

Imperial



A Condensed Guide to
LAFCO
and
APPLICATION SUBMITTAL

JURG HEUBERGER, AICP, CEP
EXECUTIVE OFFICER TO LAFCO

IMPERIAL LOCAL AGENCY FORMATION
COMMISSION
1122 STATE STREET, SUITE D
EL CENTRO, CA 92243
PH: (760) 353-4115
WWW.ICLAFCO.COM

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To provide greater assistance to the general public and to governmental agencies, the Imperial Local Agency Formation Commission (LAFCO) has prepared this “basic” User’s Guide. This document is a step-by-step guide to the LAFCO process. The guide is also an introduction to the Imperial LAFCO Policies, Standards and Procedures Manual (LAFCO Manual). This guide does not supersede the LAFCO Manual, the Cortese-Knox-Hertzberg Reorganization Act of 2000, CEQA or any other law.

With this guide users will be better able to:

- ◆ Learn about the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000
- ◆ Learn what a change in organization means
- ◆ Determine the jurisdiction of LAFCO
- ◆ The role of CEQA in LAFCO review and proceedings
- ◆ Prepare an application to LAFCO
- ◆ Learn about LAFCO proceedings, timing and terminology
- ◆ Learn about the authority of the LAFCO Executive Officer

The guide is not an exhaustive reference on the LAFCO process or proceedings, but, wherever possible, refers to the LAFCO Manual and/or the Guide to Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 commencing with Government Code Section 56000 et. seq. These documents are available at the Imperial LAFCO Office, most public libraries, and on the web.

CONTACT US

IMPERIAL LOCAL AGENCY FORMATION COMMISSION (LAFCO)
1122 STATE STREET, SUITE D
EL CENTRO, CA 92243
PH: (760) 353-4115
WWW.ICLAFCO.COM

JURG HEUBERGER, AICP, CEP, EXECUTIVE OFFICER
jurgh@iclafco.com

PAULA GRAF, ANALYST
pg@iclafco.com

JULIE CARTER, ACCOUNTANT
juliec@iclafco.com

FREQUENTLY ASKED QUESTIONS

1. WHAT IS LAFCO?

LAFCO is an acronym for Local Agency Formation Commission. It is a regulatory agency with county-wide jurisdiction, established by state law to discourage urban sprawl and to encourage orderly and efficient provision of services by local government. LAFCO is an independent agency and is NOT a division of the County or any City government structure.

2. WHAT DOES LAFCO DO?

LAFCO is responsible for reviewing and approving/denying proposed jurisdictional boundary changes, most commonly annexations; however it could be incorporations, formation of special districts etc. LAFCO also prepares special studies to determine the effectiveness of local government, the provisions of service that are or should be provided by the city/special district.

3. WHAT IS A SPHERE OF INFLUENCE?

A Sphere of Influence is a planning tool adopted and used by LAFCO to designate the future boundary and service area of a city or special district. Each city and special district within Imperial County has a Sphere of Influence.

4. WHAT IS A SERVICE AREA PLAN/ MUNICIPAL SERVICE REVIEW?

Service Area Plans (SAP), also known as Municipal Service Reviews (MSR), are comprehensive studies designed to better inform LAFCOs, local agencies and the community about the capacity of services, level of service, efficiency of services and provide for coordination and opportunities between providers. SAPs are required to be updated by all cities and special districts in Imperial County every 5 years.

5. IS LAFCO REQUIRED TO COMPLY WITH CEQA?

Yes, LAFCOs must comply with the California Environmental Quality Act!

6. WHEN DOES THE COMMISSION MEET?

The Commission generally meets once each month unless it calls for a special meeting. Generally the meeting is on the fourth Thursday of each month starting at 8:30 AM. For the convenience of the community, LAFCO may hold its meetings at various parts of the County, but meetings are usually held at the City of El Centro Chambers located at 1275 W. Main St., El Centro, CA 92243.

7. WHO ARE THE MEMBERS OF LAFCO?

Members of LAFCO consist of:

- 1) Two members of the County Board of Supervisors as appointed by the Board.
- 2) Two members of the City Council's, as appointed by the City Mayors through the City Select Committee.
- 3) One public member appointed by the LAFCO.
- 4) In addition each category has one alternate in the same category.

