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*Sutter County  
Local Agency Formation Commission*

# **Rules of Procedures Manual**

Pursuant to  
The Cortese-Knox-Hertzberg  
Local Government Reorganization Act of 2000

*As amended August 25, 2016*

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RESOLUTION NO. 2016-01

RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF THE  
COUNTY OF SUTTER TO UPDATE THE RULES OF PROCEDURE CONSISTENT  
WITH STATE LAW

WHEREAS, on December 6, 2001, the Sutter County Local Agency Formation Commission approved Resolution No. 2001-7 setting forth the Rules of Procedure of the Commission; and

WHEREAS, periodically as needed the Commission has updated its Rules of Procedure as deemed necessary; and

WHEREAS, on August 25, 2016, the Commission considered modifications to certain practices under the Rules of Procedure pertaining to the Conducting Authority Proceedings and have determined that certain modifications are required for consistency with State Law. These changes are shown in Exhibit "B" of the Assistant Executive Officer's Report dated August 25, 2016, and by this reference, included herein.

Passed and adopted this 25<sup>th</sup> day of August 2016 by the following vote:

AYES: Commissioners Flores, Munger, Didbal, Ghag, Marler, Cochran, Jawanda

NOES: None

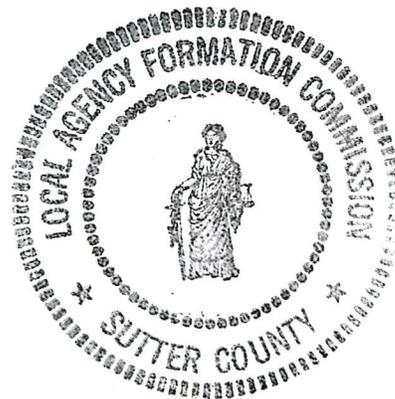
ABSTAIN: None

  
Chairperson

ATTEST:



Doug Libby  
Executive Officer



## **NAME AND ADDRESS OF COMMISSION**

The Local Agency Formation Commission established in Sutter County pursuant to Cortese Knox Hertzberg Local Government Reorganization Act of 2000 (Government Code Section 560001, et. sec.) shall be known as the Sutter County Local Agency Formation Commission.<sup>1</sup> The address of the Commission shall be the Sutter County Community Services Department, 1130 Civic Center Blvd., Suite A, Yuba City, California 95993.

## **LAFCO STRUCTURE AND ORGANIZATION**

The Sutter County Local Agency Formation Commission consists of the following members:

- Two members of the County Board of Supervisors and one alternate, appointed by the Board from its own members;
- Two City Council members and one alternate, appointed by the City Selection Committee;
- Two Special Districts representatives and one alternate, appointed by the Special Districts Selection Committee; and
- One Public Member and one alternate, appointed by the other six Commission members after review of applications.

Sutter County LAFCO is an independent body that contracts with the County of Sutter for its staffing needs. Sutter County LAFCO staff consists of:

- An EXECUTIVE OFFICER, who is required by state law to administer the day-to-day activities of the Commission and the staff, prepare and/or approve the "staff reports" which are circulated in advance for all items being considered by the Commission, and represent LAFCO in most matters in relationship with the public and other governmental bodies;
- An ASSISTANT EXECUTIVE OFFICER, who assists in doing the research, gathering data, and writing preliminary staff reports for proposals submitted to the Commission for consideration.
- A LEGAL COUNSEL, who interprets the law and gives legal advice to the Commission and staff on matters relating to LAFCO proceedings and decisions; and
- A PLANNER, who processes proposals submitted, who assists in doing the research, gathering data, conducting environmental reviews and writing staff reports for proposals submitted to the Commission for consideration.

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All citations references are to the Government Code unless otherwise noted.

- A CLERK TO THE COMMISSION who provides notices to people and agencies who should have these, and performs the clerical and secretarial duties for the office; maintains the records of proposals submitted, maintains the record of the official proceedings of the Commission, and files official reports to the many elements of state and local government who depend on LAFCO for changes in official records.

In addition other County staff members such as the County Assessor, Registrar of Voters, Planning staff, Auditor's Office and many cities and districts contribute to make up the background information contained in LAFCO staff reports.

## **BUDGET REQUIREMENTS AND PROCEDURES**

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 establishes the funding relationships between the County, the cities, the independent special districts, and LAFCO. The specific provisions for LAFCO funding are found in Government Code Section 56381, and can be generally summarized as follows:

Annually in the month of April, the Commission will adopt a "preliminary" budget and will forward that document to the County, to each city and independent special district in the county, and to "selection committees" for the cities and the special districts.

Throughout April and most of May, the County, the cities, and the independent districts have an opportunity to review and comment on the preliminary budget, and they may present their recommendations to the Commission at its public hearing scheduled in May. At the conclusion of this public hearing process, the Commission will adopt a budget, but it must adhere to language in Section 56381 that indicates, "At a minimum, the proposed and final budget shall be equal to the budget adopted for the previous fiscal year, unless the Commission finds that reduced staffing or program costs will nevertheless allow the Commission to fulfill the purposes and programs of this chapter."

By law, the Commission is required to adopt its final budget annually by June 15, and the budget is forwarded to the County Auditor/Controller. The County Auditor/Controller determines the total projected net operating costs for LAFCO by deducting projected filing fee and interest revenues, and divides that net cost into thirds. The County is responsible to fund one-third of the net operating cost for LAFCO.

The cities in the County are also responsible for funding one-third of the net operating cost through a formula outlined in Section 56381. In general terms, the Auditor/Controller determines the percentage that each city's total revenues bear to all of the revenues collected by all of the cities in the County. Each city would then be assigned that percentage as its share of the LAFCO cost.

The independent special districts in the County must also fund one-third of LAFCO's net operating cost. The cost for each district is determined by the percentage that each district's revenues "available for general purposes" bears to the combined districts' revenues available for general purposes.

State law also gives to the cities and the independent special districts the ability to develop an alternative funding method, if the alternative is supported by a majority of the agencies which represent a majority of the population in the cities or districts.

## **GENERAL PROCEDURES FOR CHANGES IN BOUNDARIES OR ORGANIZATION TO BE PROCESSED BY THE LOCAL AGENCY FORMATION COMMISSION**

The procedures for proposals considered by the Local Agency Formation Commission (LAFCO) are guided by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Section 56000 et seq.), and any proposal submitted must conform to the requirements outlined in the Act. The procedures outlined below represent broad guidelines as to the steps required:

### **1. INITIATION**

Generally, proposals for changes in boundaries, formations, or changes of organization can be submitted for the consideration of LAFCO by petition of the registered voters or affected landowners; however, prior to the circulation of any petition, a “Notice of Intent to Circulate” must be presented to the LAFCO Executive Officer. A proposal may also be initiated by a resolution adopted by the governing body of any related public body (county, city, or special district).

The proposal must be submitted on forms available from the LAFCO staff office, or on the LAFCO website ([www.co.sutter.ca.us](http://www.co.sutter.ca.us)), along with the applicable number of maps, legal descriptions, and filing fees to cover the proposal submitted.

### **2. LAFCO REVIEW PROCESS**

#### **a. Notice of Filing**

After receiving a proposal, LAFCO will issue a Notice of Filing to alert affected agencies of the item proposed, and requests from the Assessor and Auditor-Controller the ad valorem tax information pertinent to the proposal.

When the LAFCO staff office receives the tax information related to the proposal, it mails this information to the County Administrative Office and each affected city and/or special district.

**NOTE:** The proposal cannot be considered by the Commission until LAFCO receives from the County Board of Supervisors (for itself and affected districts) and any affected city, a resolution approving any changes in ad valorem tax distribution which is caused by the proposed change.

#### **b. Request for Environmental Review**

LAFCO staff conducts an initial environmental assessment of LAFCO proposals. The LAFCO review process cannot continue without a determination that the

proposal: (1) qualifies for an exemption as defined within the California Environmental Quality Act (CEQA); (2) receives a Negative Declaration which indicates that, if approved, the project will have no adverse effects; or (3) there is a completed Environmental Impact Report submitted for the project. Environmental determinations are reviewed and considered prior to Commission evaluation of the proposal.

c. Departmental Review Process

1. Basic information related to each proposal is mailed to every agency affected by the item and to the County Assessor, Auditor-Controller, Registrar of Voters, Planning, Surveyor, and Transportation Departments, etc.
2. Each department or agency is requested to comment on the proposal and submit information relating to it. Then a Departmental Review Committee (DRC) meeting is held (normally the second Thursday of the month), and all information and concerns are reviewed. Applicants are encouraged to attend in order that steps to rectify any problems discovered can be outlined.
3. The LAFCO Executive Officer or their designee prepares and distributes a report making a recommendation to the Commission relating to the proposal.
4. The item is considered by the Commission, and it either approves or denies the proposal.
- \* If the Commission denies the proposal, then it is legally terminated.
- \* If the Commission approves the proposal, LAFCO staff will provide a published Notice of Protest Proceeding announcing the date for consideration of protest and the procedure and requirements for a valid written protest to the proposal.
5. The LAFCO Executive Officer will consider the item at the time and date indicated on the protest hearing notice, and will make a determination of the level of protest submitted. A recommendation for action to approve, deny, or submit the proposal to an election based on the amount of written protest received shall be submitted to the commission at its next available hearing date.
6. Upon the successful completion of this protest process, the Clerk to the Commission files a "Certificate of Completion" with appropriate bodies. The date of this Certificate is the effective date of the action.

## **FACTORS LAFCO MUST CONSIDER**

State law provides a wide variety of factors that the Commission must consider in the review of a change of organization or reorganization. These are specified in Government Code Section 56668, and include, but are not limited to the following:

- Land area and land use.
- Topography, natural boundaries, and drainage basins.
- Population, population density, proximity to other populated areas, per capita assessed valuation.
- The likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next ten years.
- The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the County.
- The need for organized community services.
- The present cost and adequacy of governmental services and controls in the area, and probable future needs for such services and controls.
- The probable effects of the proposal and of alternatives on the cost and adequacy of services and controls in the area and adjacent areas. (As used, "services" refers to governmental services, including necessary public facilities, whether or not the services would be provided by local agencies under LAFCO's jurisdiction, i.e., educational services.)
- Conformity with appropriate city or county general and specific plans.
- The "sphere of influence" of any local agency which may be applicable to the proposal being reviewed.
- The effect of the proposal on maintaining the physical and economic integrity of agricultural lands.
- The definiteness and certainty of the boundaries of the territory, the non-conformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory and other similar matters affecting the proposed boundary.
- The conformity of the proposal and its anticipated effects with adopted Commission policies on providing planned, orderly, efficient patterns of urban development.

- The ability of the newly formed or annexing agency to provide the services which are identified in the application, and consideration of whether the revenues for those services will be sufficient.
- The timely availability of water supplies adequate for projected needs.
- The extent to which the proposal will assist the receiving entity in achieving its fair share of the regional housing needs as determined by the appropriate council of governments.
- Any information or comments from the landowner or owners, and residents of the study area.

## **ENVIRONMENTAL REVIEW REQUIREMENTS**

LAFCO is subject to the jurisdiction of the California Environmental Quality Act (CEQA), as are most public agencies. This statute requires specific procedures to be followed in terms of environmental review and the opportunity for public participation in the decision-making process.

The guidelines and policies outline the specific procedures used by LAFCO to tailor the general provisions of the State Guidelines to LAFCO's specific functions as both a "Responsible" and a "Lead" agency as those terms are defined in CEQA. The reader is referred to those environmental policies and procedures for information concerning the Commission's environmental process.

LAFCO staff reviews proposals that are filed with LAFCO and ensures the necessary environmental reviews have been completed.

