impact in smaller communities than a large metropolitan area; criteria for defining urban sprawl may vary from community to community.

Commented [FD8]: Is this even a thing anymore?

I think we missed this one completely in Fresno and its unincorporated islands. For that alone, I suggest deletion. However, a focus on "urban" also misdirects away from how special districts "sprawl" their services, and how a reliance on extensions of service are also a kind of sprawl.

Revised: December 19, 2001

SECTION 100 COMMISSION POLICIES

State law requires the Commission to review and make determination on all changes of organization or reorganization, determinations of spheres of influence, city protests to land

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~~conservation contracts; review general plans for cities and county; and to do studies of local agencies, recommending governmental reorganizations. The following policies have been adopted by the Commission to assist in the review of proposals and plans, and preparation of studies as necessary. The policies are addressed by issue topic.~~

**Commented [FD9]:** LAFCo's role when a city protests a LCC is to use that protest decades later as a "get out of jail free" card when annexation of Wm Act land is proposed

~~The Commission LAFCo's has existing policies, standards and procedures. Therefore, to the extent that CKH requires the Commission to adopt policies and procedures, the Commission already is in compliance with CKH. In furtherance of CKH, these policies, standards and procedures have been further amended as provided herein to allow have been established to permit the Commission to continue to exercise its powers in a manner that encourages and provides planned, well-ordered, logical, and ed, efficient urban growth, development, and services patterns with appropriate consideration of preserving open space lands within those patterns (Code sec. 56300(a)(b)).~~

Revised: February 26, 1992; December 19, 2001

**101 Encourage ~~orderly formation and development~~ orderly, logical, and efficient development of local agencies in their sphere of influence**  
(GC sec. 56301)

1. ~~101.~~ Sphere of influence A sphere of influence is a plan determined by the commission for the probable physical boundaries and service area of a local agency.

2. The Commission will determine the probable physical boundaries of the agency using a planning horizon that forecasts the probable expansion of the local agency's service area within 20 years of the SOI approval.

3. The sphere of influence determined by the Commission shall take into account consider the affected local agency's capacity to provide the provision of an adequate level and range of services to when considering amendments of the agency's sphere of influence, each community within the county.

4. The Commission will evaluate sphere of influence amendments in light of the local agency's adopted plans and policies including, but not limited to, its general or master plan and related CEQA documents, service plans, and the financial ability of the affected local agency to provide services.

5. Likewise any governmental reorganization recommended by the Commission shall encourage the provision of adequate services to each community. The sphere of influence shall give consideration of those areas of the county which currently do not have adequate services, and recommendations for governmental reorganization or formation of new agencies shall be made by the Commission where justified. All proposals for a change of organization or reorganization shall conform with the affected local agency's sphere of influence.

**Commented [FD10]:** Policy classic!

~~101.02 Information to be submitted~~  
Any proposal for a change of organization or reorganization shall contain sufficient information to determine that adequate services, facilities, and improvements can be provided and financed by

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~~the agencies responsible for the provision of such services, facilities, and improvements.~~

~~101.03 Illogical boundaries are discouraged  
Reorganization of overlapping and competing agencies or illogical boundaries dividing agency service areas is recommended. 6. The Commission encourages changes of organization implementation of reorganizations, such as consolidations, mergers, dissolutions, where the result will be better service, reduced cost, and/or more efficient and visible administration of services to publicthe citizens.~~

**Commented [FD11]:** Not really a SOI policy. Better place for it?  
MOVE TO "APPLICATION PROCESS"

**Commented [FD12]:** Vestige of the 1970s. Sounds nice but what does the Commission want to achieve with this policy? For example, how does this policy influence the commission's intentions toward special districts that provide services in or overlap with a city's? Also, as long as the policy starts with "Reorg" this is not the same as overlapping SOIs so it should be moved to the reorg policies

~~102 The Commission discourages f101.04 Formation of new local agencies discouraged~~

- ~~1. In order toTo reduce and minimize the number of agencies providing services, proposals for formation of new special districts areagencies shall be discouraged unless:~~
  - ~~a. There is evidence from the landowners and/or residents of a clear need for the proposed special districtagency's services from the landowners and/or residents;~~
  - ~~b. There are no other existing agencies that are able to annex and provide similar services; and~~
  - ~~a-c. The proposal demonstrates the financial there is an ability of the new agency to provide for and finance the needed new serviceservices.~~

~~103 Local agencies are responsible for annexation planning in their spheres of influence~~

~~101.05 Commission purposes  
Among the purposes of the Commission are discouraging urban sprawl, preserving open space and prime agricultural lands, efficiently providing government services, and encouraging the orderly formation and development of local agencies based upon local conditions and circumstances (Code sec. 56301).~~

**Commented [FD13]:** The message of 101.05 and .06 are better served up in an introductory discussion of lafco

~~101.06 Commission objectives  
One of the objectives of the Commission is to make studies and to obtain and furnish information which will contribute to the logical and reasonable development of local agencies in the County and to shape the development of local agencies so as to advantageously provide for the present and future needs of the County and its communities. When the formation of a new government entity is proposed, the Commission shall make a determination as to whether existing agencies can feasibly provide the needed service or services in a more efficient and accountable manner. If a new single purpose agency is deemed necessary, the Commission shall consider reorganization with other single purpose agencies that provide related services (Code sec. 56301).~~

~~Revised: December 19, 2001~~

~~17102 Encourage consistency with spheres of influence and recommended reorganization of agencies (GC sec. 56425)~~

~~102.01 102.01 Consistency with spheres of influence  
All proposals reviewed by the Commission, including changes of organization or reorganization,~~



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~~shall be consistent with the agency adopted spheres of influence and Commission policies.~~  
Each local agency is encouraged to ~~Within the sphere of influence each agency should~~ implement an orderly, phased annexation program pursuant to the ~~Annexation Program Guidelines (Appendix A).~~

~~2.8.~~ A proposed annexation should not be approved solely because the ~~area-affected territory falls within the sphere of influence of a local~~ agency. The sphere of influence is one factor among several ~~that the Commission considerse when~~ in reviewing proposals.

~~09.~~ A request to amend a city's sphere of influence shall be geographically consistent with its adopted general plan.

(Appendix A, Annexation Program Guidelines)

~~102. The Commission discourages service extensions~~ ~~102.02 Commission discourages service extensions~~

1. Pursuant to GC sec. 56133 *et seq.*, a city or district may provide new or extended services by contract or agreement outside its jurisdictional boundary only if it first requests and receives written approval from the commission.

2. Extension ~~Provision of urban services by a local~~ agency outside its sphere of influence is prohibited ~~shall be discouraged unless it is in response to an existing or impending threat to the health or safety of the public or the residents of the affected territory.~~ In some instances, the Commission encourages agreements for service among agencies where efficiencies will be achieved and the public will benefit. Such agreements should be consistent with the agencies sphere of influence.

**Commented [FD14]:** The agreement is a required part of an extension of service, and not a condition a commission would 'encourage'.

3. The Commission requests that extensions of service be granted to those parties that agree to not protest a future annexation.