ABOUT LAFCO

A. PURPOSE OF LAFCO

The procedures for establishing and revising local government boundaries are set in the constitutions and laws of the 50 states. Some alternative processes include judicial approval, special state legislation, or the use of "boundary commissions" such as California's Local Agency Formation Commissions (LAFCO's).

In California, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 followed several years of cooperative effort between Assembly Member, Dominic Cortese, former Chair of the Assembly Local Government Committee, and the California Association of Local Agency Formation Commissions (CALAFCO). The Act, which became operative January 1, 1986, consolidated three major laws that were previously used by California's local governments for boundary changes into a single, unified law. The three laws which previously governed changes in the boundaries and organization of cities and special districts were:

- ♦ The Knox-Nisbet Act of 1963, which established LAFCO's with regulatory authority over local agency boundary changes.
- ♦ The District Reorganization Act of 1965 (DRA), which combined separate laws governing special district boundaries into a single law.
- ♦ The Municipal Organization Act of 1977 (MORGA), which consolidated various laws on city incorporation and annexation into one law.

Since 1963, when State law created LAFCO, commissions in each California County have encouraged the orderly formation of local government agencies, preserved agricultural and open space land, and discouraged urban sprawl. Imperial LAFCO has jurisdiction over changes in local government organization occurring within Imperial County.

The proceedings for changes in organization of special districts or cities are subject to LAFCO review, pursuant to the Cortese/Knox Local Government Reorganization Act of 1985 (Government Code Section 56000, et seq.).

Changes in organization mean any of the following:

- ♦ A city incorporation;
- ♦ A district formation;
- ♦ An annexation to, or detachment from, a city or district;
- ♦ A dis-incorporation of a city;
- ♦ A district dissolution;
- ♦ A consolidation of cities or special districts;
- ♦ A merger or establishment of a subsidiary district;
- ♦ An authorization of a special district to exercise one of its latent powers or to extend the area over which a latent power is exercised; or
- ♦ A reorganization involving two or more of the above-listed changes of organization.

LAFCO's jurisdiction is specifically excluded from the following local government agencies:

- ♦ A school district or community college district;
- ♦ A special assessment district;
- ♦ An improvement district;
- ♦ A community facilities district formed pursuant to the Mello-Roos Community Facilities Act of 1982;
- ♦ A permanent road division formed pursuant to Section 1160 of the Streets and Highways Code;
- ♦ An air pollution control district or an air quality maintenance district;
- ♦ A service zone of a fire protection district.

The following local government agencies are subject to LAFCO jurisdiction, but are not subject to the conducting authority proceedings of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. Conducting authority proceedings are held in accordance with the principal act that established the agency:

- ♦ A unified or union high school district;
- ♦ A bridge or highway district;
- ♦ A joint highway district;
- ♦ A transit or rapid transit district;
- ♦ A metropolitan water district; or
- ♦ A separation of grade district.

The following local government agencies are subject to LAFCO jurisdiction. If a determination is made that these agencies are not "districts" or "special districts," conducting authority proceedings are held in accordance with the principal act that established the agency:

- ♦ A flood control district;
- ♦ A flood control district and floodwater conservation district;
- ♦ A flood control district and water conservation district;
- ♦ A conservation district;
- ♦ A water conservation district;
- ♦ A water replenishment district;
- ♦ A California water storage district;
- ♦ A water agency; or
- ♦ A county water authority or a water authority.

B. LAFCO COMPOSITION

The Imperial LAFCO consists of a five-member commission each of who serve a four (4) year term. The composition of the commission includes two (2) members of the County Board of Supervisors, chosen by the Board of Supervisors; two (2) members representing the seven (7) cities in Imperial County, chosen by the City Select Committee (which is composed of the mayor of each city in the county); and one (1) public member, chosen by the other members of the Commission.

C. LAFCO PROCEDURES

The following is a step-by-step guide to the procedures followed by Imperial LAFCO in considering proposed changes in local government organization.