## **POWERS AND DUTIES OF THE COMMISSION IN CONDUCTING PROTEST PROCEEDINGS**

Government Code Section 57000 (effective January 1, 2001) requires the Commission to conduct "protest proceedings" to determine whether the proposal can be ultimately approved without an election, whether an election should be held, or whether the proposal must be terminated due to majority protest. This is purely a ministerial process, where the Commission simply counts the written protest submitted to an action, determines the percentage that the landowner or voter protest bears to the total number of landowners and/or voters, and takes action based on that level of protest.

Because this is a ministerial process, the Commission may delegate the responsibility for conducting the protest hearings to the Executive Officer.

The purpose of the protest proceedings is to provide a forum wherein the popularity of the issue is tested. Depending on the results of that test, the proposal is either approved or denied, as shown in the following outline:

## **1. INITIATION OF PROCEEDINGS**

Within thirty-five (35) days of the adoption of a resolution of approval by LAFCO, the formal protest proceedings must be initiated by providing legal notices of the protest hearing. The final protest hearing must be set for a date not less than twenty-one (21) days or more than sixty (60) days after the notice is given.

The Commission may waive protest proceedings if the proposal contains 100% landowner consent, is uninhabited, and the affected agencies who would gain or lose territory as a result of the proposed jurisdictional change have provided written consent to the waiver of these proceedings, as authorized by Government Code Section 56663. That section also authorizes the Commission to waive protest proceedings for inhabited areas if none of the registered voters and none of the landowners have indicated opposition to the proposed annexation.

## **2. NOTICE**

The LAFCO Executive Officer must publish the notice of hearing to be held on the proposal in a newspaper of general circulation, and it must send individual notices to everyone who has formally requested such notice; and to other local agencies as outlined by statute at least 21-days prior to the public hearing.

## **3. FINAL HEARING**

The LAFCO Commission or Executive Officer shall conduct the final hearing and make findings related to the level of written protest received. A recommendation shall be made to the Commission to take one of the following actions:

**a. Approval**

If less than 25% of the voters in an "inhabited" proposal (legally defined as an area containing 12 or more voters), or if less than 50% of the landowners in an "uninhabited" proposal submitted written protest to the action, then the proposal must be approved, without an election.

**b. Call for Election**

If written protests are filed by at least 25% and less than 50% of the voters, or 25% - 100% of the landowners in an inhabited area, then an election must be called and held, so the voters may decide the issue.

**c. Denial**

If written protests are filed by 50% or more of the voters in an inhabited area, or if landowners representing 50% or more of the assessed value of an uninhabited annexation area have filed written protest, then the proposal must be denied.

**NOTE:** If the proposal is for city detachment or district annexation, the proposal shall be terminated if the detaching city or annexing district files an objection to that action, regardless of the level of consent or protest from affected landowners and voters.

#### 4. COMPLETION

If the proposal is approved, LAFCO issues a Certificate of Completion and notifies the state and other agencies of the successful jurisdictional change. If LAFCO has waived the protest proceedings, the resolution adopted by LAFCO is considered the final resolution and becomes part of the completion package.

### VALUE OF WRITTEN PROTESTS

Briefly outlined below are the levels of protest which require the Commission (or the Executive Officer, through delegation of responsibility) to call an election or terminate proceedings.

At the conclusion of the protest period, the written protest received will be counted, and one of the following actions will be taken:

1. For **uninhabited** annexations (defined in Government Code Section 56046 as those annexations which contain less than 12 registered voters):
  - a. Terminate the annexation if protest is received from landowners who represent 50% or more of the assessed value of land (improvement values are not counted) within the annexation area; or
  - b. Approve the annexation if written protest is submitted by landowners who own less than 50% of the assessed value of the annexation area.

**NOTE:** In uninhabited annexations, the issue is decided solely on the basis of landowner protest.

2. For **inhabited** annexations (those annexations which contain 12 or more registered voters):
  - a. Terminate the annexation if protest is received from 50% or more of the registered voters in the annexation area;
  - b. Call an election on the annexation issue if protest is received from at least 25% but less than 50% of the total number of voters in the annexation area, or if 25% to 100% of the number of landowners--representing at least 25% of the total land value--submit written protest; or,
  - c. Approve the annexation without an election if written protest is received from less than 25% of the voters and less than 25% of the landowners (who represent less than 25% of the land value).

**NOTE:** Although both landowners and registered voters may submit a protest against annexation, the ultimate outcome of an inhabited annexation is decided on the basis of registered voter protest or votes in a special annexation election. Thus, the most that can be accomplished through landowner protest in an inhabited annexation is the scheduling of an election wherein the voters- whether they own land or not--will decide the issue.

Further information concerning the annexation protest procedures can be obtained through review of the Cortese-Knox-Hertzberg Local Government Reorganization Act (Government Code Section 56000 et seq.). Specifically, Sections 57025, 57051, and 57075 will be the most relevant to your review.

## **COMMISSION RULES OF ORDER**

The following Rules of Order were originally adopted on June 14, 1978 for the conduct of business by the Local Agency Formation Commission of Sutter County County and the holding of regular meetings by such Commission.

If any of these rules of procedure and attendant policies are inconsistent or in conflict with the provisions of the Cortese-Knox-Hertzberg Act of 2000, the law relating to conflicts of interest, or the Ralph M. Brown Act, these latter provisions of law shall control.

### **RULE 1 - REGULAR MEETING**

The Commission shall convene in regular session at 4 p.m. on the fourth Thursday of each month, in the City Council Chambers of the City of Yuba City, 1201 Civic Center Boulevard, Yuba City, California.

If a regular meeting falls on a holiday, such regular meeting shall be held on the next business day. The Commission may change the time, date or place of any regular meeting to another time, date or place upon the majority vote of the Commission at an earlier meeting.

If for any reason the regular meeting location of the Commission is not available or must be changed, the Commission's Executive Officer may change the meeting's location upon notification and agreement of the Commission's chairperson and upon appropriate public notice.

Any regular meeting may be canceled by majority vote of the Commission. The regular monthly meeting may also be canceled by the Executive Officer upon either finding that the Commission has no business to conduct that month or that an emergency exists which precludes the Commission from meeting in regular session.

### **RULE 2 - ADJOURNED MEETINGS**

The regular meeting may adjourn and reconvene at any specific time and place upon a majority vote of the Commission members present at the regular meeting.

### **RULE 3 – QUORUM AND VOTING**

A majority of the total voting membership of the Commission shall constitute a quorum for purposes of conducting all business.

#### **RULE 4 – PROCEDURAL RULES**

- a. The chairperson shall identify the matter to be considered by announcing the hearing by agenda item number and the brief description of the subject contained in the agenda.
- b. Any Commissioner who wishes to be excused from participation on the issue should announce his/her intention immediately upon call of the agenda item by the chairperson.
- c. Prior to any further proceedings, the Commissioner shall vacate his/her seat and shall not resume his/her seat until an action on the item is taken. Normally, the Commissioner should not participate in the hearing as a member of the public unless the Commissioner is an applicant and no other person is available to offer testimony on his/her behalf.
- d. The chairperson may request that a summary of the staff report be presented.
- e. The chairperson shall ask for any correspondence received on this matter.
- f. The chairperson shall open the hearing and announce the order of testimony; first those in favor of the proposal, then those in opposition to the proposal, followed by any rebuttal. Upon notification by the chairperson prior to the opening of the public hearing, a time limit may be placed upon those persons wishing to speak.
- g. Each person addressing the Commission must first be recognized by the chairperson. That person then shall step to the rostrum and shall give his or her name and address for the record. Commissioners may at any time ask questions of those offering testimony. All remarks shall be addressed to the Commission as a body and not to any member except through the chairperson. No discussions between proponents and opponents shall be permitted, and all questions and remarks must be made through the Commission.
- h. Upon conclusion of the public testimony, the chairperson shall close the public hearing and request discussion of the issues by the Commissioners.
- i. If deemed necessary, the chairperson may reopen the public hearing, or may recognize persons wishing to testify further with concurrence of the Commission.
- j. If the Commission finds that insufficient information has been presented, or if additional information is required, it may by majority vote, continue the public hearing.
- k. Upon conclusion of the hearing and Commission deliberation, the Commission shall take action to approve, conditionally approve, or deny the agenda item.

#### **RULE 5 - CHAIRMAN'S ROLE**

The Chairman of the Commission shall preserve order and decorum and shall decide questions of order subject to an approved contrary motion by the Commission. In the Chairman's absence, the Vice Chairman shall act as Chairman.

**RULE 6 - QUESTIONS OF LAW**

Questions of law may be referred to Commission Counsel for opinion.

**RULE 7 – AGENDAS**

An agenda shall be prepared by the Commission staff for each meeting of the Commission and shall be distributed in accordance with the Government Code.

**RULE 8 - SPEAKER’S PRESENTATION**

The Chair may establish a time limit at the beginning of the public hearing. All members of the public should be encouraged to speak and provide new and relevant information into the discussion.

**RULE 9 - CONTINUATION OF PROPOSALS**

Actions pending before the Commission may not be continued beyond seventy (70) days from the date specified in the original Notice of Hearing except under special circumstances as determined by the Commission.

**RULE 10 - REFERRAL TO COMMITTEES**

Any matter coming before the Commission may, if deemed necessary, be referred to staff or a committee of the Commission for additional information.

**RULE 11 - APPOINTMENT OF STANDING AND SPECIAL COMMITTEES**

The Commission may appoint such standing and special committees as it may deem necessary.

**RULE 12 - PUBLIC MEETINGS**

All meetings of the Local Agency Formation Commission shall be open to the public, and all persons shall be permitted to attend any meeting of the Commission, except as otherwise provided herein.

**RULE 13 - CLOSED SESSIONS OF COMMISSION**

The Commission may hold Closed Sessions during a regular or special meeting to consider pending or potential litigation; the appointment, employment, or dismissal of an employee; or to hear complaints or charges brought against such employee, unless such employee requests a public hearing. The Commission may exclude from any such meeting, during the examination of a witness, any or all other witnesses in the matter being investigated by the Commission.

#### **RULE 14 - ADJOURNMENT OF COMMISSION HEARINGS**

The Commission may adjourn to a time and place specified in the order of adjournment. An insufficient number of Commissioners present to constitute a quorum shall be cause for adjournment. A majority of the members of the Commission (four) constitutes a quorum.

If all members are absent from any regular or adjourned regular meeting, the Clerk to the Commission may declare the meeting adjourned to a stated time and place, and shall cause a written notice of the adjournment to be given in the same manner as provided by law for special meetings.

#### **RULE 15 - TIE VOTES OF COMMISSION**

A tie vote on a motion to either approve or to disapprove any application or proposal shall constitute a disapproval of such application or proposal, except that such action may be nullified by the subsequent affirmative vote of the Commission on the matter or by a vote to continue final action to a later specific date within the time limit provided by law for such action.

#### **RULE 16 - CALLING OF EMERGENCY OR SPECIAL HEARINGS**

An emergency or special meeting may be called at any time by the Chairman of the Commission, or by a majority of the members of the Commission. Notice of such meeting must be delivered personally or by mail at least twenty-four (24) hours before the time of such meeting. The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such special meeting.

#### **RULE 17 - CHAIRMAN'S VOTING PRIVILEGES**

The Chairman and Vice Chairman of the Commission shall, in voting procedures, have all the rights and obligations of other members.

#### **RULE 18 - PARTICIPATION OF ALTERNATE MEMBERS IN DISCUSSION OF PROPOSALS**

All members of the Commission, both regular and alternate, are encouraged to participate in the discussions of a proposal before the Commission; however, only regular members may vote on the action. Alternates may vote only when sitting in the place of a regular member who is absent or is disqualified for a particular action.