~~103~~ ~~102.03~~ **Cities should be the provider of municipal provide services within their sphere of influence**

1. ~~Within their sphere of influence~~ **Cities should be the provider of urban-municipal services within their sphere of influence due to their higher visibility, their substantially broader sources of revenue, and their historical and legal right to provide services and controls to citizens within their boundaries, particularly land use planning services and controls. Consequently, landowners and residents within a city's sphere of influence should look to the city for the provision of urban services and controls through annexation or formal agreement.**

**Commented [FD15]:** A. Can use County's support of this policy. B. What about Fresno's former CWWDs currently serving unincorporated islands?

~~02.~~ ~~Exceptions....SKF and the three cities? CalWater?~~

**Commented [FD16]:** Just how is this policy supposed to work?

~~102.04~~ ~~The Commission supports t~~ **ransition agreements where a special district's service area is within a city's sphere of influence**

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The following policies apply where a special district's service area is within a city's sphere of influence, and it is reasonably foreseeable that the special district's service area will be reduced over time by detachments when territory is annexed to a city. If a special district relies on funding from general purpose *ad valorem* property tax revenue from property in its service area, detachments will lower its tax base and property tax revenue. Although the special district would no longer directly provides services to detached properties, its district-wide and inter-agency service obligations may not be reduced commensurately and may, in fact, increase. The consequence of reduced revenue and increasing service obligations is of concern to the Commission.

1. Cities whose sphere of influence includes a special district's service area are encouraged to develop comprehensive annexation policies that anticipate the total inclusion of the district's territory into a city's limits.
2. These policies should support agreements between cities and special districts to address the local agencies' respective interests to orderly transition services and revenue between agencies.
3. The city's proposed services in the affected territory to be annexed to the city should be of equal or higher quality than the detaching special district's services provided in that territory.

Commented [FD17]: Annexation planning

~~1. Where a special district is within a city's sphere of influence, the city is encouraged to develop annexation policies that will anticipate the total inclusion of the district's territory rather than a portion of its territory so as not to impose an unbearable tax burden upon citizens within the balance of the district's territory. The city's proposed services in the affected territory to be annexed to the city should be of equal or higher quality than the detaching special district's services provided in that territory.~~

~~2. Because the terms of each city's transition agreement may vary, cities are encouraged to include stakeholders, which may include the development community, in the preliminary formulation of agreements.~~

~~4. 102.041 When a reorganization proposes to reorganization includes annexation of territory to a city and detachment from a fire protection district (hereinafter, a "City/Fire Protection District Reorganization"), evidence of a current transition agreement shall be required to provide for the orderly transition of services from the district to the city. shall be required as a part of a complete application.~~

~~6.5. If the city and the district are unable to execute a transition agreement, the Commission may impose its own conditions of approval to ensure an orderly transition of services. Such conditions shall be deemed to satisfy this policy.~~

~~7. 1. The terms of any fire transition agreement may include, but not be limited to, the length of the agreement, the transfer of stations, personnel, equipment, and property taxes, all as mutually determined by the city and the district. The transition agreement must provide a rationale for the terms contained therein (the "Transition Plan"). The~~

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~~Transition Plan must specify how generally the fire district will use any payments made by the city to the district, what service changes will be made to nearby areas, if any, and how the district will adjust its service plans for the loss of property tax revenues associated with the City/Fire Protection District Reorganization Proposal. In lieu of specific terms specified in the agreement, the Transition Plan may be attached to the transition agreement or incorporated by reference. The Commission recognizes that the negotiation of a transition agreement may be a lengthy and complex process and strongly encourages the city and district to craft an agreement that would last a period of years and cover multiple City/Fire Protection District Reorganizations.~~

~~8. \_\_\_\_\_~~

~~9. \_\_\_\_\_~~ 2. The Commission is not a party to these agreements and other than the terms specified in section 1, above, will not dictate the terms of the transition agreement. The intent of the transition agreement is to provide for the orderly transition of services. Therefore, the Commission expects the parties to negotiate the transition agreements in good faith and to obtain terms and conditions in such agreements that are reasonable under the circumstances.

~~10.6. \_\_\_\_\_~~

~~11.7. \_\_\_\_\_~~ Applicants for a City/Fire Protection District Reorganization—whether by application of the city, by a private party, or by petition—shall include a copy of the transition agreement as part of their complete application.

~~12. \_\_\_\_\_~~

~~13. \_\_\_\_\_~~ In the case of a City/Fire Protection District Reorganization, the Executive Officer shall request written verification of an existing transition agreement between the city and the district in the mailed notice to the District in accordance with section 56658(b)(1).

~~14. \_\_\_\_\_~~

~~15. \_\_\_\_\_~~ In the event that the district and the city are not parties to a transition agreement affecting the subject territory, the Executive Officer shall request that the city and the district immediately commence discussions regarding entering into a transition agreement affecting the subject territory and, if possible, future City/Fire Protection District Reorganizations.

**Commented [FD18]:** This and following paragraphs are drawn from R&T code. LAFCo has no authority to require the parties engage in this process.

~~16. \_\_\_\_\_~~

~~17. \_\_\_\_\_~~ 5. The city and district shall have thirty (30) days to enter into a transition agreement providing for the requirements contained herein. If, at the end of this period, the parties are unable to agree upon the terms of a transition agreement, the parties shall engage in a mediation process to resolve any outstanding disagreements regarding the transition agreement. The city and district shall immediately agree upon a qualified mediator to assist in and commence negotiations. The cost of the mediator shall be borne equally by the city and district unless the parties agree to alternate arrangements. No less than thirty (30) days after the commencement of mediation, either party may inform the Executive Officer that the city and district are unable to resolve their differences.

~~18. \_\_\_\_\_~~

~~19. \_\_\_\_\_~~ In the event of an impasse, mediator shall prepare an impartial mediation summary for the Executive Officer, which shall include a summary of each parties' points and the mediator's observations regarding the obstruction to an agreement.

~~20. \_\_\_\_\_~~

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~~21. Once the Executive Officer receives notice from either the district or the city that the parties are unable to come to terms on a mediated resolution to the transition agreement, the Executive Officer shall then issue certificate of filing for City/Fire Protection District Reorganization proposal, if all other Commission requirements are complete.~~

~~22. \_\_\_\_\_~~

~~23. Upon issuing the certificate of filing and establishing a date for hearing for the City/Fire Protection District Reorganization Proposal, the Executive Officer shall request in writing the following information from the District and the City, as applicable to each party: (i) whether the parties believe that a transition agreement is necessary; (ii) what the issues are preventing the parties from entering into a transition agreement; (iii) whether the City/Fire Protection District Reorganization Proposal will have any specific adverse effects on the district; (iv) if the fire protection district alleges that the City/Fire Protection District Reorganization Proposal will have specific adverse impacts on the district, a detailed analysis of those specific adverse impacts; (v) a description of any instant/mutual aid agreements between the district and city; and (vi) answers to any other questions by the Executive Officer concerning the proposed reorganization. The Executive Officer may also require local agencies to provide records, information, or studies that may be necessary to prepare the staff report for the Commission hearing on a proposed City/Fire Protection District Reorganization.~~

