

APPENDIX I

**ADOPTION OF THIS
GUIDE**

RESOLUTION #2012-04 OF THE LOCAL AGENCY FORMATION COMMISSION OF THE COUNTY OF IMPERIAL FOR THE ADOPTION OF THE REVISED POLICY, STANDARDS AND PROCEDURES GUIDE PURSUANT TO THE CORTESE-KNOX-HERTZBERG LOCAL GOVERNMENT REORGANIZATION ACT OF 2000 (AB2838)

RESOLVED, by the **LOCAL AGENCY FORMATION COMMISSION** of the County of Imperial, State of California, that

WHEREAS, AB2838 as authored by Assembly Speaker Hertzberg and as signed into law by Governor Davis, required the Commission to adopt a set of written policies and procedures under which LAFCO shall conduct business; and

WHEREAS, the Executive Officer reviewed the requirements of AB2838; reviewed the previously adopted version of the "Policy, Standards and Procedures Guide" ("Guide"); and made suggested changes to "update" the Guide to meet the requirements of AB2838.

NOW THEREFORE, BE IT DETERMINED, ORDERED AND RESOLVED as follows:

LAFCO hereby adopts this revised, 2012 version of the Policy, Standards and Procedures Guide.

LAFCO makes the following finding:

This Guide is categorically exempt from the California Environmental Quality Act ("CEQA")

PASSED, ADOPTED AND APPROVED this **22nd** day of **March, 2012** by the following roll call votes:

AYES: Snively, Kelley, Ludwig, Terrazas

NAYES: None

ABSTAIN: None

ABSENT: None

Ed Snively, Chairman


Jurg Heuberger, Executive Officer

APPENDIX II

**ADOPTION OF
DISCLOSURE
REQUIREMENTS**

RESOLUTION #A102308 OF THE LOCAL AGENCY FORMATION COMMISSION OF THE COUNTY OF IMPERIAL ("LAFCO") MAKING A DETERMINATION AND APPROVING POLICIES FOR THE DISCLOSURE AND REPORTING REQUIREMENTS OF THE COMMISSIONERS:

RESOLVED, by the **LOCAL AGENCY FORMATION COMMISSION** of the County of Imperial, State of California, that

WHEREAS, AB 2838 known as the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, in particular Government Code sections 56100. and 56300, require LAFCO to address public disclosure of contributions, lobbying, conflict of interest, and other similar activities by each Commissioner; and

WHEREAS, the Executive Officer of LAFCO reviewed and prepared a report on said process; and

WHEREAS, LAFCO held a public hearing pursuant to the mandate of Government Code section 56300 et. seq.; and,

WHEREAS, LAFCO wants to conduct its business in an open, honest and forthright process, allowing individuals an equal opportunity to present their points of view; and,

WHEREAS, ex-parte communications with Commissioners should be discouraged so that all information necessary to reach a decision on a particular project is be presented at a public hearing. Meetings or lobbying efforts by the applicants shall not influence a Commissioners' decision prior to the public hearing; and,

WHEREAS, if in the opinion of the individual Commissioner a conflict exists, the Commissioner shall abstain from voting on the proposal and, if available, allow the alternate to be seated during such hearing.

WHEREAS, if a Commissioner knows in advance that he/she has a conflict, then the Commissioner shall notify the Executive Officer to determine if the alternate Commissioner may be available to be seated.

NOW THEREFORE, BE IT DETERMINED, ORDERED AND RESOLVED as follows:

- a. LAFCO shall require each Commissioner, immediately after introduction of a hearing item, but prior to any presentations being made, to clearly disclose any prior or ex-parte discussions or meetings that the Commissioner participated in that were in any way related to the matter being heard.

- b. Each Commissioner may discuss or obtain legal advice regarding any such disclosure from his or her own legal counsel. LAFCO Counsel should be advised in advance to preserve the integrity of the LAFCO process and assure compliance within AB2838.
- c. Failure to disclose a conflict of interest shall not invalidate any public hearing decision; however it shall be grounds for a party to seek a rehearing of the item before LAFCO if such a rehearing is requested upon clear and convincing evidence that the disclosure could have altered the decision of LAFCO

LAFCO finds that:

- 1. The procedures are in the interest of complying with AB 2838.
- 2. The procedures are in the best interest of good government.
- 3. The procedures in no way restrict ex parte communication only that they be properly disclosed, prior to a decision on a project.
- 4: If there is a "conflict of interest" the Commissioner shall abstain from participation in the hearing and the appropriate alternate Commissioner for that category shall be seated in his or her place.