#### **RULE 19 - DISQUALIFICATION OF MEMBERS ON VOTING**

The representation by a member or alternate of a city or district shall not disqualify, or be cause for disqualification of, the member or alternate from acting on a proposal affecting the city or the district, as provided by Government Code Section 56336.

## **RULE 20 - ABSTENTION OF VOTING**

The determination by a Commissioner to abstain from voting on any action before the Commission does not indicate, and shall not be counted as, either an "aye" or "no" vote on that count.

## **RULE 21 - ELECTION OF CHAIRMAN AND VICE CHAIRMAN**

The Chairman shall be elected each year, during the first meeting of the year by a majority of the Commission. The Vice Chairman shall also be elected at this meeting.

## **RULE 22 - SUSPENSION OR CHANGE TO RULES OF ORDER**

Any of the within rules not required by law may be suspended or changed by a majority of the members of the Commission.

## **RULE 23 – ACTION BY RESOLUTION**

All final determinations and actions of the Commission on proposals shall be taken by resolution. All resolutions shall be adopted by roll call vote recorded in the Commission minutes and signed by the acting chairperson. The records and minutes of the Commission shall be signed by the Executive Officer or duly appointed designee.

## **GENERAL POWERS AND POLICY GUIDELINES**

The Local Agency Formation Commission is a state-mandated entity, established for each county in the state and is independent of local county, city or district governmental jurisdiction.

### **POLICY #1 - PURPOSE**

The purposes of the Local Agency Formation Commission are provided by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, and include the following:

- a. Discourage urban sprawl;
- b. Encourage orderly formation and development of local governmental agencies, based on local conditions and circumstances;
- c. Initiate and make studies of governmental agencies;
- d. Develop spheres of influence for each local governmental agency.

## **POLICY #2 - POWERS**

The powers of LAFCO include the following:

- a. REVIEW AND APPROVE OR DISAPPROVE PROPOSALS with or without amendment, wholly, partially, or conditionally:
  1. Annexation of territory to cities or special districts.
  2. Exclusion of land from cities or special districts.
  3. The consolidation of two or more cities, or two or more special districts formed under the same principal act.
  4. The formation of new special districts and the incorporation of new cities.
  5. The dissolution of special districts and disincorporation of cities.
  6. The merger of cities and special districts.
  7. Reorganizations which involve boundary changes to two or more cities or special districts as part of one proceeding.
  8. Review of city or special district contracts for service outside of their boundaries (as of January 1, 1994).
  9. Review and approve proposals that would extend services into previously unserved territory within unincorporated areas. (Added by statutes effective January 1, 2001.)
  10. Conduct service reviews of the municipal services provided in the county on a regional or subregional basis, and provide written statements with respect to infrastructure needs, growth and population projections, financing constraints, cost avoidance opportunities, opportunities for shared facilities, and other factors in Government Code Section 56430. (Added by statute effective January 1, 2001.)
  11. Initiate and make studies of existing governmental agencies, which may include inventorying such agencies.
  12. Initiate proposals for consolidation of special districts, the merger of a special district with a city, the dissolution of a special district, the establishment of a subsidiary special district, or a reorganization which includes any of these outlined changes.
- b. ADOPT EVALUATION STANDARDS and procedures for the evaluation of proposals which shall include, but are not limited to, the following factors identified in Government Code Section 56668:

1. Conformity of the proposal and its anticipated effects on Commission policies on providing planned, orderly, efficient patterns of urban development and priorities.
  2. Conformance with local city or county general plans.
  3. The sphere of influence of any local agency which might be affected.
  4. Effect of the proposed action and of alternative actions on adjacent areas, mutual social and economic interests, and local governmental structure of the county.
  5. Land area and land use.
  6. Population and population density.
  7. Determine if the area is inhabited or uninhabited.
  8. Proximity to other populated areas.
  9. Likelihood of significant growth during the next ten years.
  10. Effect of proposal on maintaining physical and economic integrity of lands in agricultural preserves and open space uses.
  11. The proposed boundaries in relation to lines of assessment or ownership; the creation of islands or corridors of unincorporated territory.
  12. Natural boundaries and drainage basins.
  13. Assessed value.
- c. PLAN FOR SERVICE: The plan for service shall be prepared and submitted by each local agency affected by a proposed change of organization, regardless whether that proposal is initiated by resolution or petition. In the case of a proposed annexation, the plan for service must demonstrate that the range and level of services currently available within the study area will, at least, be maintained by the annexing agency. For those proposals involving a reorganization consisting of annexations to multiple agencies, the plan for service shall also be required for each affected agency.
- d. SPHERES OF INFLUENCE: Government Code Section 56425 requires that LAFCO establish spheres of influence for each city and special district in the county, and may establish spheres for unincorporated communities, open space use, or agricultural preserves.
- e. TWO OR MORE PROPOSALS FOR THE SAME AREA: If two or more proposals pending before the Commission shall conflict or be inconsistent with each other, the Commission may determine the relative priority for conducting further proceedings on

these proposals. In the absence of any such determination, priority shall be given to that action which was first filed with the Executive Officer.

- f. REORGANIZATION COMMITTEE: The Commission may require the establishment of a reorganization committee for reorganization proposals and to adopt standards and procedures for the evaluation of any plan of reorganization or alternate plan reported on by such committee.
- g. CONDUCT SPECIAL STUDIES: The Commission may initiate and make studies of existing governmental agencies including, but not limited to, inventorying such agencies and determining their maximum service area and service capacities.
- h. OPEN SPACE: It is the intent of the Legislature that Commissions establish policies and exercise their powers so as to encourage and provide planned, well ordered, efficient urban development patterns with appropriate consideration of preserving open space lands within such patterns.
- i. CONDUCTING AUTHORITY: The Cortese-Knox-Hertzberg Local Government Reorganization Act, taking effect on January 1, 2001, assigned the responsibility of conducting protest proceedings to the Commission itself. The Commission may determine to delegate this authority to the Executive Officer.
- j. NONCONTIGUOUS TERRITORY ANNEXATION: The Commission has the authority to approve the annexation of unincorporated noncontiguous territory, not exceeding 300 acres in area, located in the same County, and which is owned by the annexing city and used for municipal purposes and to authorize this annexation without notice or hearing.

All other changes of organization shall conform with the definition of "Contiguous" as specified in Government Code Section 56031.

- k. INHABITED ANNEXATION: In an inhabited annexation to a city, where the area to be annexed equals 50% or more of the assessed value of the city, or the number of registered voters in the area to be annexed is 50% or more than the number of registered voters in the city, the reorganization (annexation) shall be subject to the confirmation of the voters in the area to be annexed and the voters of the city.
- l. DISTRIBUTION OF ASSETS AND LIABILITIES: The Commission may determine the distribution of all assets and liabilities, including recommendations for retaining employees, for all consolidations, mergers, dissolutions, and creations of subsidiary districts, or any other proposal, and shall note such distribution in its resolutions.
- m. CONSOLIDATION OF CITIES: After approval for the consolidation of two or more cities, the Commission will determine which shall be the consolidated successor city.
- n. FINANCIAL ASSISTANCE: The Commission, or the Board of Supervisors on behalf of the Commission, is authorized to apply for or accept, or both, any financial assistance and grants-in-aid from public or private agencies or from the state and federal governments or from a local government.

### **POLICY #3 - ENVIRONMENTAL ASSESSMENT**

The California Environmental Quality Act Guidelines (Administrative Code Section 15000 et. seq.) are adopted as the Commission's Guidelines, as allowed under Section 15022(d) of those Guidelines.

### **POLICY #4 - PRIORITIES FOR ANNEXATION AND FORMATION**

The Commission will consider the following priorities or guidelines for annexation and formation with the provision that overriding circumstances must be stated in exceptions:

- a. Annexation to an existing city or district instead of formation of a new agency.
- b. Annexation to a city rather than a district if both can provide comparable services.
- c. Annexation to a multi-purpose district in preference to annexation to a single purpose district.
- d. Formation of a new political entity as the last and least desirable alternative.

### **POLICY #5 – PRE-ZONING FOR CITY ANNEXATIONS**

Pursuant to Government Code Section 56375, all pre-zoning designations shall remain in effect for at least two years unless the City Council makes specified findings relating to changed conditions and circumstances. No city annexation application will be deemed complete unless the pre-zoning process has been completed.

The adopted procedure for pre-zoning is as follows:

Such pre-zoning shall also require that the city become the lead agency for environmental review for the proposed change and shall prepare and submit to LAFCO the environmental assessment forms in sufficient time for LAFCO to review and comment before a determination of environmental effects is made.

### **POLICY #6 - CONCURRENT CITY-DISTRICT ANNEXATIONS AND DETACHMENTS**

For any annexation to a city which has lands provided municipal service(s) by an independent special district(s) or County Service Area(s), the Commission shall require concurrent detachment from the district or service area as part of the annexation proposal. Municipal services shall not include services provided by reclamation, levee or drainage districts.

### **POLICY #7 - SPECIAL DISTRICT REPRESENTATION**

The Commission has adopted "Rules and Regulations" pursuant to Government Code Section 56332 which permits Special District Representation on the Commission. The Rules and Regulations for special districts are included this manual.

## **POLICY #8 - NOTICE OF VACANCY FOR PUBLIC MEMBER**

Upon announcement that a vacancy for the public member or alternate public member will exist, the Executive Officer shall:

- a. Post a vacancy notice inviting all interested citizens of the County of Sutter to apply within thirty (30) days of posting. The Notice shall be posted at the following locations:
  1. LAFCO staff office and hearing chambers;
  2. Board of Supervisors hearing chambers;
  3. Any other location directed by the Commission;
  4. Provide a Notice of Vacancy to all City Clerks and the Clerk of the Board of Supervisors; and,
  5. Issue a press release for the purpose of further advertising the vacancy.
- b. The Executive Officer shall accept no application after the expiration of the thirty (30) days, and shall forward all applications to the members of the Commission. Only applications received by the Executive Officer may be considered for appointment.
- c. The Commission may select a personnel committee from among its membership for the purpose of reviewing applications and bringing its recommendations to the full Commission.
- d. The nominee receiving a majority of the votes cast by eligible Commission members will be appointed to the vacant position for either the unexpired or full term and/or until appointment and qualification of a successor.
- e. Effective January 1, 2001, Government Code Section 56325 requires that the Public and Alternate Public Member candidate must receive an affirmative vote from at least one County Member, one City Member, and one Special Districts member for appointment to that position.

## **POLICY #9 - SUFFICIENCY OF SIGNATURES ON PETITIONS AND NUMBER OF REGISTERED VOTERS**

The Commission recognizes that the review and approval process for many proposals may be changed, and the number of registered voters affected:

- a. For proposals where petitions are circulated prior to LAFCO approval and for the determination of inhabited or uninhabited actions, the date of the Notice of Filing issued by LAFCO shall be the determining date for the number of registered voters residing within the affected area.

- b. For conducting authority proceedings where petitions may be circulated after LAFCO approval, the number of registered voters residing in an area on the date of LAFCO approval is the number of registered voters on which the sufficiency of any petition is based.

### **POLICY #10 - EFFECTIVE DATE AS A FUNCTION OF THE CERTIFICATE OF COMPLETION**

Unless otherwise specified by the Commission, the effective date for all actions shall be the date of issuance of the Certificate of Completion.

### **POLICY #11 - REQUESTS FOR RECONSIDERATION**

Requests for reconsideration will be granted only when the petitioner can present some compelling new evidence, or show that significant factors relative to the situation were overlooked or have changed. The request shall be submitted in writing to the Executive Officer within thirty (30) days of the Commission's decision.