1. PRELIMINARY STEPS

The proponent(s) *should* review their proposal with the LAFCO Executive Officer first. Although *this is not required*, a brief discussion with the LAFCO Executive Officer or LAFCO staff *before submitting an application* could save the applicant time and needless frustration. The following steps are suggested:

- a) Call for an appointment;
- b) Bring the following information to the appointment:
 - ♦ Assessor's parcel number for individual lots or project map for complex proposals;
 - ♦ General Plan and zoning designations; and
 - ♦ Development plans, if applicable. Imperial LAFCO generally requires approved development plans, such as a tentative map, specific plan, etc., when vacant territory is proposed for annexation to a city or district. Vacant land cannot be annexed without a project approved by City or County, nor without being pre-zoned by the City. A key consideration in LAFCO's review of annexation requests is the timing of the action. LAFCO discourages the annexation of vacant land until it can be demonstrated that services are needed in the near future. Without approved development plans, it cannot be demonstrated that services are required. Approved development plans also provide the information necessary to evaluate a proposal. They also enable LAFCO to evaluate the impact of a jurisdictional change on adjacent areas.
- c) LAFCO staff will review procedures, information requirements, verify if the project is located within a jurisdiction with an approved **Sphere of Influence** and/or **Service Area Plan** and outline the fees.
- d) The applicant should obtain application forms and ascertain what environmental documentation may be necessary.
- e) Proponent prepares application material for proposal. All proposals must include: application by resolution or petition, indemnification agreement, map, legal description, and environmental document.

2. IF THE PROPOSAL IS TO BE BY **RESOLUTION**, THEN THE FOLLOWING APPLIES:

A certified resolution by the affected governmental agency must be obtained and provided to LAFCO. A resolution of application may be filed by a legislative body or local agency. The requirements for a resolution are contained within Government Code 56654 et seq.

- 1) The legislative body shall give mailed notice of its intention to adopt a resolution of application to LAFCO and to each interested and subject agency at least 21 days prior to adoption. The notice must describe the proposal and the affected territory.

- 2) A resolution of application must contain the same information as a petition, except for signatures (Government Code 56654 & 56700 et seq). An approved Service Area Plan must be on file with Imperial LAFCO (LAFCO Manual Chapter IV.G.)

3. IF THE PROPOSAL IS TO BE BY **PETITION**, THEN THE FOLLOWING APPLIES:

A petition application shall be submitted upon the "Petition Form" (see Exhibit 'C' attached) and must be signed by the applicant(s). The petition shall include all of the following (Government Code 56700 et seq):

- 1) State that the proposal is made pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000;
- 2) State the nature of the proposal and list all proposed changes of organization;
- 3) Set forth a description of the boundaries of the affected territory accompanied by a map showing the boundaries;
- 4) Set forth any proposed terms and conditions;
- 5) State the reason or reasons for the proposal;
- 6) State whether the petition is signed by registered voters or owners of land;
- 7) Designate three (3) (maximum) persons as chief petitioners, setting forth their names and mailing addresses;
- 8) State whether the proposal is consistent with the spheres of influence for any affected city or district; and
- 9) Request that proceedings be taken for the proposal.

4. **MAP INFORMATION REQUIRED:**
(THIS APPLIES TO **BOTH PETITION AND RESOLUTION**)

- 1) **One copy of a metes-and-bounds legal description** of the perimeter of the subject property. Details of the legal description requirements can be found in Exhibit B of the LAFCO Manual.
- 2) **A parcel map** of the subject property and a minimum of ten (10) prints. Maps must be drawn by a California licensed civil engineer or licensed land surveyor. The size of the map shall not exceed **24" x 36"** unless a variation is approved by the Executive Officer prior to submittal. Maps shall be stamped and (wet) signed by the preparer. Maps shall be prepared in a current version of AutoCAD unless a variation is approved in writing by the Executive Officer prior to submittal.
- 3) **Two copies of a vicinity map** of the subject property.
- 4) **One copy of any environmental documents** (pursuant to CEQA) associated with the project; however, if an Environmental Impact Report (EIR) associated with the subject property was prepared, 8 copies of the certified EIR must be submitted with the application. Only one copy of the EIR appendices is required. Please note that a specific process must be followed for LAFCO to accept the CEQA document prepared by another agency.

- 5) If the proposal includes annexation to a city, indication that the annexing city has rezoned the property, such as the city council resolution approving the rezoning as well as any resolutions pertaining to the **annexation**.
- 6) **Processing fee.** (See attached fee schedule.)

4. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

Similar to other public agencies Imperial LAFCO is required to comply with the California Environmental Quality Act (CEQA) for the purposes of considering the environmental impact of its actions. Each proposal must receive the appropriate environmental review for consideration by the Commission in making its decision. For a detailed discussion of environments please refer to Chapter IV, subsection E, of the LAFCO Manual.

D. LAFCO PROCEEDINGS

1. The proponent delivers to the Executive Officer a completed application (LAFCO Manual Chapter II, Subsection A and Government Code Sections 56652, 56653 and 56700).
2. The Executive Officer determines if:
 - a) The petition is sufficient as required by law and issues a determination on its sufficiency within 30 days of submittal;
 - b) LAFCO is to be the lead agency for the environmental review. If so, then the review is undertaken by LAFCO; and
 - c) A satisfactory exchange of property tax has taken place. A County master property tax agreement may be applicable. If there is not an applicable master property tax agreement then separate property tax exchange resolutions may be required. If negotiations leading to adoption of separate resolutions are required, both the county and any affected city must agree to a tax exchange. If a jurisdictional change affects the service area or service responsibilities of one or more special districts, the board of supervisors negotiates an exchange of property taxes on behalf of the district or districts (Revenue and Taxation Code, Section 99).
3. The Executive Officer reviews the proposal and within 30 days of its receipt either
 - a) Determines that the application is complete; a copy of all City approvals is enclosed; approval CEQA documents are included, that all property tax agreements are on file, and issues a **Certificate of Filing**, setting the commission hearing within 90 days; or
 - b) Determines that the application is not complete and notifies the proponent (LAFCO Manual Chapter II, and Government Code Section 56828).

NOTE: The Executive Officer may **conditionally** accept an application.

4. The Executive Officer requests review of any information for the proposal from affected county departments, affected agencies, and other affected counties' LAFCOs (Government Code Section 56828).

5. As an option, proponents and/or LAFCO staff conduct a public meeting with affected residents and/or landowners to give information and receive comments on the proposal.
6. At least twenty (21) days prior to the date set for hearing the Executive Officer gives notice by:
 - a) Publication in a newspaper of general circulation;
 - b) Posting near the door of the hearing room; and
 - c) Mailing to each affected agency which contains territory or whose sphere of influence contains territory within the proposal, chief petitioner(s), persons requesting notice, each city within three miles, and the county in the case of incorporation or formation, all owners of parcels directly affected and surrounding landowners
 - d) Web Page

NOTE: Some commission actions can be made without notice and hearing, such as annexations and detachments with written consent of all (100%) landowners. Notice and opportunity to request a public hearing must be given to agencies whose boundaries are affected (Government Code Section 56837).

7. The Executive Officer reviews the application and any comments received and prepare the staff report for the commission. The report provides a staff recommendation and a review of pertinent factors and policies, spheres of influence, and general plan and specific plans.
8. The Executive Officer mails the report at least five (5) days prior to the hearing to each commissioner, each person named in the application to receive a report, each affected local agency requesting a report, each agency whose boundaries or sphere of influence will be changed, and the Executive Officer of the LAFCO of any other affected county (Government Code Section 56833).
9. The Commission hears the proposal on the noticed date and time. The hearing may be continued for up to 70 days. The Commission must consider a number of factors and policies in compliance with State law. Among the factors considered by Imperial LAFCO in making its determination are: (Government Code Section 56841)
 - a) Population, density, land area and land use, per capita assessed valuation, topography, natural boundaries, drainage basins, proximity to populated areas, likelihood of significant growth during next ten years;
 - b) Need for organized community services, present cost and adequacy of government services and controls, probable future needs, probable effect of change of organization and of alternative courses of action on the cost and adequacy of services and controls in the area and adjacent areas;
 - c) The effect of the proposed action or alternative actions on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county;
 - d) Conformity of the proposal to Commission policies on providing planned, orderly, efficient patterns of urban development, and with state policies and priorities on conversion of open-space uses;