~~24. \_\_\_\_\_~~

~~25. The Executive Officer shall make reasonable attempts to obtain such information prior to the Commission's consideration of the City/Fire Protection District Reorganization. After reviewing the information, the Executive Officer shall prepare a staff report for the City/Fire Protection District Reorganization proposal, which among other things describes the parties' efforts to negotiate a transition agreement, states that efforts for the parties to enter into a transition agreement have failed, and may include the recommendation to the Commission that it impose certain conditions of approval to provide for the orderly transition of services.~~

~~26. \_\_\_\_\_~~

~~27-8. The Commission's imposition of conditions shall be consistent with GC sec. 56886 and may include, but not be limited to, the transfer of fire stations, personnel, equipment, and/or property tax revenues. The Commission may at its discretion include additional conditions of approval not otherwise contained in the staff report.~~

~~The Commission reserves the right to waive the mediation requirements contained herein with respect to any one particular City/Fire Protection District Reorganization, if the Commission determines, in its sole discretion, that it is in the public's interest to waive such requirements for that particular City/Fire Protection District Reorganization.~~

~~041-B (Section deleted - May 21, 2003)~~

~~Adopted May 21, 2003~~

~~Amended: August 7, 2013, September 11, 2013~~

**102-05 The Commission encourages annexation of developed and developing land within cities' spheres of influence**

~~1. 102. All developed urban land inside a city's sphere of influence shall be encouraged to~~

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annex to the city.

1. ~~1. The burden of proof as to why any such areas should not be annexed shall rest with the residents and owners of the property being annexed. Likewise Each the city shall develop plans, procedures or standards to annex such developed or developing urban areas territory in its sphere of influence.~~

**Commented [FD19]:** Can use the County's support here. Delete urban or add Rural residential

**Commented [FD20]:** what good does this do? Well, of course they don't want to annex to the city, so what is this "burden of proof" supposed to mean?

**Commented [FD21]:** Germain to annexation planning. What guidance or example can LAFCo provide cities

2. ~~2.3. ~~102.053~~All unincorporated islands of unincorporated territory and areas substantially surrounded areas located within the city sphere of influence a shall be encouraged to annex to the city, as the logical provider of services and controls.~~

~~Action Item FY 21 22 102.051~~

~~Since unincorporated islands and corridors cause service problems for the county and special district service providers as well as the city, the Commission shall request these agencies be a part of the process of reviewing the proposal and attending information meetings to encourage removal of irregular boundaries and service areas by annexation to the city.~~

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~~In addition the county and special districts should consider transition of service to the city of developed island and substantially surrounded areas by contract or agreement, to allow the city to provide municipal services to developed areas in the city sphere of influence. Such municipal services could include police and fire protection, paramedic service, street sweeping and lighting, street maintenance, landscape or park maintenance.~~

**Commented [FD22]:** An impractical policy, especially in the context of an annexation rather than a larger, more comprehensive—and assertive—negotiation to detach, dissolve, or consolidate.

**Commented [FD23]:** Annexation planning

~~102.06 County Service Areas consistent with City sphere of influence  
A County Service Area, formed to provide a service other than community or domestic water and/or sewer service within an already developed area, including an island or substantially surrounded area in a City sphere of influence, will be considered consistent with the City sphere of influence in those instances where:~~

1. ~~The service is desired by at least a majority of voters in the area, as evidenced by a formal petition and in the form required by State law.~~
2. ~~The petition for formation includes a means for financing the district service and substantial evidence of the necessary support of the voters or landowners to finance the service.~~
3. ~~City annexation is not possible because of one of the following:~~
  - A. ~~The City has either refused or made no reasonable attempt to annex and provide the desired service, as requested by petitioners, or~~
  - B. ~~The petitioners have submitted formal petition of 60 percent or more of voters, requesting formation of a County Service Area as opposed to City annexation.~~

**Commented [FD24]:** Seems to be focused on CSA 2. Also, why formation over annexation? This policy supports an unincorporated island in a city SOI petitioning to form a CSA. Don't feel that we want this anymore. Historical: this policy is a cut-out to permit formation of CSA 48 in 1996 but terminate by failure of Measure K ballot measure.

~~Section 102.06 added January 24, 1996~~

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**1063 Encourage orderly urban development and preservation of open space patterns**

~~1. 103. Encourage orderly growth~~

1. The Commission encourages well-planned, orderly, and compact urban development patterns for all developing areas.

2. ~~Also, the County, cities, and those districts~~ Local agencies that provide municipal urban services, are encouraged to develop and implement plans and policies which will provide for well-planned, orderly and compact urban development patterns, with consideration of preserving permanent open space lands within those urban patterns.

**Commented [FD25]:** Annexation planning? How does LAFCo incentivize/compel these agencies to perform?

~~3. 102. Encourage development of existing vacant land~~

4.3. Development of existing vacant non-open space and non-prime agricultural land within an agency's boundaries is encouraged prior to further annexation and development.

**Commented [FD26]:** Parcels are owned by many different people, each of them has their own reasons for the state of the property. It is a historic misconception that a property owner can be encouraged to develop or not develop absent market forces. to develop. Also, one property owner can hold a city hostage.

~~01. 103.03 Annexation to cities supported by imminent development~~

4. Annexation proposals to cities or districts providing urban services to undeveloped or agricultural parcels shall demonstrate that planned urban development is imminent for all or a substantial portion majority of the proposal area by either demonstrating that existing use of the proposal is consistent with the affected city's general plan or by providing evidence of an approved site plan review or tentative subdivision map with an annexation application.;

**Commented [FD27]:** Overall deletion of "urban" throughout policy manual clarifies LAFCo's relationship to services, not land use. Urban or not, LAFCo's focus is on efficient service delivery and logical, orderly boundaries.

5. ~~that urban development will be contiguous with existing or proposed development, and that a planned, orderly, and compact urban development pattern will result. Proposals resulting in a leap frog, non-contiguous urban or rural residential development patterns are~~ shall be discouraged.

6. Orderly growth of cities is supported by applications for change of organization and reorganization that demonstrate development of the subject projects affected territory is imminent by evidence of an approved tentative map, site plan review, or other land use permit.

**Commented [FD28]:** Revised to reflect contemporary language.

7. The Executive Officer shall record the approved application ~~change of organization or reorganization~~ once he or she has determined that the facts pertaining to the application during the time of recording are materially similar to those facts considered by the Commission when the application was approved. Facts, as used in the proceeding sentence, is defined to include, but not be limited to, whether or not the proposed project is materially similar to the project described in any application before the Commission.