PASSED, ADOPTED AND APPROVED this 23rd day of October, 2008 by the following roll call votes:

AYES: Maruca, Snively, Carrillo, Ludwig

NAYES: None

ABSTAIN: None

ABSENT: None



Victor Carrillo, Chairman

APPENDIX III

**APPOINTMENT OF
EXECUTIVE OFFICER**

RESOLUTION #2012-02 OF THE LOCAL AGENCY FORMATION COMMISSION OF THE COUNTY OF IMPERIAL MAKING A DETERMINATION AND APPROVING POLICIES FOR APPOINTMENT AND SERVICE OF THE EXECUTIVE OFFICER.

RESOLVED, by the LOCAL AGENCY FORMATION COMMISSION of the County of Imperial, State of California, that

WHEREAS, AB 2838 known as the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, in particular Government section 56380 et. seq., requires LAFCO to make provisions for its own quarters, services and staff; and

WHEREAS, the Executive Officer of LAFCO has reviewed and prepared a report on said process; and

WHEREAS, for approximately 26 years LAFCO has appointed its own staff including the Executive Officer; and,

WHEREAS, LAFCO requires one individual to be responsible for the day-to-day operations of the office and therefore LAFCO recognizes the need to employ an Executive Office and desires to do so on a contract-basis.

WHEREAS, now that LAFCO is fiscally independent, the LAFCO Executive Officer has now been under contract for the past 4 years; and

WHEREAS, the current Executive Office has performed the duties of the Executive Officer for over 26 years, is extremely knowledgeable in the LAFCO regulations and laws, and is more than capable of continuing to serve as Executive Officer. It is the desire of LAFCO to continue to contract with Jurg Heuberger as its Executive Officer, subject to an established salary as specified in the Policy Manual and the annual budget, and including but not limited to, the provisions and personnel rules of appointment contained in the policies, standards and procedures guide; and,

WHEREAS, the Executive Officer shall at all times work as independent staff to LAFCO.

NOW THEREFORE, BE IT DETERMINED, ORDERED AND RESOLVED as follows:

- a. The Executive Officer shall at all times be directly responsible to the LAFCO, and shall at all times exercise judgment in the interest of the LAFCO, and in keeping with LAFCO regulations.
- b. The Executive Officer is granted authority and responsibility for the day-to-day operations for LAFCO and has such other authority as may be provided by resolution, minute order or contained in the LAFCO Policy Guide.
- c. Jurg Heuberger, AICP, CEP is hereby re-appointed to serve a four-year term as Executive Officer to LAFCO.

- d. The appointment of the Executive Officer shall be under the provisions of the policy, procedures and standards as adopted by LAFCO. The appointment is as a part-time position.

LAFCO finds that:

1. The appointment is the interest of complying with AB 2838.
2. The appointment is of an individual knowledgeable, experienced and capable of providing the requisite direction under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.
3. The appointment is of a person that has 26 years of experience as an Executive Officer.

PASSED, ADOPTED AND APPROVED this **22nd** day of **March, 2012** by the following roll call votes:

AYES: Snively, Kelley, Ludwig, Terrazas

NAYES: None

ABSTAIN: None

ABSENT: None

Ed Snively, Chairman


Jurg Heuberger, Executive Officer

APPENDIX IV

**RESOLUTION FOR
EXECUTIVE OFFICER
AUTHORITY**

RESOLUTION #A102308 OF THE LOCAL AGENCY FORMATION COMMISSION OF THE COUNTY OF IMPERIAL MAKING A DETERMINATION AND APPROVING POLICIES FOR THE DAY-TO-DAY OPERATIONS OF THE LAFCO AS AN INDEPENDENT AGENCY.