- e) Effect of the proposal on maintaining the physical and economic integrity of lands in an agricultural preserve in open-space uses;
 - f) Definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment and ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries;
 - g) Conformity with appropriate city or county general and specific plans; and
 - h) The sphere of influence of any agency, which may be applicable to the proposal being reviewed (see Section III for more about the adoption of spheres of influence).
10. Within 35 days of the hearing the Commission will adopt a resolution of determination taking the following actions:

NOTE: The Imperial LAFCO generally adopts a resolution at the time of the hearing; however it reserves the right to adopt within the 35 days following the hearing)

- a) Approve or deny with or without conditions or revisions to the proposal. If denied, no new proposal can be made for one year unless waived by LAFCO. If the proposal included incorporation or consolidation of a city, no new proposal can be made for two years unless waived by LAFCO (Government Code Sections 56851, 56855 & 57090);
 - b) Determine if the territory is inhabited or uninhabited (inhabited territory means territory within which there reside 12 or more registered voters);
11. Under certain conditions and only for specified projects, the Executive Officer through delegation of authority from the Commission has the authority to consider, approve or deny a project. (Government Code Section 56133)

Specified Project(s):

- a) Extension of new or extended water service by a city or district to an entity other than another city or district within the Sphere of Influence of the city/district limit and provided there are four (4) or fewer connections.
- b) Extension of new or extended sewer service by a city or district to an entity other than another city or district within the Sphere of Influence of the city/district limit and provided there are four (4) or fewer connections.
- c) Extension of solid waste service by a city/district a city or district within the Sphere of Influence of the city/district limit and provided there are four (4) or fewer users.

NOTE: Projects not meeting the above criteria shall only be considered by the full Commission.

Applications are required for the above types of projects. Details for these types of applications can be found in Chapter II. A.4.

GLOSSARY OF COMMON LAFCO & PLANNING TERMS

LAFCO TERMS

AGRICULTURAL LANDS: Lands that are currently used for the purpose of producing an agricultural commodity for commercial purposes, land left fallow under a crop rotation program, or land enrolled in an agricultural subsidy or set-aside program.

ANNEXATION: The inclusion of territory in a city or special district.

CERTIFICATE OF COMPLETION: Any change in organization or reorganization is deemed to be complete and in existence upon the date of the execution of the Certificate of Completion.

CERTIFICATE FILING: This document is issued after the application has been deemed to be complete by the Executive Officer and a property tax agreement is completed. Commission proceedings begin when a Certificate of Filing has been issued. A hearing before LAFCO occurs within 90 days of the issuance of the Certificate of Filing.

CERTIFICATE OF SUFFICIENCY: The Executive Officer must issue a Certificate of Sufficiency within 30 days after receiving a petition that indicates the certificate contains the requisite number of signers.

CHANGE OF ORGANIZATION: An alteration of government structure, including: city incorporation; district formation; annexation to, or detachment from a city or district; city dis-incorporation; district dissolution; city or district consolidation; or merger or establishment of a subsidiary district.

CONSOLIDATION: The uniting or joining of two or more cities or two or more districts located in the same county into a single new successor city or successor district.

CONTIGUOUS: In the case of annexation, territory adjacent to an agency to which annexation is proposed. Territory is not contiguous if the only contiguity is based upon a strip of land more than 300 feet long and less than 200 feet wide.

DEPENDENT SPECIAL DISTRICT: A special district whose board of directors is another legislative body, such as a city council or board of supervisors. Also see special district.

DETACHMENT: The exclusion of territory from a city or district.

DISINCORPORATION: The termination of the existence of a city.

DISSOLUTION: The termination of the existence of a district.

FORMATION: The creation of a district.

INCORPORATION: The creation of a city.

INDEPENDENT SPECIAL DISTRICT: A special district that has a directly elected board of directors. Also see special district.

INHABITED TERRITORY: Territory within which, 12 or more registered voters reside.

INITIATING PETITION: A document signed either by registered voters or landowners that requests LAFCO to consider a change of organization or reorganization.

ISLAND: Unincorporated territory substantially surrounded by a city, or territory surrounded by a city on one or more sides and the Pacific Ocean on the remaining sides.

MERGER: The termination of the existence of a district, and the assumption of the district's responsibilities by a city.

PRIME AGRICULTURAL LAND: An area of land that has not been developed for a use other than agriculture and meets certain criteria related to soil classification or crop and livestock carrying capacity.