Amended: February 18, 2015

**107 Encourage conservation of prime agricultural lands and open space areas**

~~(GC sec. 56377)~~

~~1. 104. Discourage certain proposals~~

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~~2.1. Proposals that which would conflict with a city's general plan the goals of maintaining the physical and economic integrity of open space lands, agricultural lands, or agricultural preserve areas in open space uses, as indicated on the City or County general plan, are shall be discouraged.~~

~~104. Prioritize annexation of existing vacant land~~

~~3.2. Annexation and development of existing vacant non-open space lands, and non-prime agriculture land within an agency's sphere of influence is encouraged prior to development outside expansion of an existing city sphere of influence.~~

~~104.0 Discourage development of prime agricultural land within a sphere of influence~~

~~4.3. A sphere of influence revision or update for an agency providing urban services where the revision includes prime agricultural land shall be discouraged. Development shall be guided towards areas containing non-prime agricultural lands, unless such action will promote unplanned, disorderly, inefficient development of the community or area.~~

~~104.04. Prioritize orderly and logical growth over loss of agricultural lands~~

~~Loss of agricultural lands should not be a primary issue for annexation where City or County general plans indicate urban development is appropriate and there is consistency with the agency's sphere of influence.~~

**108 Provide public access to the commission via the internet**

~~(GC sec. 56300 (f) (1) (2))~~

~~1. Establish and maintain a website~~

~~2.1. The Commission has established and will maintain, or otherwise provide access to notices and other Commission information for the public through an Internet website. Notice of all public hearings and Commission meetings shall be made available in electronic format on that site.~~

~~2. The Commission's web site is <http://www.fresnolafco.org>~~

~~3. ~~105.~~ The commission encourages all cities and special districts to establish and maintain websites pursuant to AB 949.~~

Revised: December 19, 2001

**106 LAFCo Disadvantaged Unincorporated Communities Policies**

~~1. The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 ("CKH") requires LAFCo to make determinations regarding "disadvantaged unincorporated communities" ("DUCs") when considering a change of organization, reorganization, a sphere of influence amendment and municipal service review ("MSR"). Generally, LAFCo will not approve annexations of territory that is greater than ten (10) acres if there exists a DUC, as further defined below, unless an application to annex the DUC has been filed with the Executive Officer, as specified herein.~~

**Commented [FD29]:** a. Annexation per a city's annexation plan should account for this and b. development outside of a SOI by County? City must update its SOI if it is developing there.

**Commented [FD30]:** Let's take a step back and ask why prime ag land is in a SOI. And if the commission approved a SOI with prime, we shouldn't then be discouraging it; it was put in for a reason.

**Commented [FD31]:** How do you guide it? EO discouragement, then they apply and staff recommends denial to commission?

**Commented [FD32]:** How?

**Commented [FD33]:** The SOI is treated as if it is an option. County GP will depict ag in an area shown for urban by a city GP, so remove that reference. Otherwise, this is not a clear policy. How about:

Loss of agricultural lands will be considered in light of a city's planned growth in its SOI.

A city will already have considered loss of ag land, will have performed CEQA, and will have performed analyses with each entitlement that supports an annexation application.

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~~2.~~

~~1.~~ For the purposes of this policy, a DUC is an inhabited unincorporated territory with an annual median household income that is less than 80 percent of the statewide annual median household income as defined in GC sec. 56046 and Water Code sec. 79505.5, all as amended, and presenting at least 15 dwelling units at a density not less than one unit per acre.

~~3.~~ LAFCo has determined that, as of the date of the adoption of this policy, there may be a deficiency in census data to accurately assess median income in unincorporated communities. As a result, LAFCo ~~or its designee~~ shall consider various sources of information in order to determine whether that a DUC exists. ~~Such information considered by LAFCo shall result from the following:~~

~~4.~~ Conducting reasonable demographic surveys and studies;

~~5.~~ Conducting reasonable site investigation, and

~~6.2.~~ Considering other materials supplied by government agencies and other interested parties (collectively, the "Information Sources").

A DUC shall have at least 15 dwelling units at a density not less than one unit per acre.

~~7.3.~~ Cities and special districts ~~are~~ will be required to identify DUCs within ~~or~~ and contiguous to their boundaries in their applications for Commission action; however, LAFCo will verify all information and make independent attempts to identify DUCs using the Information Sources.

~~8.4.~~ Any MSR conducted by LAFCo for a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection, shall identify any DUCs within or contiguous to the sphere of influence of that city or special district and describe the present and probable needs or deficiencies for the provision of those public facilities or services to such DUC.

~~9.5.~~ For any updates to a sphere of influence of a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection, the Commission shall consider and prepare written determinations regarding the present and probable needs and deficiencies for those public facilities and services for any DUC within or contiguous to the sphere of influence of the city or special district.

~~10.6.~~ The Commission shall not approve an annexation to a city of any territory greater than 10 acres, where there exists a DUC ~~with 12 or more registered voters~~ that has been identified and evaluated in any MSR or Sphere of Influence Update for that city or has been subsequently identified by staff to be contiguous to the area of the proposed annexation unless an application to annex the DUC to the subject city has been filed with the LAFCo Executive Officer.

**Commented [FD34]:** "except as provide" is addressed in the next policy.  
Redundant, a DUC is by definition inhabited

~~11.7.~~ Pursuant to Government Code 56375(a)(8)(B), an application to annex a contiguous DUC shall not be required if either of the following facts are present: (i) a prior application for annexation of the same DUC has been made in the preceding five (5) years; or (ii) the Commission finds, based upon written evidence sufficient to the Commission, that a



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majority of the residents within the affected DUC are opposed to annexation. The Commission will give great weight to a census, prepared independently of any project applicant, of DUC residents to determine opposition to the subject annexation.

**Commented [FD35]:** If its credible information the commission has the discretion to use it or not. An unsolicited independent census should be avoided.

"Written evidence" may be in the form of annexation survey results from residents of the DUC. The Commission shall be provided a copy of any mailing list used to collect this survey. The survey must be completed no longer than eighteen (18) months before the filing of underlying annexation proposal. The following must be included as part of the survey:

1. Survey Cover Letter;
2. Survey;
3. Map of proposed annexation area and DUC in relation to existing city boundaries;
4. Information about city services (a review of the types of services, timing of when the services would be provided and financing of the services), effects of city/zoning/land use and city elections.

~~12. If the underlying annexation is contiguous to a DUC that is served by a special district that provides municipal urban services, the provisions listed in this sub-section are only applicable to annexations that are at least one-third the size of the neighboring special district.~~

**Commented [FD36]:** This text contradicts policy that cities should be providers of services in their SOIs.

~~13.~~  
~~14.8. All information sent to residents in DUCs should be in English and Spanish, and any other languages reasonably calculated by LAFCo to be understood by a majority of the residents of a household in the area.~~

~~106.05 Contiguous requirements to trigger a DUC annexation application.~~  
~~A DUC that is identified to be within 300 feet of the underlying annexation is sufficient to start the annexation proceedings for a DUC.~~

**Commented [FD37]:** What if that DUC is not subject to an annexation? Alternatively, if the annexation in question was part of an annexation program initiated by a city, the commission has the discretion to publicly choose another course of action.