RESOLVED, by the **IMPERIAL COUNTY LOCAL AGENCY FORMATION COMMISSION ("LAFCO")** of the County of Imperial, State of California, that

WHEREAS, AB 2838 known as the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Government Code section 56000 et. seq, requires LAFCO to make provisions for its own quarters, services and staff; and

WHEREAS, the Executive Officer of LAFCO has reviewed and prepared a report on said process; and,

WHEREAS, LAFCO has in the past utilized the services of Imperial County, including but not limited to, Imperial Auditor-Controller, Purchasing Department, and County Counsel, and County space, including but not limited to, the Board of Supervisor's hearing chambers and office space; and,

WHEREAS, LAFCO intends to function in compliance with AB 2838 as an independent agency, while still minimizing the cost of independence; and,

WHEREAS, LAFCO relies on the services of the Executive Officer for its day-to-day operations, which include the procurement of staffing, services, supplies, equipment and office space; and,

WHEREAS, the Executive Officer shall use independent judgment on how best to secure such staffing, services, supplies and equipment; and,

WHEREAS, LAFCO desires to utilize services in the most fiscally responsible manner, including services available through Imperial County or any city; and,

WHEREAS, LAFCO recognizes that services, supplies, or equipment may be procured more readily and at lower cost through the private sector and therefore desires that the Executive Officer has the flexibility within which to operate subject to the limitations contained within the LAFCO Policy Guide, and/or direction of the Commission; and,

WHEREAS, LAFCO desires to be accountable and will have, at a minimum, a bi-annual independent audit performed and presented to LAFCO.

NOW THEREFORE, BE IT DETERMINED, ORDERED AND RESOLVED as follows:

- a) The Executive Officer shall at all times be directly responsible to LAFCO. The Executive Officer may exercise his independent judgment but at all time his actions shall be in conformity with LAFCO regulations and in the interest of LAFCO.
- b) The Executive Officer shall have full authority and responsibility for the day-to-day operations and such other authority as may be granted to the Executive Officer by resolution, minute order or contained in LAFCO Policy Guide.

- c) The Executive Officer shall have the ability to secure staffing, services, supplies and equipment (either directly or through the processes available with Imperial County or any city), provided that it is the most efficient and cost-effective method. Nothing contained in this Resolution or the LAFCO Policy Guide shall be deemed to grant the County or any other jurisdiction the ability to direct or control the actions of the Executive Officer in the performance of his duties.
- d) Since the LAFCO now owns its own quarters, and since such building has available space for rent, the Executive Officer has the authority to lease any such office space at market rates or comparables. The Executive Officer also has the authority to perform or cause to be performed the necessary repairs, and/or maintenance.
- e) The Executive Officer shall remain within the budget limitations as adopted by LAFCO and shall first secure approval for expenditures that would increase the budget limits from LAFCO
- f) The Executive Officer shall prepare an annual (or as deemed necessary) report to LAFCO on the status of the budget.

LAFCO finds that:

1. These day-to-day procedures are in the interest of complying with AB 2838.
2. These day-to-day procedures establish a business-like approach for LAFCO functions.
3. These procedures allow flexibility, responsibility and accountability to rest with the Executive Officer and at the same time to be reviewed by LAFCO on a regular basis.

PASSED, ADOPTED AND APPROVED this 23rd_day of October, 2008 by the following roll call votes:

AYES: Maruca, Snively, Carrillo, Ludwig

NAYES: None

ABSTAIN: None

ABSENT: None



Victor Carrillo, Chairman

APPENDIX V

**RESOLUTION TO
CONTRACT FOR LEGAL
COUNSEL**

RESOLUTION #2012-03 OF THE LOCAL AGENCY FORMATION COMMISSION OF THE COUNTY OF IMPERIAL MAKING A DETERMINATION AND APPROVING POLICIES FOR LEGAL SERVICES TO LAFCO BY CONTRACT WITH PRIVATE LAW FIRM

RESOLVED, by the LOCAL AGENCY FORMATION COMMISSION of the County of Imperial, State of California, that

WHEREAS, AB 2838 known as the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Government Code Section 56000 et. seq., requires LAFCO to make provisions for its own quarters, services and staff; and

WHEREAS, the Executive Officer of LAFCO reviewed and prepared a report for legal services upon which a private law firm was then selected by the Commission on February 24, 2011; and

WHEREAS, LAFCO intends to function in compliance with AB 2838 as an independent agency, while minimizing the costs of independence; and,

WHEREAS, LAFCO contracted for legal services, with the office of Childers & Associates for fiscal year 2010/2011; and,

NOW THEREFORE, BE IT DETERMINED, ORDERED AND RESOLVED as follows:

- a. The Executive Officer shall at all times work with and provide the necessary information to the legal representative, Childers & Associates.
- b. Childers & Associates shall function as LAFCO's independent legal advisor, and to that extent shall provide the necessary services to the LAFCO through and in conjunction with the Executive Officer.
- c. Ryan Childers of Childers & Associates shall be available to provide the required service to the Executive Officer as needed and shall be available for all public hearings of the Commission. Ryan Childers shall also be available to attend CALAFCO and other LAFCO workshops and training seminars as may be appropriate.
- d. Childers & Associates agrees to provide these services at a fixed retainer of \$5,000 per year maximum for the basic legal services.
- e. Childers & Associates shall have a 3 year contact for legal services commencing on July 1, 2012 through June 30, 2015.