No request shall be deemed filed unless appropriate filing fees are submitted. In the event multiple requests for reconsideration are filed, the Executive Officer will divide a single reconsideration fee among the various petitioners for reconsideration.

The adopted procedure for reconsideration requests is as follows:

- a. Upon receipt of a legally filed request for reconsideration, the Executive Officer shall place the request on the agenda of the next Commission meeting for which notice can be provided. At the hearing, the Executive Officer will present the staff report and recommendations to the Commission and respond to questions. The Commission will then allow submission of any oral or written testimony on the issue; however, at the Chair's discretion, time limits may be placed on those wishing to provide an oral presentation. At the close of the hearing, the Commission may take one of the following actions:
  - 1. The Commission may approve the request, and adopt a resolution superseding the resolution previously issued;
  - 2. The Commission may deny the request; or
  - 3. The Commission may continue the hearing for a maximum of seventy (70) days.

### **POLICY #12 - WAIVER OF FILING FEES**

A request for waiver or reduction of LAFCO filing fees must be submitted in writing to the Executive Officer and contain specific reasons for the request along with the submission of the application. The Executive Officer shall present the request for waiver at the next regular hearing for Commission consideration. The Commission may authorize a full waiver of the applicable LAFCO fee, or may provide for a reduction in the total fee due based upon the special

circumstances of the proposal. Processing of an application for jurisdictional change shall be held in abeyance until a decision is rendered by the Commission regarding the appeal of fees.

Circumstances that would support the granting of a waiver or reduction in fees are:

1. Correction of a technical boundary problem (split parcel, boundary overlap, etc.);
2. The proposal seeks to accomplish a defined Commission goal or policy. This includes proposals for consolidation of special districts, dissolution of a special district, or petition-initiated proposals to annex unincorporated territory that is totally or substantially surrounded by city boundaries.
3. Request is for Commission approval of an out-of-agency service contract in order to alleviate a health and/or safety problem as defined by Commission policies.

### **POLICY #13 - ROTATION OF CHAIRMAN AND VICE CHAIRMAN**

The Chairman and Vice Chairman positions shall be limited to two consecutive one-year terms.

### **POLICY #14 - PUBLIC COMMENT PORTION OF THE COMMISSION'S AGENDA**

The Commission encourages the public to attend its hearings and address the Commission during the "public comment" item on the agenda. Comments must be limited to issues which are under the jurisdiction of the Commission. Oral and written comments may be presented; however, the length of oral comments may be limited by the Chair.

The Commission cannot take any action on the comments except to direct staff to review the issue and submit a report at a future public hearing.

### **POLICY #15 - DISQUALIFICATION OF MEMBERS FROM VOTING**

No member of the Commission is disqualified from voting on any item being considered by the Commission, except in those instances in which the member has a financial conflict of interest.

In any situation in which a member disqualifies themselves for whatever reason or is absent, the Alternate member may vote.

### **POLICY #16 - RETENTION OF MATERIALS UTILIZED DURING COMMISSION HEARINGS**

Any person utilizing or presenting any audio, visual, or written materials at the LAFCO public hearing must be prepared to provide a copy of every item to the Clerk of the Commission at the time the presentation is made.

### **POLICY #17 - INCORPORATION POLICIES**

The following are the policy statements that the Commission has adopted to assist in the guidance of unincorporated communities in their review of governmental options.

- a. Incorporation proposals involving land within an existing city sphere of influence will not be accepted for filing. If a city-hood proposal would conflict with an established city's sphere of influence, the incorporation proponents must first initiate, and the Commission must approve, a sphere of influence amendment to exclude the study area from that sphere prior to circulation of formal incorporation petitions.
- b. The Commission defines "financial feasibility" to mean the ability of a new city to maintain pre-incorporation service levels, with sufficient resources to provide a municipal-level law enforcement service consistent with the recommendations of the County Sheriff.
- c. In determining feasibility, the Commission will consider only those revenues that are currently available to all general law cities. It will not consider revenues derived through special taxes or assessments, nor will it consider hypothetical revenues available through possible actions of a future city council (e.g., utility users taxes) in the determination of financial feasibility.
- d. In determining feasibility, the Commission requires that proposed staff salary costs shall be based on an average of similar-sized cities or those cities which have the most comparable population within the County of Sutter, Yuba County, Sacramento County, Placer County and Yolo County.
- e. In determining compliance with Government Code Section 56720, the Commission finds that a "reasonable reserve" is a contingency fund equal to 10% of the projected general and special funds of the new city.
- f. The Commission requires that a new city shall assume jurisdiction over all community-based special districts serving the incorporation area. A clear and compelling rationale must be provided if the continued overlay of a community-based district is proposed.
- g. In order to qualify for incorporation, the community in question must contain a minimum of 1,000 people as determined by available census data or other reliable means (e.g., utility connections), and the sales tax revenues attributable to the study area must at least cover the expected administrative and legislative costs of the new city.
- h. A request for review of the Comprehensive Fiscal Analysis, pursuant to Government Code Section 56833.3, must be made, in writing, no later than 30 calendar days from the notice of release of the Comprehensive Fiscal Analysis by the Executive Officer by publication pursuant to Section 56153 of the Government Code. The request must specify in writing the element or elements of the Comprehensive Fiscal Analysis which the Controller is requested to review and the reasons the Controller is requested to review them.

The person requesting such review shall be responsible for any costs incurred in such review. They shall deposit with the Executive Officer, at the time the request is filed, in the form of a cashier's check, the amount estimated, by the Executive Officer, to be necessary to cover the cost of the State Controller's review. This estimate of costs shall

include, but not be limited to, the estimated charge by the State Controller, LAFCO staff costs, and costs for any LAFCO consultants required to assist the Controller in his review. No request shall be valid unless accompanied by the deposit specified in this rule. Should the Controller's review support the reason(s) for the challenge, the proponents of the incorporation shall be liable for all costs approved by the Commission other than the Controller's charge. The determination of the Commission regarding the sufficiency of the challenge as well as the allocation of responsibility for payment of costs other than the Controller's cost shall be final.

The deposit shall be deposited in the County Treasury and all costs shall be paid from it. Within 30 days of issuance of the State Controller's report, the Executive Officer shall refund any amount remaining after all costs have been paid. In the event that the amount is in excess of the deposit, the interested filing party shall be liable for the balance.

### **POLICY #18 - OUT-OF-AGENCY SERVICE CONTRACTS OR AGREEMENTS**

- a. The Commission has determined that the Executive Officer shall have the authority to approve, or conditionally approve, proposals to extend services outside jurisdictional boundaries in cases where the service extension is proposed to remedy a clear health and safety concern. In addition, the Executive Officer shall have the authority to approve or conditionally approve service extensions where the services in question will not facilitate development (for example, an inter-agency contract for fire protection services). In cases where the Executive Officer recommends denial of a proposed service extension, that proposal shall be placed on the next agenda for which notice can be provided. After the public hearing, the Commission may approve, conditionally approve, or deny the contract.
- b. In the case where a city or district has acquired the system of a private or mutual water company prior to the enactment of this legislation, those agencies shall be authorized to continue such service and provide additional connections within the service area of the private or mutual water company defined by the Public Utilities Commission or other appropriate agency, at the time of acquisition without LAFCO review or approval as outlined in Government Code Section 56133. The continuation of service connections under this policy shall not be constrained by the sphere of influence of that local agency at the time.

Proposals to extend service outside this previously defined service area would come under the provisions of Govt. Code Section 56133 for the review and approval by the Commission prior to the signing of a contract/agreement for the provision of the service.

### **POLICY #19 – GENERAL NOTICE AND INDIVIDUAL NOTICE OF COMMISSION HEARINGS TO LANDOWNERS AND REGISTERED VOTERS**

Pursuant to Govt. Code Section 56154, if published notice is a notice of a hearing, publication of the notice shall be commenced at least 21-days prior to the date specified in the notice for the hearing.

In implementing the provisions of Government Code Section 56157, the Commission determines that LAFCO staff shall provide individual notice of Commission hearings as follows:

- a. If notice is being provided to a county, city, or district, it shall be addressed to the clerk of the county, city, or district.
- b. If notice is being provided to a commission, it shall be addressed to the executive officer.
- c. If notice is being provided to proponents, it shall be addressed to the persons so designated in the petition at the address specified in the petition.
- d. If notice is being provided to landowners, it shall be addressed to each person to whom land is assessed, as shown upon the most recent assessment roll being prepared by the county at the time the commission adopts a resolution of application, at the address shown upon the assessment roll.
- e. If notice is being provided to a person(s) requesting special notice, it shall be addressed to each person(s) who has filed a written request for special notice with the executive officer or clerk at the mailing address specified in the request.
- f. If notice is being provided to all registered voters and owners of property, staff shall use the address as shown on the most recent assessment roll being prepared by the county at the time a resolution of application is adopted to initiate proceedings within 300 feet of the exterior boundary of the property that is the subject of the hearing at least 21 days prior to the hearing. This requirement may be waived if proof satisfactory to the commission is presented that shows that individual notices to registered voters and landowners have already been provided by the initiating agency. Notice shall also either be posted or published in one newspaper 21 days prior to the hearing. If this section would require more than 1,000 notices to be mailed, then staff may provide notice instead by a 1/8<sup>th</sup> page display legal ad that is placed in a newspaper of general circulation or a local newspaper for the area.

The proponent(s) of the action shall reimburse the Commission's costs associated with providing the notice described by this policy.

#### **POLICY #20 – PARTICIPATION OF ALTERNATE COMMISSION MEMBERS IN OPEN AND CLOSED SESSIONS OF THE COMMISSION**

Alternate members of the Sutter County LAFCO are encouraged to attend and participate in discussion in all open and closed meetings of the Commission. Alternate members may not vote, however, unless a regular member, from the same representation category as the alternate, is absent or disqualifies himself or herself from participating in a meeting of the Commission.

#### **POLICY #21 – ISLAND ANNEXATIONS**

- a. The Commission will not permit a city to reduce the size of an existing island through normal annexation proceedings for the purpose of allowing the remaining island to be processed under the provisions of Government Code Section 56375.3.

- b. The Commission will define the term “substantially surrounded” on a case-by-case basis, through review of land uses, infrastructure, and patterns of service delivery within the island area and surrounding lands. No specific percentage of boundary contiguity will be applied across the board for all proposals purporting to be “substantially surrounded”.

**POLICY #22 – CONDUCT OF PROTEST HEARINGS**

The Commission may determine that the responsibility for conduct of protest hearings, including notice, solicitation of protest, and evaluation of protest levels, is delegated to the Executive Officer. The Commission shall adopt the final resolution that completes the action based upon the level of protest submitted.

**POLICY #23 -- EXEMPTION OF MINOR SPHERE AMENDMENTS FROM SERVICE REVIEW REQUIREMENT**

Government Code Section 56430(c) requires that municipal service reviews be conducted prior to, or in conjunction with establishing or updating a sphere of influence. The Commission recognizes there may be minor adjustments that become necessary from time to time to spheres of influence. It is the Commission’s policy to generally not require that a municipal service review be prepared as part of a minor sphere of influence change for a district or city meeting the following criteria:

- a. The cumulative acreage of all minor sphere of influence amendments between comprehensive sphere updates shall not exceed 3 percent of the acreage of the sphere of influence, as established by the last comprehensive sphere update and municipal service review. If a minor sphere of influence amendment proposal would exceed the cumulative 3 percent threshold outlined above, a municipal service review shall be required to be completed.
- b. There are no objections from other agencies that are authorized to provide the services the subject agency provides and whose sphere of influence underlies or is adjacent to the subject territory.