~~106.06 Responsibility for environmental assessment~~  
~~The city or special district filing the application shall be responsible for all associated costs of processing the environmental documents.~~

**Commented [FD38]:** Move to environmental? Move to process?

~~106.07 Responsibility for fire district or other required transition fees~~  
~~If provided by a transition agreement, the city or special district will be responsible for transition of funding in effect at the time of the annexation. If the annexation petition application is filed by a proponent in lieu of the city then the proponent must provide the LAFCo Executive Officer with sufficient evidence that this requirement has been satisfied prior to recordation.~~

**Commented [FD39]:** Not a practical policy in the DUC section

~~106.08 Need for services related to DUCs~~  
~~In the event there is a disagreement relative to the need for services (i.e. sewer, water, storm drainage), LAFCo staff will consult with Fresno County staff to ascertain levels of services that presently exist. LAFCo staff would also review any independent information submitted by interested parties. LAFCo may use its conditioning authority to make sure water and sewer fees are paid.~~

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~~106.09~~ ~~Payment for DUC annexation~~

~~The processing costs for DUC annexation, including but not limited to application fees and fire transition expenses, are the responsibility of the city or special district applicant, or in the case of an annexation submitted by petition, the petitioner(s) of the triggering annexation. If the district has a financial hardship, a separate request may be considered by LAFCo for districts with budgets of less than \$500,000 or cities with budgets less than \$2,000,000.~~

~~A106.10 Exception to 56375(a)(8)(C)~~

~~The commission reserves the authority to liberally construe the intent of section 56375(a)(8)(C) to effectuate its purposes.~~

~~106.10~~ ~~DUC protest proceedings~~

~~the same procedure for a standard annexation shall be followed for a conducting authority hearing related to a DUC.~~

~~106.11~~ ~~Legacy community~~

~~a legacy community is a geographically isolated community that meets DUC criteria, is at least 50 years old, and is beyond the adopted sphere of influence of any city. When approving any new or updated sphere of influence for a city or special district, the city or special district shall be required to identify any legacy community that is within one mile of the existing or proposed sphere of influence. LAFCo will verify all information and make independent attempts to identify legacy communities. Such attempts may include site investigation and the review of maps, demographic studies, and other materials supplied by governmental agencies and other interested parties.~~

**Commented [FD40]:** Legacy communities are not a LAFCo thing; not in CKH

~~Initially a~~ Adopted January 9, 2013

**107 Municipal Service Review policy**

~~1.~~ ~~107.01 Background~~

Pursuant to GC ~~§sec. 56430~~, in order to prepare and to update spheres of influence (SOI) in accordance with GC ~~§sec. 56425~~, the Commission shall conduct a ~~service~~-review of the municipal services provided by a local agency. A municipal service review (MSR) is a comprehensive study prepared by LAFCo to inform local agencies, the public, and LAFCo about municipal services provided by local agencies within a designated geographic area. LAFCo evaluates the municipal services provided by one or more local agencies, makes determinations based upon this information and may recommend actions to promote the efficient provision of those services.

An MSR need not be prepared if no action to prepare or update a SOI is proposed, though LAFCo may choose to prepare a MSR at its discretion.

Pursuant to GC ~~§sec. 56430~~, LAFCo must make the following written determinations regarding the following areas:

- Growth and population projections for the affected area.

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- The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence (see Policy 106, LAFCo DUC Policies).
- Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged, unincorporated communities within or contiguous to the sphere of influence.
- Financial ability of agencies to provide services.
- Status of, and opportunities for, shared facilities. Accountability for community service needs, including governmental structure and operation efficiencies.
- Any other matter related to effective or efficient service delivery, as required by commission policy.

An MSR concludes with adoption of the determinations by the Commission. While the Commission is not required by law to make any changes to a SOI based upon MSRs, the Commission may at its discretion opt to shrink or expand an SOI, or approve, deny, or approve with conditions any change of organization or reorganization impacting the governmental agency as a result of the information contained in the MSR. The Commission's determinations may result in recommendations to the subject local agency regarding the areas specified by the statute. When recommendations are made, they will be conveyed to the local agency for response and/or action.

### ~~107.02 MSR goals~~

The goal of the Fresno LAFCo MSR program is to provide cities and special districts with an assessment on their provision of services, make recommendations regarding areas of improvement, and determine whether ~~or not~~ an agency is equipped to effectively provide services within its existing or expanded SOI.

In order to achieve this goal, MSRs will:

- a. Evaluate a local agency—including, but not limited to, services delivered by the agency or other agencies, the agency's compliance with its principal act, activities of its legislative body, the agency's managerial practices, sufficiency of its annual budget, presence of an agency's long-range plan for services, opportunities for public participation at its legislative body's meetings, and the agency's compliance with "sunshine" laws, such as the Brown Act—in order to present thoughtful and accurate information in support of Commission determinations;
- b. Provide recommendations to encourage effective and efficient municipal service delivery; and
- c. Build and maintain effective relationships between LAFCo and local agencies.

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2. LAFCo actively encourages local agencies affected by these policies to include LAFCo at the beginning of any city planning application that may result in an annexation or SOI amendment or extension of services.

~~3. 107.03 Discussion~~

~~4. \_\_\_\_\_~~

~~5.3. 107.031 Municipal Services and Local Agencies~~

The term "municipal services" relates to services provided by cities and many special districts to relatively dense populations at comparatively high levels of service, including:

- Public safety (police, fire, building inspection, etc.);
- Public utilities including solid waste collection and disposal, wastewater collection and treatment, domestic water production, treatment and distribution, and electricity;
- Land use authority including planning, code enforcement, and building code enforcement;
- Parks and recreation;
- Public facilities;
- Airports;
- Public transit;
- Improvement, maintenance, repair, and operation of streets and highways;
- Flood control; and
- Water supply, drainage, storage, and conservation.

"Municipal service" also encompasses a service or function provided to one local agency by a contract with another local agency, as permitted by GC §sec. 54981.

There are other types of services provided by local agencies that may not be considered "municipal," and do not in themselves facilitate or induce growth. However, LAFCo deems it appropriate to include the local agencies that provide these services in the MSR program as their services ~~relate to services that~~ were deemed necessary when the local agency was formed and are provided within a specified geographic area under the authority of the California Code. Further, performance of a MSR for a non-municipal service provider permits the full expression of LAFCo goals with all local agencies under its jurisdiction.

~~107.032 SOI Planning Horizon~~

~~As described in GC §56076, a "Sphere of influence" means a plan for the probable physical boundaries and service area of a local agency, as determined by the Commission. Determining a local agency's SOI is a significant role of the LAFCo. The Commission will determine the probable physical boundaries of the agency using a 20-year planning horizon, meaning the probable expansion of the agency's service area within 20 years of the SOI approval. The Commission will evaluate proposed SOI amendments in light of many of the local agency's own adopted plans and policies including, but not limited to, its general or master plan and related CEQA documents, service plans, annual budgets, fee structure, and capital improvement plans.~~

**Commented [FD41]:** Redundant with horizon policy below

~~107.033 Repealed~~

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~~107.034.~~ Environmental Determination

Local agencies that request a SOI amendment that is consistent with the agency's general or master plan are expected to be the lead agency as defined by the California Environmental Quality Act (CEQA), (PRC ~~§sec.~~ 21067). The lead agency has the principal responsibility for carrying out or approving a project which may have a significant affect upon the environment. The lead agency will conduct all necessary environmental determinations as appropriate under CEQA (i.e., notice of exemption, negative declaration, environmental impact report). Under this circumstance, LAFCo will be a responsible agency as defined by CEQA (PRC ~~§sec.~~ 21069). This relationship should be clearly identified in the lead agency's CEQA documentation, as well as the requested actions (annexations and/or detachments) anticipated by the lead agency in its environmental analysis.