REORGANIZATION: Two or more changes of organization initiated in a single proposal.

SERVICE AREA PLAN/MUNICIPAL SERVICE REVIEW: Comprehensive study designed to better inform LAFCOs, local agencies and the community about the capacity of services, level of service, efficiency of services and provide for coordination and opportunities between providers. SAPs are required to be updated every 5 years.

SPECIAL DISTRICT: A local governmental agency formed pursuant to general law of the state or special act.

SPHERE OF INFLUENCE: A plan for the probable physical boundaries and service areas of a city or district.

SPHERE OF INFLUENCE AMENDMENT: The changing or updating of an adopted sphere of influence.

SPHERE OF INFLUENCE DEFINITIONS: Imperial LAFCO has six types of sphere of influence designations:

- ♦ **COTERMINOUS:** A sphere may be designated for a city or special district that is the same as its existing boundaries if there is no anticipated need for services outside the boundaries of the agency, or if there is insufficient information to support inclusion of additional territory within the sphere.
- ♦ **LARGER THAN:** A sphere may be designated for a city or special district that is larger than its existing boundaries if there is a need for services beyond its boundaries.
- ♦ **SMALLER THAN:** An agency may be designated a sphere that encompasses less territory than its existing boundaries if there is no need for services from the agency in the affected territory, or if the territory is included in the sphere of another agency.
- ♦ **ZERO:** A zero sphere, which includes no territory, may be designated for an agency, usually a special district. A zero sphere assumes that the public service responsibility and function of the agency should ultimately be reassigned to another agency.
- ♦ **SERVICE SPECIFIC:** An agency may be assigned a sphere of influence that only encompasses a specific service if the service is not needed throughout the agency.
- ♦ **SPECIAL STUDY AREA:** A special study area may be designated if insufficient information exists to make a sphere determination.

SPHERE OF INFLUENCE DETERMINATIONS: In establishing a sphere of influence, the Commission must consider and prepare written determinations related to present and planned land uses, need and capacity of public facilities, and existence of social and economic communities of interest.

SPHERE OF INFLUENCE TIME FRAME: In establishing a sphere of influence, particular emphasis is placed on projected service demands for the next 10-15 years. This is consistent with the time frames of the land use and public service plans of the affected agencies (e.g., general plans, capital improvement plans, district service plans, etc.).

SUBSIDIARY DISTRICT: A district of limited powers for which a city council is designated as the ex officio board of directors of the district. At least 70% of the district's land area and number of registered voters must be within the city limits for a district to become a subsidiary district.

UNINHABITED TERRITORY: Territory within which less than 12 registered voters reside.

PLANNING TERMS

EASEMENT: A less-than-fee interest that includes selected rights, or grants the holder the right to prevent certain land uses. A property owner retains ownership and the rights other than those expressly limited by the easement. Easements may be granted for a number of reasons, including access, public utilities, conservation, open-space, and scenic purposes.

GENERAL PLAN: A document containing a statement of development policies including a diagram and text setting forth the objectives of the plan. The general plan must include certain state mandated elements related to land use, circulation, housing, conservation, open-space, noise, and safety.

PREZONING: The primary instrument for implementing the general plan. Prezoning divides a community into districts or "zones" which specify the permitted/prohibited land uses for territory outside a city's corporate limits. Prezoning has no regulatory effect until the property is annexed. Also see zoning.

SPECIFIC PLAN: A policy statement and implementation tool that is used to address a single project or planning problem. Specific plans contain concrete standards and development criteria that supplement those of the general plan.

ZONING: The primary instrument for implementing the general plan. Zoning divides a community into districts or "zones" which specify the permitted/prohibited land uses.

Exhibit A

FEE SCHEDULE

Exhibit B

PROJECT APPLICATION INSTRUCTIONS & MAPPING REQUIREMENTS

Exhibit C

PETITION

APPLICATION

Exhibit D

INDEMNIFICATION AGREEMENT

Exhibit E

SPHERE OF INFLUENCE GUIDELINES

Exhibit F

SPHERE OF INFLUENCE APPLICATION

Exhibit G

SERVICE AREA PLAN GUIDELINES