Notwithstanding the foregoing, the Commission reserves the discretion to require the conduct of a municipal service review when it deems appropriate, even though a proposal might meet the above criteria.

**POLICY #24 – MUNICIPAL SERVICE REVIEW POLICIES**

**General Policy Statement:**

The Commission recognizes that municipal service reviews can be an important tool in promoting logical, orderly, and efficient service patterns for local agencies and citizens. The Commission recognizes that such reviews, to be meaningful, must be accomplished with the participation and cooperation of affected local agencies. Finally, the Commission recognizes that

the applicability of specific factors required for such reviews may vary substantially based on the unique conditions and circumstances found in Sutter County.

It is the Commission's position that municipal service reviews must be conducted, whenever possible, through a participative and cooperative approach with affected agencies. As the Commission conducts its sphere of influence review/municipal service review responsibilities, the first step by staff shall be to convene a meeting with the affected district's manager/board members to discuss the matter.

Through those discussions, specific service review factors can be identified for further review, and some review factors might be set aside as not requiring further study. Where disagreements among agencies or LAFCO staff might exist as to the applicability of a specific factor, the matter will be brought to the Commission at a public hearing for decision.

It is the Commission's direction to staff that it shall incorporate its findings related to municipal service reviews within the staff report prepared for the required sphere of influence study. This will streamline the process and provide a more efficient Commission hearing schedule. The Commission can then incorporate its sphere of influence and municipal service review findings within one resolution of approval.

#### **Function-by-Function Approach:**

To further the goals of Section 56430, the Commission will conduct municipal service reviews on a function-by-function approach (e.g., water functions, fire functions, etc.), with the participation of the district's management and/or board members responsible for delivering such services.

#### **Responses to Statutory Findings:**

The Commission recognizes that Section 56430 requires written responses to specific findings in the conduct of municipal service reviews. The Commission recognizes, however, that some or all of the factors listed may not be applicable to specific reviews. Based on discussions, testimony, and appropriate other input from affected agencies and interested parties, the Commission finds that its statutory obligation for written findings will be fulfilled by indicating that, "No substantive issues relative to this factor were identified" when appropriate.

## **SPHERE OF INFLUENCE PURPOSE**

Government Code Section 56076 defines a sphere of influence as "a plan for the probable physical boundaries and service area of a local agency, as determined by the commission." It is an area within which a city or district may expand, over an undefined period of time, through the annexation process. In simple terms, a sphere of influence is a planning boundary within which a city or district is expected to grow into over time. The purpose of a sphere of influence is to encourage the "logical and orderly development and coordination of local government agencies so as to advantageously provide for the present and future needs of the county and its

communities.” The following enumerated items comprise the statement of purpose adopted by Sutter County LAFCO for spheres of influence:

1. To promote orderly growth of communities, whether or not services are provided by a city or district (board governed or independently governed);
2. To promote coordination of cooperative planning efforts among the county, cities, special districts, and identifiable communities by encouraging compatibility in their respective general plans;
3. To guide timely changes in jurisdiction by approving annexations, reorganizations, etc., within a sphere of influence only when reasonable and feasible provision of adequate services is assured;
4. To encourage economical use and extension of facilities by assisting governmental agencies in planning the logical and economical extension of governmental facilities and services, thereby avoiding duplication of services;
5. To provide assistance to property owners in relating to the proper agency to comprehensively plan for the use of their property;
6. To review, update, and/or change existing spheres of influence periodically to reflect planned, coordinated changes in factors which impact on spheres of influence;
7. To encourage the establishment of urban-type services only within an adopted sphere of influence.

The Commission emphasizes that a sphere of influence is a planning tool and the establishment of a sphere of influence, or the inclusion of territory within a sphere of influence of an existing governmental entity, does not automatically mean that the area is being proposed for annexation or development.

#### Establishment of a Sphere:

As outlined under state law, the Commission is designated as the public body responsible for determining spheres of influence for each city and district within its jurisdiction.

As a function of incorporation and as outlined in Government Code Section 56426.5, the Commission must establish a sphere of influence for a newly-incorporated city within one year of its incorporation effective date. Usually within six months of a city’s effective date, the LAFCO staff notifies the city of the requirement pursuant to state law. The sphere proposal may be initiated by the Commission, the city council, or the County Board of Supervisors, through adoption of a resolution of the governing body.

State law also stipulates that a sphere of influence will not be established or changed without specific review and study independent of any action before the Commission at the time. Public hearings are held to review sphere of influence proposals such as establishment, amendment, or

in connection with any proposed annexation, which may or may not involve another agency's sphere of influence.

Factors of Consideration:

As part of a sphere of influence review and as outlined in Government Code Section 56425, LAFCO is required to review four "factors of consideration" in connection with any sphere of influence proposal. The factors of consideration are as follows:

1. The present and probable land uses within the area, including agricultural and open space lands;
2. The present and probable need for public facilities and services in the study area;
3. The present capacity of public facilities and the adequacy of public services that the agency provides or is authorized to provide; and
4. The existence of any social or economic communities of interest in the study area.

In these categories of review, a city or district must show that its planning activities can be beneficial to the area, and that the initiation of those activities is appropriate. None of the above factors by themselves shall be deemed to be a determining factor in the establishment or revision of a sphere of influence for a city, district, or community area, but shall be reviewed as part of the total project. The factors of consideration noted above are addressed individually within the staff's report for each sphere of influence proposal.

**COMMISSION POLICY GUIDELINES  
FOR SPHERES OF INFLUENCE**

The approaches and/or methods listed below are policies adopted by Sutter County LAFCO. The policies guide the Commission's review in its determination of spheres of influence, periodic reviews and/or updates, and any amendments of those sphere boundaries.

Concurrent Sphere Reviews

The Commission may include additional agencies as part of its review of a sphere of influence proposal. In considering the sphere of influence of a community, the Commission will concurrently evaluate all agencies serving that community, and as a policy guideline, it will need to establish a single, coterminous sphere for all such agencies.

Coterminous Boundaries

The Commission may establish a sphere of influence which is coterminous with existing city/district boundaries when it is not feasible for the public agency to expand beyond its present boundaries. However, as outlined in state law, a sphere of influence must be established for each city and district, regardless whether the sphere boundary is the same as the city or district boundary.

### Environmental Review for a Sphere

A sphere of influence proposal requires review of the environmental aspects of the proposed sphere. The environmental review process is a requirement outlined in the California Environmental Quality Act (CEQA) that applies to the review of sphere of influence proposals. In compliance with CEQA and the State CEQA Guidelines, Sutter County LAFCO has adopted its own Guidelines and Policies Implementing CEQA. The Commission's Guidelines and Policies tailor the general provisions of CEQA to LAFCO's specific functions as both a "Responsible" and a "Lead" agency. The Guidelines and Policies also provide specific procedures used by Sutter County LAFCO to implement CEQA.

Each sphere of influence proposal involving establishment, expansion, reduction, or submitted as part of the annexation proposal, must be reviewed by the Commission's environmental consultant. As a requirement of LAFCO's review, the environmental assessment must be completed prior to the Commission's review of the item.

### Modification of a Sphere Review Area

During the review of a sphere of influence proposal, the Commission may modify the area of review by expanding or reducing the area of review. The expansion or reduction of a sphere may be for several reasons, such as to include areas that may be better served by a public agency, or exclude areas that may be better served by another public agency.

### Periodic Review/Update of a Sphere

As a function of its duties and responsibilities, LAFCO is required to periodically review and/or update spheres of influence. Government Code Section 56425 requires the Commission to review and update, if necessary, all spheres of influence for cities and special districts at least once every five years.

The periodic sphere review does not preclude a public agency (city or district), or an individual from initiating a sphere proposal. The purpose of the periodic sphere review plan is to keep abreast of changes occurring within the public agencies under the jurisdiction of LAFCO.

### Requirement for a Sphere Review in Relationship to Annexation

State law precludes the Commission from approving annexation proposals lying outside of current sphere of influence boundaries for the affected city or district. If an annexation proposal lies outside the sphere of influence of a city or district, the annexation proposal must also include a sphere review. The joint sphere and annexation review is to maintain consistency in city or district boundaries and their sphere boundaries, for the extension and provision of services as it relates to proposed annexation sites.

### Responsibility/Obligation for a Sphere Area

When a sphere of influence is assigned, a city or district is required to commence long range land use and service planning activities, thereby enabling it to respond to any annexation requests it might receive from landowners or residents within the sphere. By accepting a sphere of influence, a city or district agrees to plan for the provision of services.

### Urban Development within a City Sphere

LAFCO takes the position that any new urban development which occurs within a city sphere of influence should take place as close to the city's urban area as possible. This position is emphasized for two reasons: First, so that contiguous areas may easily be annexed to the city; and secondly, so that the new urban area can be served by reasonable extension of the city's already developed municipal services.

**RULES AND REGULATIONS OF THE  
LOCAL AGENCY FORMATION COMMISSION  
OF SUTTER COUNTY  
AFFECTING FUNCTIONS AND SERVICES OF SPECIAL DISTRICTS  
AND  
REPRESENTATION ON THE COMMISSION BY  
INDEPENDENT SPECIAL DISTRICTS**

**I. SPECIAL DISTRICT ADVISORY COMMITTEE RULES OF PROCEDURE**

A. Purpose - The purpose of the Special District Advisory Committee shall be to study proposals affecting the functions of and rules and regulations applying to independent special districts within Sutter County and to make a report and recommendations concerning those rules and regulations to the Local Agency Formation Commission.

B. Membership - The membership of the Special District Advisory Committee shall be one person selected by each independent special district either located wholly within Sutter County or containing territory within the County that represents 50 percent or more of the assessed value of taxable property of the district. The person selected by each district may be any member of the legislative body, employee or officer of the subject district.

Upon adoption of a Resolution of Intention setting a date, time and place for the initial meeting of the Committee, each independent special district shall notify the Executive Officer of the name, title, address and telephone number of the person that the legislative body of the district has appointed to serve on the Committee.

C. Meetings - The Commission shall set the date, time and place of the initial Committee meeting. The Committee may continue its meeting from time to time to a date, time and place certain.

D. Quorum - Members representing a majority of the eligible districts shall constitute a quorum for the conduct of Committee business. No meeting shall be called to order (1) earlier than the time specified in the notice, and (2) until a quorum has been declared to be present.

E. Selection of Officers - The Committee, at its first meeting, shall elect a chairperson who shall preside at meetings of the Committee. The Committee shall also elect a vice-chairperson who shall preside at meetings in the absence or inability to act of the chairperson. The Committee shall also select a secretary.

In the absence of the chairperson or vice-chairperson, the Executive Officer of the Commission shall preside.

F. Completion of Committee Report and Recommendation - The Committee shall complete its report and recommendation to the Commission within 90 days of the date of its initial meeting.

- G. Voting - Voting may be done by either ballots or a show of hands, at the discretion of the presiding officer of the Committee. Voting representatives must be present at the time votes are cast. The report and recommendation of the Committee shall be adopted by a majority of those votes cast.
- H. Executive Committee - The Advisory Committee may appoint an Executive Committee to undertake all or any portion of the study and may authorize the executive committee to prepare a tentative report and recommendation for submission to, and approval by, the full Advisory Committee.
- I. Termination of Committee - The Advisory Committee shall be terminated upon the Commission's adoption of a Resolution of Approval.