Commented [FD42]: Consider this in context of CEQA section

~~When in the event that~~ LAFCo initiates a MSR, it will be the lead agency and will prepare the appropriate documentation pursuant to the CEQA. ~~Early coordination between the applicant and LAFCo is essential.~~

107.035. MSR Preparation

The Commission shall conduct a programmatic update of a local agency's MSR before, or in conjunction with, but no later than the time it is considering an action to ~~establish or update an~~ SOI ~~sphere of influence.~~

Commented [FD43]: All are established already.

The Executive Officer will assess local agencies' ~~SOI~~ spheres of influence as necessary, by reviewing the current MSR, and contacting the local agency to determine the following:

- the local agency's progress on the Commission's earlier MSR recommendations,
- the adequacy of its current SOI, and
- whether the current SOI is consistent with its long-range plans.

If staff determines that an amendment to an ~~SOI~~ sphere of influence may be necessary and would necessitate an update of that agency's MSR, it may provide local agencies with an MSR questionnaire for them to complete and may request additional information. Once this information is received, staff will prepare a draft MSR.

A local agency may also be provided with a MSR template to complete and submit as an administrative draft document subject to LAFCo staff's review for documentation, completeness, and thorough analysis.

The adoption of a MSR is not subject to a statutory public hearing (GC ~~§sec.~~ 56430). However, to allow for public participation that demonstrates a transparent decision-making process, the following actions will take place:

- The draft MSR shall be posted on the Commission's website for a 21-day public review period;
- Notice of the public review period will be posted at the offices of Fresno LAFCo and the Clerk of the Board of Supervisors and on the Commission's website; and
- Notice will be mailed or e-mailed to the subject local agency to be posted in its jurisdiction.

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107.046 \_\_\_\_\_ MSR Policies

The following policies will assist LAFCo staff in preparing MSRs and complying with CKH. These policies are based on circumstances unique to Fresno LAFCo and as such will ensure that municipal services are evaluated in an orderly, logically, and efficient manner.

Policy 1: The SOI should reflect a 20 ~~to 25~~-year planning horizon and may include additional areas that may relate to the agency's planning. This boundary shall be reviewed and either affirmed or, if necessary, updated on average of every five years thereafter.

Policy 2: The Commission will evaluate proposed SOI amendments in light of many of the local agency's own adopted plans and policies including, but not limited to, its general or master plan and related CEQA documents, service plans, annual budgets, fee structure, and capital improvement plans.

Policy 3: MSRs may be updated independently from an SOI modification, either to facilitate review of an agency's service deficiencies or in response to other LAFCo actions.

Policy 4~~3~~: The Commission reserves the right to have an MSR prepared by a consultant under contract with the Commission and associated expenses may be borne by the requesting local agency.

Adopted: November 5, 2014

Revised: December 14, 2016, September 11, 2019

## ATTACHMENT "B"

### 001 Purpose

It is the policy of Fresno LAFCo to encourage orderly growth and development of cities and special districts in Fresno County.

The logical formation and determination of city and special district boundaries promotes orderly development and balances that development with sometimes competing state interests of discouraging urban sprawl, preserving open-space and prime agricultural lands, providing housing for persons and families of all incomes, and efficiently extending government services.

Fresno LAFCo policies promote the logical formation and modification of the boundaries of cities and special districts, with a preference granted to accommodating additional growth within, or through the expansion of, the boundaries of those local agencies which can best accommodate and provide necessary governmental services and housing for persons and families of all incomes in the most efficient manner feasible.

In order to carry out its purposes and responsibilities for planning and regulating orderly, logical and efficient growth and development, which includes the coordination of local governmental agencies subject to the jurisdiction of the commission, and advantageously providing for the present and future needs of the county and its communities, the Fresno Lafco has developed and determined the sphere of influence of each city and each special district within the county and enacted policies designed to promote the logical and orderly development of areas within the sphere.

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

Revised: December 19, 2001

### SECTION 100 COMMISSION POLICIES

LAFCo's policies and procedures have been established to permit the Commission to exercise its powers in a manner that encourages orderly, logical, and efficient growth, development, and services

Revised: February 26, 1992; December 19, 2001

#### 101 Encourage orderly, logical, and efficient development of local agencies in their sphere of influence

1. A sphere of influence is a plan determined by the commission for the probable physical boundaries and service area of a local agency.
2. The Commission will determine the probable physical boundaries of the agency using a

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planning horizon that forecasts expansion of the local agency's service area within 20 years of the SOI approval.

3. The Commission shall consider the affected local agency's capacity to provide an adequate level and range of services when considering amendments of the agency's sphere of influence.

4. The Commission will evaluate sphere of influence amendments in light of the local agency's adopted plans and policies including, but not limited to, its general or master plan and related CEQA documents, service plans, and the financial ability of the affected local agency to provide services.

5. All proposals for a change of organization or reorganization shall conform with the affected local agency's sphere of influence.

6. The Commission encourages changes of organization such as consolidations, mergers, dissolutions, where the result will be better service, reduced cost, and/or more efficient and visible administration of services to public.

### **102 The Commission discourages formation of new local agencies**

1. To reduce and minimize the number of agencies providing services, proposals for formation of new special districts are discouraged unless:

- a. There is evidence from the landowners and/or residents of a clear need for the proposed special district's services;
- b. There are no existing agencies that are able to annex and provide similar services; and
- c. The proposal demonstrates the financial ability of the new agency to provide services.

### **103 Local agencies are responsible for annexation planning in their spheres of influence**

1. Each local agency is encouraged to implement an orderly, phased annexation program pursuant to the Annexation Program Guidelines (Appendix A).

2. A proposed annexation should not be approved solely because the affected territory falls within the sphere of influence of a local agency. The sphere of influence is one factor among several that the Commission considers when reviewing proposals.

### **104 The Commission discourages service extensions**

1. Pursuant to GC sec. 56133 *et seq.*, a city or district may provide new or extended services by contract or agreement outside its jurisdictional boundary only if it first requests and receives written approval from the commission.

2. Extension of services by a local agency outside its sphere of influence is prohibited unless it is in response to an existing or impending threat to the health or safety of the public or the residents of the affected territory.



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3. The Commission requests that extensions of service be granted to those parties that agree to not protest a future annexation.

### **105 Cities should be the provider of municipal services within their sphere of influence**

1. Cities should be the provider of municipal services within their sphere of influence due to their higher visibility, their substantially broader sources of revenue, and their historical and legal right to provide services to citizens within their boundaries, particularly land use planning services and controls.

### **106 The Commission supports transition agreements where a special district's service area is within a city's sphere of influence**

The following policies apply where a special district's service area is within a city's sphere of influence, and it is reasonably foreseeable that the special district's service area will be reduced over time by detachments when territory is annexed to a city. If a special district relies on funding from general purpose *ad valorem* property tax revenue from property in its service area, detachments will lower its tax base and property tax revenue. Although the special district would no longer directly provides services to detached properties, its district-wide and inter-agency service obligations may not be reduced commensurately and may, in fact, increase. The consequence of reduced revenue and increasing service obligations is of concern to the Commission.

1. Cities whose sphere of influence includes a special district's service area are encouraged to develop comprehensive annexation policies that anticipate the total inclusion of the district's territory into a city's limits.
2. These policies should support agreements between cities and special districts to address the local agencies' respective interests to orderly transition services and revenue between agencies.
3. The city's proposed services in the affected territory to be annexed to the city should be of equal or higher quality than the detaching special district's services provided in that territory.
4. When a reorganization proposes to annex territory to a city and detach from a fire protection district (hereinafter, a "City/Fire Protection District Reorganization"), evidence of a current transition agreement to provide for the orderly transition of services from the district to the city shall be required as a part of a complete application.
5. The Commission may impose its own conditions of approval to ensure an orderly transition of services. Such conditions shall be deemed to satisfy this policy.
6. The Commission is not a party to these agreements and other than the terms specified in section 1, above, will not dictate the terms of the transition agreement. The intent of the transition agreement is to provide for the orderly transition of services. Therefore, the Commission expects the parties to negotiate the transition agreements in good faith and to obtain terms and conditions in such agreements that are reasonable under the circumstances.
7. Applicants for a City/Fire Protection District Reorganization—whether by application of the

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city, by a private party, or by petition—shall include a copy of the transition agreement as part of their complete application.

8. The Commission's imposition of conditions shall be consistent with GC sec. 56886 and may include, but not be limited to, the transfer of fire stations, personnel, equipment, and/or property tax revenues. The Commission may at its discretion include additional conditions of approval not otherwise contained in the staff report.

### **105 The Commission encourages annexation of developed and developing land within cities' spheres of influence**

1. All developed land inside a city's sphere of influence is encouraged to annex to the city.

2. Each city shall develop plans, procedures or standards to annex developed or developing territory in its sphere of influence.

3. All unincorporated islands and substantially surrounded areas within a city sphere of influence are encouraged to annex to the city.

### **106 Encourage orderly urban development and preservation of open space**

1. The Commission encourages well-planned, orderly, and compact urban development patterns for all developing areas.

2. Local agencies that provide municipal services are encouraged to develop and implement plans and policies which will provide for well-planned, orderly and compact development patterns, with consideration of preserving permanent open space lands within those urban patterns.

3. Development of existing vacant non-open space and non-prime agricultural land within an agency's boundaries is encouraged.

4. Annexation proposals to cities shall demonstrate that planned development is imminent for all or a majority of the proposal area by either demonstrating that existing use of the proposal is consistent with the affected city's general plan or by providing evidence of an approved site plan review or tentative subdivision map with an annexation application.

5. Proposals resulting in non-contiguous urban or rural residential development patterns are discouraged.

6. Orderly growth of cities is supported by applications for change of organization and reorganization that demonstrate development of the affected territory is imminent by evidence of an approved tentative map, site plan review, or other land use permit.

7. The Executive Officer shall record the approved change of organization or reorganization once he or she has determined that the facts pertaining to the application during the time of recording are materially similar to those facts considered by the Commission when the application was approved. Facts, as used in the proceeding sentence, is defined to include, but not be limited to, whether or not the proposed project is materially similar to the project described in any

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application before the Commission.

Amended: February 18, 2015

**107 Encourage conservation of prime agricultural lands and open space areas**

1. Proposals that conflict with a city's general plan to maintain the physical and economic integrity of open space lands, agricultural lands, or agricultural preserves, are discouraged.
2. Annexation of existing vacant within an agency's sphere of influence is encouraged prior to expansion of a city sphere of influence.
3. Development shall be guided towards areas containing non-prime agricultural lands, unless such action will promote unplanned, disorderly, inefficient development of the community or area.

**108 Provide public access to the commission via the internet**

1. The Commission has established and will maintain, or otherwise provide access to notices and other Commission information for the public through an Internet website. Notice of all public hearings and Commission meetings shall be made available in electronic format on that site.
2. The Commission's web site is <http://www.fresnolafco.org>
3. The commission encourages all cities and special districts to establish and maintain websites pursuant to AB 949.

Revised: December 19, 2001

**106 LAFCo Disadvantaged Unincorporated Communities Policies**

1. For the purposes of this policy, a DUC is an inhabited unincorporated territory with an annual median household income that is less than 80 percent of the statewide annual median household income as defined in GC sec. 56046 and Water Code sec. 79505.5, all as amended, and presenting at least 15 dwelling units at a density not less than one unit per acre.
2. LAFCo has determined that, as of the date of the adoption of this policy, there may be a deficiency in census data to accurately assess median income in unincorporated communities. As a result, LAFCo shall consider various sources of information to determine whether a DUC exists.
3. Cities and special districts are required to identify DUCs within or contiguous to their boundaries in their applications for Commission action.
4. An MSR conducted by LAFCo for a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection, shall identify any DUCs within or contiguous to the sphere of influence of that city or special district and describe the present and probable needs or deficiencies for the provision of those public facilities or services to such DUC.

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5. For any updates to a sphere of influence of a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection, the Commission shall consider and prepare written determinations regarding the present and probable needs and deficiencies for those public facilities and services for any DUC within or contiguous to the sphere of influence of the city or special district.

6. The Commission shall not approve an annexation to a city of any territory greater than 10 acres, where there exists a DUC that has been identified and evaluated in any MSR or Sphere of Influence Update for that city or has been subsequently identified by staff to be contiguous to the area of the proposed annexation unless an application to annex the DUC to the subject city has been filed with the LAFCo Executive Officer.

7. Pursuant to Government Code 56375(a)(8)(B), an application to annex a contiguous DUC shall not be required if either of the following facts are present: (i) a prior application for annexation of the same DUC has been made in the preceding five (5) years; or (ii) the Commission finds, based upon written evidence sufficient to the Commission, that a majority of the residents within the affected DUC are opposed to annexation.

"Written evidence" may be in the form of annexation survey results from residents of the DUC. The Commission shall be provided a copy of any mailing list used to collect this survey. The survey must be completed no longer than eighteen (18) months before the filing of underlying annexation proposal. The following must be included as part of the survey:

1. Survey Cover Letter;
2. Survey;
3. Map of proposed annexation area and DUC in relation to existing city boundaries;
4. Information about city services (a review of the types of services, timing of when the services would be provided and financing of the services), effects of city/zoning/land use and city elections.

8. All information sent to residents in DUCs should be in English and Spanish, and any other languages reasonably calculated by LAFCo to be understood by a majority of the residents of a household in the area.