**II. SPECIAL DISTRICT SELECTION COMMITTEE RULES OF PROCEDURE**

- A. Purpose - The purpose of the Independent Special District Selection Committee shall be to appoint the two regular and the one alternate special district members of the Local Agency Formation Commission and to fill unexpired terms when vacancies occur.
- B. Membership - The Independent Special District Selection Committee shall consist of the presiding officer of the legislative body of each independent special district. However, if the presiding officer of an independent special district is unable to attend a meeting of the Independent Special District Selection Committee, the legislative body of the district may appoint one of its members to attend the meeting of the Selection Committee in the presiding officer's place. Those districts shall include districts located wholly within the County and those containing territory within the County representing 50 percent or more of the assessed value of taxable property of the district, as shown on the last equalized county assessment roll. Upon receipt of the notice of the meeting as required in Section C, each independent special district shall notify the Executive Officer of the name of the presiding officer of the legislative body of the district.
- C. Meetings - The Executive Officer of the Commission shall give written notice at least twenty-one (21) days prior to the meeting to all eligible independent special districts of any meeting of the Independent Special District Selection Committee, specifying the date, time and place of the meeting.

A meeting shall be called and held under either of the following circumstances:

1. Whenever a vacancy exists among the members or alternate member representing independent special districts upon the Commission; or
2. Upon receipt of a written request by one or more members of the Selection Committee representing districts having 10 percent or more of the assessed value of taxable property within the County, as shown on the last equalized county assessment roll.

- D. Quorum - Members representing a majority of the eligible districts shall constitute a quorum for the conduct of Committee business. No meeting shall be called to order (1) earlier than the time specified in the notice, and (2) until a quorum has been declared to be present.
- E. Selection of Officers - The Committee, at its first meeting of each year, shall elect a chairperson who shall preside at all meetings for the remainder of the year. The Committee shall also elect a vice-chairperson who shall preside at meetings in the absence or inability to act of the chairperson.

In the absence of the chairperson or vice-chairperson, the Executive Officer of the Commission shall preside.

- F. Registration - Each member of the Selection Committee shall register with the Executive Officer upon arriving at the meeting and shall be entitled to one vote for each independent special district of which he or she is the presiding officer. In the event that the presiding officer is unable to attend a meeting of the Committee, the legislative body may appoint one of its members to attend in the presiding officer's place. Such designated member shall submit written authorization at the time of registration.
- G. Voting - Voting may be done by either ballots or a show of hands, at the discretion of the presiding officer of the Committee. Voting representatives must be present at the time votes are cast. A candidate for a regular or alternate member of the Commission must receive at least a majority of the votes cast in order to be selected. In the event that no candidate receives a majority of the votes, a run-off balloting shall be held between the two candidates receiving the highest and the next-highest number of votes. In the case of a tie in the "next-highest" category, the tied candidates will both (all) be included in the run-off balloting. Balloting will continue until one candidate receives at least a majority of votes cast.

### **III. RULES AND REGULATIONS GOVERNING LATENT POWERS OF SPECIAL DISTRICTS**

- A. Authorization - As provided in Government Code Section 56450, the Commission adopts this Article as its rules and regulations governing the latent powers of independent special districts and orders the representation upon the Commission of independent special districts.
- B. Definitions - The following definitions shall apply under this Article:
  - 1. "Commission" means the Sutter County Local Agency Formation Commission.
  - 2. "District" means an agency of the State as defined by Section 56036 of the Government Code for which the County of Sutter is its principal county as defined by Section 56066 of the Government Code.
  - 3. "Executive Officer" means the executive officer of the Commission.

4. "Act" means the Cortese-Knox Local Government Reorganization Act of 1985 and amendments thereto.
  5. "Legislative Body" means the legislative body or the governing board of a district as defined in this Article.
  6. "Proceedings" means proceedings taken pursuant to this Article.
  7. "Proposal" means a request or statement of intention made by a resolution of application of a legislative body proposing proceedings for the provision of additional functions or services.
  8. "Service" means a class established within and as part of a single function, as hereinafter provided by these rules and regulations.
  9. "Function" shall mean any power granted by law to a local agency or a county to provide designated governmental or proprietary services of facilities for the use, benefit, or protection of persons or property.
- C. Application - The rules and regulation contained in this Article shall apply to and affect all independent special districts located within Sutter County for which the County is the principal county of the district.
- D. Powers of the Commission - The Commission may adopt, amend, or repeal regulations affecting the functions and services of independent districts within the County. The regulations shall designate the district by type and by principal act, to which they apply and the regulations shall not apply to, or affect the functions and services of any district not so designated. The regulations may do the following:
1. Classify the various types of service which customarily are or can be provided within a single function of a district.
  2. Require existing districts to file a written statement with the Commission specifying the functions or classes of service provided by such districts.
  3. Establish the nature, location, and extent of any functions or classes of service provided by existing districts.
  4. Determine that, except as otherwise authorized by such rules and regulations, no new or different functions or class of service shall be provided by any existing district.

The provisions of these rules and regulations shall not affect the authority of existing districts to exercise control over existing functions and/or services.

E. District And Principal Acts - The independent districts, along with the principal act under which they were organized, to which this Article shall apply and affect, are as follows:

<b><u>TYPE OF DISTRICT</u></b>	<b><u>PRINCIPAL ACT</u></b>
California Water District	Section 34000-38501, Water Code
Cemetery District	Section 8890-9225, Health and Safety Code
Community Service District	Section 61000-61934, Government Code
Fire Protection District	Section 13800-13970, Health and Safety Code
Mosquito Abatement and Vector Control District	Section 2200-2398, Health and Safety Code
Levee District	Water Uncodified Acts: 4284
Reclamation District	Section 50000-53708, Water Code
Resource Conservation District	Section 9151-9962, Public Resource Code
Irrigation Districts	Section 20500-25627, Water Code

F. Classification of Functions And Services - The following classifications of functions and services are hereby established:

<b><u>FUNCTION</u></b>	<b><u>SERVICE</u></b>
Cemetery	Maintenance of facilities; and Providing services for the disposition of human remains
Drainage and Maintenance	Flood control; improvements of facilities
Fire	Fire prevention and suppression; hazardous material response and clean-up; rescue services; emergency medical service; other services relating to the protection of life and property
Levee	Operation of levee, drainage, and flood control; irrigation
Vector Control	Mosquito, pest and vector control
Reclamation	Operations/maintenance of levees; flood control; drainage and irrigation facilities; transfer and injection of water; maintenance and recharge of ground water
Water	Supply water for municipal, industrial and irrigation purposes; wholesale and retail of water; transfer and injection of water; maintenance and recharge of ground water

**FUNCTION**

**SERVICE**

Sewer	Collection, transportation, treatment, reclamation; disposal
Public Transportation	Land; Sea; Air
Street Lighting	Provide service and maintenance
Cable Television	Provide service and maintenance
Telephone/Communications	Provide service and maintenance
Ambulance	Provide service and maintenance
Rescue/Disaster	Provide service and maintenance
Solid Waste	Provide service and maintenance
Pest Control	Provide service and maintenance
Resource Conservation	Conservation of natural resources
Roads, Streets and Highways	Construction, improvements and maintenance

G. Inventory of Districts Functions And Services - Upon the adoption of this Article, each affected district shall, at the request of the Executive Officer, and within sixty (60) days thereof, provide the following information and materials:

1. A statement of which functions and services were being provided by the district prior to the date of adoption of the Resolution of Intention proposing the adoption of rules and regulations affecting the functions and services of special districts and for the representation of independent special districts upon the Local Agency Formation Commission.
2. A statement as to the legal provisions regarding the rendering of such functions and services.
3. A map showing boundaries of the district and the location(s) where functions and services are provided.

Since there may be significant time delay for newly formed public agencies to begin providing services, each newly formed district shall, for the purposes of these rules and regulations be deemed to be providing all of those services which the district is legally authorized to provide, has been authorized by the Commission to provide, and for which the voters have given their consent if required by the principal act under which the district is formed.

For the purpose of these rules and regulations a district shall be deemed to be providing a function or service if the district is actually exercising its powers to provide such function or service for the benefit of the lands or inhabitants within its boundaries.

Factors to be considered in a determination of whether a district is actually exercising its powers to provide such function or service may include, but not be limited to:

1. The existence of authorized but unsold bonds or the existence of actual bonded indebtedness where such bonds were authorized or sold in order to generate funds for the provision of such function or service.
2. The expenditure of funds and/or the obligation of funds, previously incurred contractual obligations, or the accumulation of funds for property, facilities, contractual rights or equipment where such expenditure, obligation, or accumulation is for a specific objective or goal related to the provision of such function or service.
3. The actual provision of such function or service to the public.
4. The existence of taxes or assessments levied by a district within its boundaries shall not be considered as a factor to determine whether or not such district is actually exercising its powers to provide a particular function or service.

Should a function or service of a district be omitted from this statement, the district shall have a right to amend the statement at any time to include such omitted service or function, provided it otherwise would have qualified under these rules and regulations as of the date of the adoption of the Resolution of Intention and provided that the Commission reviews and approves the addition of the omitted service.

H. Establishment of Existing Functions And Services - Following the receipt of such materials from a district as provided for in Section G, the Commission shall:

1. Approve with or without amendment, wholly or partially or to disapprove the statement of the functions and services being provided by the district and the location(s) where such functions or services are being provided;
2. Refer the statement back to the district having submitted it and request modification of such statement within sixty (60) days; if the Commission disapproved the materials submitted, it shall state in writing which portions of the materials are disapproved and its reasons therefore; the district shall have not more than 60 days for resubmittal of such modified statement.
3. If any district shall fail to or refuses to file any report required by this Article, or if any report or modified report is not approved by the Commission, the Commission shall make its own study and report on the functions and services being provided by the district, and shall consider the matter at a public hearing before making a final decision thereon.

The Commission shall have the final authority to determine whether a special district is exercising a function or service, as determined in Section G of this Article.

- I. Limitation On Functions And Services - At such time as the Commission has approved the nature, location and extent of the functions and services of any district, such district shall not provide or engage in any new or different function or class of service, except as authorized by the Commission under the provisions of this Article, and the principal act of the district as such act now exists or may subsequently be amended.
  
- J. Application For Provision of New or Different Function or Service - Any special district proposing to provide any new or different service or function shall file with the Executive Officer a resolution of its governing board making application for the provision of such additional service or function. The resolution of application shall be in such form as the Commission may prescribe and the application package submitted shall include:
  1. A statement of the nature of the proposal and the reasons therefore;
  2. A map showing the boundaries of the subject territory;
  3. Such additional data and information as may be required by the Executive Officer pertaining to any of the matters or factors which may be considered by the Commission;
  4. The name of the district's officers or persons, not to exceed three, who are to be notified of the Commission's hearing on the proposal;
  5. If appropriate, proof of certification or adoption of appropriate environmental documents by the project's lead agency or submittal of application for environmental review to the Commission if the Commission is to be lead agency; and
  6. Submittal of application fee or deposit as may be required by resolution of the Commission.
  
- K. Hearing On Application For Provision of New or Different Service or Function - Upon the filing of a resolution of application, along with a complete application package as required in Section J of this Article, the Executive Officer shall set the matter for hearing by the Commission.
  1. The date of the hearing shall not be more than 90 days after such filing unless the Commission is required to act as lead agency for preparation of environmental documents, in which case, the hearing shall be set for not more than 90 days from the date of circulation of the project's draft environmental document.
  2. The Executive Officer shall cause notice of hearing to be published in a newspaper of general circulation within the area for which the provision of additional functions and/or services are proposed, as specified in Government Code Section 56153.