9. A DUC that is identified to be within 300 feet of the underlying annexation is sufficient to start the annexation proceedings for a DUC.

10. The processing costs for DUC annexation, including but not limited to application fees and fire transition expenses, are the responsibility of the applicant.

Adopted January 9, 2013

### **107 Municipal Service Review policy**

Pursuant to GC sec. 56430, in order to prepare and to update spheres of influence (SOI) in accordance with GC sec. 56425, the Commission shall conduct a review of the municipal services provided by a local agency. A municipal service review (MSR) is a comprehensive study prepared by LAFCo to inform local agencies, the public, and LAFCo about municipal services provided by local agencies within a designated geographic area. LAFCo evaluates the municipal services provided by

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one or more local agencies, makes determinations based upon this information and may recommend actions to promote the efficient provision of those services.

An MSR need not be prepared if no action to prepare or update a SOI is proposed, though LAFCo may choose to prepare a MSR at its discretion.

Pursuant to GC sec. 56430, LAFCo must make the following written determinations regarding the following areas:

- Growth and population projections for the affected area.
- The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence (see Policy 106, LAFCo DUC Policies).
- Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged, unincorporated communities within or contiguous to the sphere of influence.
- Financial ability of agencies to provide services.
- Status of, and opportunities for, shared facilities. Accountability for community service needs, including governmental structure and operation efficiencies.
- Any other matter related to effective or efficient service delivery, as required by commission policy.

An MSR concludes with adoption of the determinations by the Commission. While the Commission is not required by law to make any changes to a SOI based upon MSRs, the Commission may at its discretion opt to shrink or expand an SOI, or approve, deny, or approve with conditions any change of organization or reorganization impacting the governmental agency as a result of the information contained in the MSR. The Commission's determinations may result in recommendations to the subject local agency regarding the areas specified by the statute. When recommendations are made, they will be conveyed to the local agency for response and/or action.

1. The goal of the Fresno LAFCo MSR program is to provide cities and special districts with an assessment on their provision of services, make recommendations regarding areas of improvement, and determine whether an agency is equipped to effectively provide services within its existing or expanded SOI.

In order to achieve this goal, MSRs will:

- a. Evaluate a local agency—including, but not limited to, services delivered by the agency or other agencies, the agency's compliance with its principal act, activities of its legislative body, the agency's managerial practices, sufficiency of its annual budget, presence of an agency's long-range plan for services, opportunities for public participation at its legislative body's meetings, and the agency's compliance with "sunshine" laws, such as the Brown Act—in order to present thoughtful and accurate information in support of Commission determinations;

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- b. Provide recommendations to encourage effective and efficient municipal service delivery; and
  - c. Build and maintain effective relationships between LAFCo and local agencies.
2. LAFCo actively encourages local agencies affected by these policies to include LAFCo at the beginning of any city planning application that may result in an annexation or SOI amendment or extension of services.

### 3. Municipal Services and Local Agencies

The term "municipal services" relates to services provided by cities and many special districts to relatively dense populations at comparatively high levels of service, including:

- Public safety (police, fire, building inspection, etc.);
- Public utilities including solid waste collection and disposal, wastewater collection and treatment, domestic water production, treatment and distribution, and electricity;
- Land use authority including planning, code enforcement, and building code enforcement;
- Parks and recreation;
- Public facilities;
- Airports;
- Public transit;
- Improvement, maintenance, repair, and operation of streets and highways;
- Flood control; and
- Water supply, drainage, storage, and conservation.

"Municipal service" also encompasses a service or function provided to one local agency by a contract with another local agency, as permitted by GC sec. 54981.

There are other types of services provided by local agencies that may not be considered "municipal," and do not in themselves facilitate or induce growth. However, LAFCo deems it appropriate to include the local agencies that provide these services in the MSR program as their services were deemed necessary when the local agency was formed and are provided within a specified geographic area under the authority of the California Code. Further, performance of a MSR for a non-municipal service provider permits the full expression of LAFCo goals with all local agencies under its jurisdiction.

### 4. Environmental Determination

Local agencies that request a SOI amendment that is consistent with the agency's general or master plan are expected to be the lead agency as defined by the California Environmental Quality Act (CEQA, PRC sec. 21067). The lead agency has the principal responsibility for carrying out or approving a project which may have a significant affect upon the environment. The lead agency will conduct all necessary environmental determinations as appropriate under CEQA (i.e., notice of exemption, negative declaration, environmental impact report). Under this circumstance, LAFCo will be a responsible agency as defined by CEQA (PRC sec. 21069). This relationship should be clearly identified in the lead agency's CEQA documentation, as well as the requested actions (annexations and/or detachments) anticipated by the lead agency in its environmental analysis.

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When LAFCO initiates a MSR, it will be the lead agency and will prepare the appropriate documentation pursuant to CEQA.

### 5. MSR Preparation

The Commission shall conduct a programmatic update of a local agency's MSR before, or in conjunction with, but no later than the time it is considering an action to update an sphere of influence.

The Executive Officer will assess local agencies' spheres of influence as necessary, by reviewing the current MSR, and contacting the local agency to determine the following:

- the local agency's progress on the Commission's earlier MSR recommendations,
- the adequacy of its current SOI, and
- whether the current SOI is consistent with its long-range plans.

If staff determines that an amendment to a sphere of influence may be necessary and would necessitate an update of that agency's MSR, it may provide local agencies with an MSR questionnaire for them to complete and may request additional information. Once this information is received, staff will prepare a draft MSR.

A local agency may also be provided with a MSR template to complete and submit as an administrative draft document subject to LAFCo staff's review for documentation, completeness, and thorough analysis.

The adoption of a MSR is not subject to a statutory public hearing (GC sec. 56430). However, to allow for public participation that demonstrates a transparent decision-making process, the following actions will take place:

- The draft MSR shall be posted on the Commission's website for a 21-day public review period;
- Notice of the public review period will be posted at the offices of Fresno LAFCo and the Clerk of the Board of Supervisors and on the Commission's website; and
- Notice will be mailed or e-mailed to the subject local agency to be posted in its jurisdiction.

### 6. MSR Policies

The following policies will assist LAFCo staff in preparing MSRs and complying with CKH. These policies are based on circumstances unique to Fresno LAFCo and as such will ensure that municipal services are evaluated in an orderly, logically, and efficient manner.

Policy 1: The SOI should reflect a 20 -year planning horizon and may include additional areas that may relate to the agency's planning. This boundary shall be reviewed and either affirmed or, if necessary, updated on average of every five years thereafter.

Policy 2: The Commission will evaluate proposed SOI amendments in light of many of the local agency's own adopted plans and policies including, but not limited to, its general or master plan and related CEQA documents, service plans, annual budgets, fee structure, and capital improvement plans.

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Policy 3: MSRs may be updated independently from an SOI modification, either to facilitate review of an agency's service deficiencies or in response to other LAFCo actions.

Policy 4: The Commission reserves the right to have an MSR prepared by a consultant under contract with the Commission and associated expenses may be borne by the requesting local agency.

Adopted: November 5, 2014

Revised: December 14, 2016, September 11, 2019