3. The executive officer shall also cause notice of such hearing to be mailed at least twenty-one days prior to the date of the hearing to a) the district adopting the resolution of application, b) each city or district within three miles of the subject district, and c) each person who is designated in the application to receive notice or any person who has filed a written request for special notice with the executive officer.
  4. Such hearing may be continued from time to time for a period not to exceed 70 days from the original date of such hearing. The conduct of such hearing shall be governed by the provisions of Section 56840, et seq., of the Government Code and by the Rules of the Commission. At any time not later than 35 days after the conclusion of the hearing, the Commission shall adopt a resolution making determinations approving or disapproving the provision of the additional functions and/or services by the district.
- L. Notification of Commission Decision - When the Commission approves or disapproves the proposal, the Executive Officer shall, within 30 days of such approval or disapproval, forward to the subject district a copy of the Commission's resolution.
  - M. Resubmittal of Proposals That Are Denied - If the Commission wholly disapproves any proposal involving the provision of such additional functions and/or services by the subject district, no proceeding shall be taken for the provision of such additional functions and/or services by the subject district for a period of one year after the date of such disapproval unless said period is waived by the Commission.
  - N. Guidance For The Provisions of This Article - The procedures provided by these rules and regulations shall be generally guided by the provisions of Chapter 5 (commencing with Section 56450) of Part 2, Division 3, Title 5 of the Government Code.
  - O. Effective Date of Rules And Regulations - These rules and regulations shall become effective immediately upon adoption by the Commission.
  - P. Procedures For Adopting, Amendment or Repeal of Rules And Regulations - The Commission may take proceedings pursuant to this Article for adoption, amendment or repeal of rules and regulations affecting the functions and services of special districts. Such proceedings may be initiated either by the Commission or by the independent special districts affected by this article.
  - Q. Minor Changes In Existing Rules And Regulations - Minor changes in any existing rule or regulation affecting special districts may be ordered by the Commission, without adoption of a resolution of intention, notice and hearing, or reference to a special district advisory committee, provided that the Commission makes a determination that such changes will not substantially affect the functions and services of any special district subject to such rules and regulations and such determination are concurred in by both Commission members appointed to represent independent special districts.

- R. Severability - If any section, subsection, sentence, clause or phrase of these rules, or the application thereof of any person or circumstance, is for any reason held invalid, the validity and application of the remainder of these rules will not be affected thereby.
- S. Termination of Independent Special District Representation - These rules and regulations have been adopted pursuant to Chapter 5 of Part 2, Division 3, Title 5 of the Government Code. So long as these rules and regulations remain in effect, special districts shall be represented by members appointed to the Commission.

#### IV. AMENDMENTS

These Rules may be revised or repealed at any regular meeting of the Commission by the majority vote of Commissioners present, except where the Cortese-Knox Local Government Reorganization Act of 1985 or these Rules may otherwise specify other procedures.

### CONFLICT OF INTEREST CODE

- A. Purpose - Pursuant to the provisions of Government Code sections 87300, et seq., the Local Agency Formation Commission of the County of Sutter hereby adopts the following Conflict of Interest Code. Nothing contained herein is intended to modify or abridge the provisions of the Political Reform Act of 1974 (Government Code §81000). The provisions of this Code are additional to Government Code section 87100 and other laws pertaining to conflicts of interest (including, but not limited to, Government Code sections 1090, et seq.). Except as otherwise indicated, the definitions of said Act and regulations adopted pursuant thereto are incorporated herein and this Code shall be interpreted in a manner consistent therewith.
- B. Designated Positions - The positions listed on Exhibit "A" are designated positions. Officers and employees holding those positions are designated employees and are deemed to make, or participate in the making of, decisions which may foreseeably have a material effect on a financial interest.
- C. Disclosure Statements - Designated positions are assigned to one or more of the disclosure categories set forth in Exhibit "B".

This Code does not establish any disclosure obligation for those designated employees who are also specified in Government Code section 87200 if they are designated in this Code in that same capacity or if the geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction in which those persons must report their financial interests pursuant to Article 2 of Chapter 7 of the Political Reform Act, Government Code sections 87200, et seq. Such persons are covered by this Code for disqualification purposes only.

With regard to all other employees occupying designated positions, the disclosure categories set forth in Exhibit "B" specify which types of financial interests are reportable. Such employee shall disclose in his or her statement of economic interests those financial interests he or she has which are of the kind described in the disclosure categories to which he or she is assigned in Exhibit "A". It has been determined that the financial interests set forth in the

disclosure categories are the kinds of financial interests which the employee foreseeably can affect materially through the conduct of his or her office. Each employee holding a designated position shall file an annual statement disclosing the employee's investments, business positions, interests in real property, and income, designated as reportable under the category to which the employee's position is assigned on Exhibit "A".

D. Place and Time of Filing

1. Department heads and members of boards or commissions shall file the original with the Clerk of the Board of Supervisors.
2. All other designated employees required to submit a statement of financial interests shall file the original with the department.
3. A designated employee required to submit an initial statement of financial interest shall submit the statement within 30 days after the effective date of this Code.
4. All persons assuming designated positions after the effective date of this Code shall file statements within 30 days after assuming the designated positions.
5. All designated officers and employees shall file annual statements no later than April 1<sup>st</sup>.
6. All persons who leave designated positions shall file statements within 30 days after leaving office.
7. Persons who resign within 12 months of initial appointment or within 30 days of the date of a notice mailed by the filing officer of the individual's filing obligation, whichever is earlier, are not deemed to have assumed office or left office provided they did not make or participate in the making of, or use their position to influence any decision and did not receive or become entitled to receive any form of payment as a result of their appointment. Such persons shall not file either an assuming or leaving office statement.

Within 30 days of the date of a notice mailed by the filing officer, the individual shall do both of the following:

- a. File a written resignation with the appointing power.
- b. File a written statement with the filing officer on a form prescribed by the commission and signed under the penalty of perjury stating that the individual, during the period between appointment and resignation, did not make, participate in the making, or use the position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position. (G.C. §87302.)

E. Contents of and Period Covered by Statements of Economic Interests - Disclosure statements shall be made on forms supplied by the board, commission, or county, and shall contain the following information:

1. Contents of Initial Statements Initial statements shall disclose any reportable investments, interests in real property and business positions held on the effective date of the Code and income received during the 12 months prior to the effective date of the Code.
2. Contents of Assuming Office Statements Assuming office statements shall disclose any reportable investments, interests in real property and business positions held on the date of assuming office or, if subject to State Senate confirmation or appointment, on the date of nomination, and income received during the 12 months prior to the date of assuming office or the date of being appointed or nominated, respectively.
3. Contents of Annual Statements Annual statement shall disclose any reportable investments, interests in real property, income and business positions held or received during the previous calendar year provided, however, that the period covered by an employee's first annual statement shall begin on the effective date of the Code or the date of assuming office whichever is later.
4. Contents of Leaving Office Statements Leaving office statements shall disclose reportable investments, interests in real property, income and business positions held or received during the period between the closing date of the last statement filed and the date of leaving office.

F. Manner of Reporting - Statements of Economic Interests shall contain the following information:

1. Investments and Real Property Disclosure When an investment or an interest in real property is required to be reported, the statement shall contain the following:
  - a. A statement of the nature of the investment or interest;
  - b. The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;
  - c. The address or other precise location of the real property;
  - d. A statement whether the fair market value for the investment or interest in real property exceeds one thousand dollars (\$1,000), exceeds ten thousand dollars (\$10,000), or exceeds one hundred thousand dollars (\$100,000).
  - e. For purposes of disclosure, "interests in real property" does not include the principal residence of the filer or any other property which the filer utilizes exclusively as the personal residence of the filer. (G.C. §87302, 87206(f).)

- f. "Interest in real property" includes any leasehold, beneficial or ownership interest or an option to acquire such an interest in real property located in the jurisdiction owned directly, indirectly, or beneficially by the officer or employee or his or her immediate family if the fair market value of the interest is one thousand dollars (\$1,000) or more. Interests in real property of an individual include a pro rata share of interests in real property of any business entity or trust in which the individual or immediate family owns, directly, indirectly, or beneficially, a ten percent (10%) interest or greater. (G.C. §82033.)

## 2. Income Disclosure

- a. When income is required to be reported under this Code, the statement shall contain, except as provided in subdivision 2:
  - i. The name and address of each source of income aggregating two hundred fifty dollars (\$250) or more in value, or fifty dollars (\$50) or more in value if the income was a gift, and a general description of the business activity, if any, of each source;
  - ii. A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was at least two hundred fifty dollars (\$250) but did not exceed one thousand dollars (\$1,000), whether it was in excess of one thousand dollars (\$1,000) but was not greater than ten thousand dollars (\$10,000), or whether it was greater than ten thousand dollars (\$10,000);
  - iii. A description of the consideration, if any, for which the income was received;
  - iv. In the case of a gift, the amount and the date on which the gift was received.
  - v. In the case of a loan, the annual interest rate and the security, if any, given for the loan.
- b. When the filer's pro rata share of income to a business entity, including income to a sole proprietorship, is required to be reported under this article, the statement shall contain:
  - i. The name, address, and a general description of the business activity of the business entity;
  - ii. The name of every person from whom the business entity received payments If the filer's pro rata share of gross receipts from such person was equal to or greater than ten thousand dollars (\$10,000) during a calendar year.

- c. When a payment, including an advance or reimbursement, for travel is required to be reported pursuant to this section, it may be reported on a separate travel reimbursement schedule which shall be included in the filer's statement of economic interest. A filer who chooses not to use the travel schedule shall disclose payments for travel as a gift, unless it is clear from all surrounding circumstances that the services provided were equal to or greater in value than the payments for the travel, in which case the travel may be reported as income. (G.C. §87302, 87207.)
      - d. A designated employee's income includes his or her community property interest in the income of his or her spouse but does not include salary or reimbursement for expenses received from a state, local, or federal government agency. (2 C.C.R. §18730(b)(7)(B).)
  - 3. Business Entity Income Disclosure When income of a business entity, including income of a sole proprietorship, is required to be reported, the statement shall contain:
    - a. The name, address, and a general description of the business activity of the business entity;
    - b. The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than ten thousand dollars (\$10,000).
    - c. Income of the business entity is reportable if the direct, indirect, or beneficial interest of the officer or employee or his or her spouse in the business entity aggregates a ten percent (10%) or greater interest. (2 C.C.R. §18730(b)(7)(C).)
  - 4. Business Position Disclosure When business positions are required to be reported, a designated employee shall list the name and address of each business entity in which he or she is a director, officer, partner, trustee, employee, or in which he or she holds any position of management, a description of the business activity in which the business entity is engaged, and the designated employee's position with the business entity. (2 C.C.R. §18730(b)(7)(D).)
  - 5. Acquisition or Disposal During Reporting Period In the case of an annual or leaving office statement, if an investment or an interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the statement shall contain the date of acquisition or disposal. (2 C.C.R. §18730(b)(7)(E).)
- G. Disqualification - No designated employee shall make, participate in making, or in any way attempt to use his or her official position to influence the making of any governmental decision which he or she knows or has reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the official or a member of his or her immediate family or on:

1. Any business entity in which the designated employee has a direct or indirect investment worth one thousand dollars (\$1,000) or more;
2. Any real property in which the designated employee has a direct or indirect interest worth one thousand dollars (\$1,000) or more;
3. Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the designated employee within 12 months prior to the time when the decision is made;
4. Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any portion of management; or
5. Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250) or more in value provided to; received by, or promised to the designated employee within 12 months prior to the time when the decision is made. (2 C.C.R. §18730(b)(8).)
6. No designated employee shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the decision to be made. The fact that the vote of a designated employee who is on a voting body is needed to break a tie does not make his or her participation legally required for purposes of this section. (2 C.C.R. §18730 (b)(8.3).)

H. Manner of Disqualification - When a designated employee determines that he or she should not make a governmental decision because he or she has a disqualifying interest in it, the determination not to act must be accompanied by disclosure of the disqualifying interest. In the case of a voting body, this determination and disclosure shall be made part of the agency's official record; in the case of a designated employee who is the head of an agency, this determination and disclosure shall be made in writing to his or her appointing authority; and in the case of other designated employees, this determination and disclosure shall be made in writing to the designated employee's supervisor. (2 C.C.R. §18730(b)(9).)

I. Assistance of the Commission and Counsel - Any designated employee who is unsure of his or her duties under this Code may request assistance from the Fair Political Practices Commission pursuant to Government Code section 83114 or from the attorney for his or her agency. (2 C.C.R. §18730(b)(10).)

J. Violations - This code has the force and effect of law. Designated employees violating any provision of this Code are subject to the administrative, criminal, and civil sanctions provided in the Political Reform Act, Government Code sections 81000-91015. In addition, a decision in relation to which a violation of the disqualification provisions of this Code or of Government Code section 87100 or 87450 has occurred may be set aside as void pursuant to Government Code section 91003. (2 C.C.R. §18730(b)(11).)

- K. Effective Date of Code - This conflict of interest code shall become effective upon approval by the Sutter County Board of Supervisors.

## **EXHIBIT "A"**

<u>Positions</u>	<u>Categories</u>
All Commissioners and Alternates	1, 2, 3, 4
Executive Officer	1, 2, 3, 4
Assistant Executive Officer	1, 2, 3, 4

## **EXHIBIT "B"**

### Category 1

Persons in this category shall disclose all interests in real property within the jurisdiction. Real property shall be deemed to be within the jurisdiction if the property or any part of it is located within or not more than two miles outside the boundaries of the jurisdiction or within two miles of any land owned or used by the local government agency. (Government Code §82035.)

Persons shall not be required to disclose property used primarily as their residence. (Government Code §87206(f).)

### Category 2

Person in this category shall disclose all investments. "Investment" means any financial interest in or security issued by a business entity, including but not limited to common stock, preferred stock, rights, warrants, options, debt instruments and any partnership or other ownership interest owned directly, indirectly, or beneficially by the officer or employee, or his or her immediate family, if the business entity or any parent, subsidiary, or otherwise related business entity has an interest in real property in the jurisdiction, or does business or plans to do business in the jurisdiction, or has done business within the jurisdiction at any time during the two years prior to the time any disclosure statement is required under this Code. No asset shall be deemed an investment unless its fair market value equals or exceeds one thousand dollars (\$1,000). The term "investment" does not include a time or demand deposit in a financial institution, shares in a credit union, any insurance policy, interest in a diversified mutual fund registered with the Securities and Exchange Commission under the Investment Company Act of 1940 or a common trust fund which is created pursuant to section 1564 of the Financial Code, or any bond or debt instrument issued by any government or government agency. Investments of an individual include a pro rata share of investments of any business entity, mutual fund, or trust in which the individual or immediate family owns, directly, indirectly, or beneficially, a ten percent (10%) interest or greater. (Government Code §82034.)

### Category 3

Persons in this category shall disclose all income except as provided in subsection b.

- a. "Income" means, except as provided in subdivision b, a payment received, including but not limited to any salary, wage, advance, dividend, interest, rent, proceeds from any sale, gift, including any gift of food or beverage, loan, forgiveness or payment of indebtedness received by the officer or employee, reimbursement for expenses, per diem, or contribution to an insurance or pension program paid by any person other than an employer, and including any community property interest in the income of a spouse. Income also includes an outstanding loan. Income of an individual also includes a pro rata share of any income of any business entity or trust in which the individual or spouse owns, directly, indirectly, or beneficially, a ten percent (10%) interest or greater. "Income," other than a gift, does not include income received from any source outside the jurisdiction and not doing business within the jurisdiction, not planning to do business within the jurisdiction, or not having done business within the jurisdiction during the two years prior to the time a disclosure statement is required.
- b. "Income" also does not include:
  1. Campaign contributions required to be reported under Chapter 4 of Title 9 [of the Government Code], commencing with section 84100.
  2. Salary and reimbursement for expenses or per diem received from a state, local, or federal government agency and reimbursement for travel expenses and per diem received from a bona fide educational, academic, or charitable organization.
  3. Any devise or inheritance.
  4. Interest, dividends, or premiums on a time or demand deposit in a financial institution, shares in a credit union or any insurance policy, payments received under any insurance policy, or any bond or other debt instrument issued by any government or government agency.
  5. Dividends, interest, or any other return on a security which is registered with the Securities and Exchange Commission of the United States government or a commodity future registered with the Commodity Futures Trading Commission of the United States government, except proceeds from the sale of these securities and commodities futures.
  6. Redemption of a mutual fund.
  7. Alimony or child support payments.
  8. Any loan or loans from a commercial lending institution which are made in the lender's regular course of business on terms available to members of the public without regard to official status if:

- a. Used to purchase, refinance the purchase of, or for improvements to, the principal residence of the officer or employee; or
  - b. The balance owed does not exceed ten thousand dollars (\$10,000).
9. Any loan from an individual's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, uncle, aunt, or first cousin, or the spouse of any such person, provided that a loan from any such person shall be considered income if the lender is acting as an agent or intermediary for any person not covered by this paragraph.
  10. Any indebtedness created as part of a retail installment or credit card transaction if made in the lender's regular course of business on terms available to members of the public without regard to official status, so long as the balance owed to the creditor does not exceed ten thousand dollars (\$10,000).
  11. Payments received under a defined benefit pension plan qualified under Internal Revenue Code section 401(a).
  12. Proceeds from the sale of securities registered with the Securities and Exchange Commission of the United States government or from the sale of commodities futures registered with the Commodity Futures Trading Commission of the United States government if the officer or employee sells the securities or the commodities futures on a stock or commodities exchange and does not know or have reason to know the identity of the purchaser. (G.C. §82030.)

#### Category 4

Persons in this category shall disclose the name and address of each business entity in which he or she is a director, officer, partner, trustee, employee or in which he or she holds any position of management, a description of the business activity in which the business entity is engaged, and the designated employee's or officer's position with the business entity. (2 CCR §18730(b)(7)(D).)

### **DISCLOSURE OF POLITICAL EXPENDITURES FOR CHANGE OF ORGANIZATION OR REORGANIZATION PROPOSALS**

Pursuant to Government Code Sections 56700.1 and 57009, effective January 1, 2008, expenditures for political purposes related to a proposal for a change of organization or reorganization and contributions in support of or in opposition to any proposal at the conducting authority stage of the LAFCO process are subject to the reporting and disclosure requirements to the same extent as required for local initiative measures under the Political Reform Act, Government Code Section 81000 et seq., and the regulations of the Fair Political Practices Commission implementing that law.

Sutter LAFCO adopts the following reporting and disclosure requirements to implement Government Code Sections 56700.1 and 57009.

## 1. Definitions

- a. “Contribution” as used herein shall have the same definition as provided in Government Code Section 82015, as amended.
- b. “Expenditure” as used herein shall have the same definition as provided in Government Code Section 82025, as amended.
- c. “Independent expenditure” as used herein shall have the same definition as provided in Government Code Section 82031, as amended, except that the term “measure” as used in Section 82031 shall be replaced with the term “proposal for organization or reorganization.”
- d. “Political Purposes” as used herein shall mean for the purpose(s) of: (i) influencing public opinion; (ii) lobbying public officials; and/or, (iii) influencing legislative or administrative action as defined in Government Code § 82032. It shall not include for the purpose(s) of complying with legal requirements and LAFCO rules for the processing of a proposal, including, but not limited to and by way of example only, preparation of a comprehensive fiscal analysis for an incorporation (Government Code Section 56800) or documents necessary to comply with the California Environmental Quality Act, Public Resources Code Section 21000 et seq., such as a mitigated negative declaration or environmental impact report.

## 2. Disclosure Requirements for Proposals for Organization or Reorganization

- a. Any person or combination of persons who directly or indirectly makes an expenditure or independent expenditure for political purposes of \$1,000 or more in support of, or in opposition to, a change of organization or reorganization submitted to the commission to which Government Code Section 56700.1 applies, shall comply with the reporting and disclosure requirements of the Political Reform Act (Government Code §§ 81000 et seq.), to the same extent and subject to the same requirements as for local initiative measures. Such reporting and disclosure requirements, except as otherwise excluded herein, extend to those required by the Fair Political Practices Commission Regulations regarding such disclosures and shall include disclosure of contributions, expenditures and independent expenditures.
- b. Disclosures made pursuant to this Section shall be filed with the commission’s executive officer as designated in Section 5 below.
- c. For purposes of determining the deadlines by which such reports and disclosures must be filed, the term “election” as used in the Political Reform Act for determining such deadlines shall mean the date of the originally scheduled commission hearing on a proposal for organization or reorganization. If no hearing date has been scheduled at the time a person becomes subject to disclosure under this policy, he or she shall request that the executive officer establish a date to serve as the “election” date for this purpose. Disclosures are required to be filed with the executive officer three days prior to all hearing dates.

- d. In the event the originally scheduled hearing date for the proposal for organization or reorganization is rescheduled or continued to a later date, the obligation to file continues. Reports shall be filed on the third day prior to the actual hearing date.

### 3. Disclosure Requirements for Conducting Authority Proceedings

- a. Any person or combination of persons who directly or indirectly makes an expenditure for political purposes of \$1,000 or more related to conducting authority proceedings for a change of organization or reorganization to which Government Code Section 57009 applies, or in support of or in opposition to those conducting authority proceedings, shall comply with the reporting and disclosure requirements of the Political Reform Act (Government Code §§ 81000 et seq.), to the same extent and subject to the same requirements as for local initiative measures. Such reporting and disclosure requirements, except as otherwise excluded herein, extend to those required by the Fair Political Practices Commission Regulations regarding such disclosures and shall include disclosure of contributions, expenditures and independent expenditures.
- b. Disclosures made pursuant to this Section shall be filed with the commission's executive officer as designated in Section 5 below.
- c. For purposes of determining the deadlines by which such reports and disclosures must be filed, the term "election" as used in the Political Reform Act for determining such deadlines shall mean the date of the originally scheduled conducting authority hearing on the proposal for organization or reorganization. If no hearing date has been scheduled at the time a person becomes subject to disclosure under this policy, he or she shall request that the executive officer establish a date to serve as the "election" date for this purpose. Disclosures are required to be filed with the executive officer three days prior to all hearing dates.
- d. In the event the originally scheduled conducting authority hearing date for a proposal for organization or reorganization is rescheduled or continued to a later date, the obligation to file continues and reports shall be filed on the third day prior to the actual hearing date.

### 4. Certain Reports and Disclosures Excluded

This policy also requires that the persons subject to it comply with the regulations regarding the names of campaign committees, disclosures of the sources of mass mailings, and disclosures of the source of automated telephone calls under Government Code Sections 84501 et seq. and the regulations of the Fair Political Practices Commission implementing those sections.

### 5. Where to File

All reports and disclosures required hereunder shall be filed with the commission's Executive Officer.

### 6. Reporting requirements are non-exclusive

The disclosure and reporting requirements herein are in addition to any other requirements that may be otherwise applicable under provisions of the Political Reform Act or by local ordinance.

7. Sunset provision

This policy is intended to implement Government Code Sections 56700.1 and 57009 and shall be of no further force and effect upon the effective date of legislation repealing or amending those sections to transfer responsibility for enforcing disclosure of expenditures for political purposes affecting commission proceedings to the Fair Political Practices Commission or otherwise terminating the responsibility of this commission to adopt and implement this policy.

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