LAFCO finds that:

1. The procedures are in the interest of complying with AB 2838.
2. The procedures establish a business-like approach to the functions of LAFCO.

3. The procedures allow flexibility, responsibly and accountability to rest with the Executive Officer, whom is under review by the Commission on a regular basis.

PASSED, ADOPTED AND APPROVED this **22nd** day of **March, 2012** by the following roll call votes:

AYES: Snively, Kelley, Ludwig, Terrazas

NAYES: None

ABSTAIN: None

ABSENT: None

Ed Snively, Chairman


Jurg Heuberger, Executive Officer

APPENDIX VI

**RESOLUTION FOR
APPROVAL OF CEQA
PROCESS/GUIDELINES**

RESOLUTION #2012-01 OF THE LOCAL AGENCY FORMATION COMMISSION OF THE COUNTY OF IMPERIAL MAKING A DETERMINATION AND APPROVAL OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT ("CEQA") PROCESS AND CEQA GUIDELINES

WHEREAS, LAFCO has reviewed the proposed CEQA Guidelines (attached); and

WHEREAS, State law requires each agency to implement CEQA by having "Rules to Implement"; and

WHEREAS, LAFCO had previously used the County's Rules and has now prepared its own.

NOW THEREFORE BE IT RESOLVED, by the LOCAL AGENCY FORMATION COMMISSION of the County of Imperial, State of California, that:

LAFCO hereby adopts the Rules to Implement CEQA as presented by the Executive Officer;

PASSED, ADOPTED AND APPROVED this 22nd day of **March, 2012** by the following roll call votes:


AYES: Snively, Kelley, Ludwig, Terrazas

NAYES: None

ABSTAIN: None

ABSENT: None

Ed Snively, Chairman


Jurg Heuberger, Executive Officer

APPENDIX VII

**RESOLUTION OF THE
CEQA CO-LEAD
PROCESS**

RESOLUTION #A102308 OF THE LOCAL AGENCY FORMATION COMMISSION OF THE COUNTY OF IMPERIAL ("LAFCO") MAKING A DETERMINATION AND APPROVAL OF THE CEQA CO-LEAD PROCESS

WHEREAS, LAFCO conducted a full public hearing on the above-referenced project; and,

WHEREAS, LAFCO directed the Executive Officer to meet with the city managers/staff to review the California Environmental Quality Act ("CEQA") process; and,

WHEREAS, LAFCO directed the Executive Officer to request a special LAFCO meeting if it is determined that the Lead Agency's certified CEQA document is not adequate, thereby allowing LAFCO time within which to challenge the CEQA documentation, if necessary; and,

WHEREAS, LAFCO directed the Executive Officer to appear before a city council prior to the certification of a CEQA document in an effort to arrive at a mutually acceptable document without having to take a subsequent adversarial position and /or without jeopardizing the project at a later LAFCO hearing.

NOW THEREFORE BE IT RESOLVED, by the LOCAL AGENCY FORMATION COMMISSION of the County of Imperial, State of California, that:

LAFCO adopts a motion made by Commissioner Maruca to accept and approve that LAFCO can on a case-by-case basis ask to be co-lead with a city and work with its staff to assure that the CEQA documentation is being prepared by the Lead Agency to meet the needs of LAFCO as a Responsible Agency. The motion carried on the affirmative roll call vote of all Commissioners present.

PASSED, ADOPTED AND APPROVED this **23rd** day of October, 2008 by the following roll call votes:

AYES: Maruca, Snively, Carrillo, Ludwig

NAYES: None

ABSENT: None



Victor Carrillo, Chairman

APPENDIX VIII

**RESOLUTION FOR THE
EXECUTIVE OFFICER
APPROVAL TO INCLUDE
PROPERTY**

RESOLUTION #A102308 OF THE LOCAL AGENCY FORMATION COMMISSION OF THE COUNTY OF IMPERIAL ("LAFCO") MAKING A DETERMINATION AND APPROVING DIRECTION OF THE EXECUTIVE OFFICER'S REQUEST TO INCLUDE PROPERTY

WHEREAS, LAFCO conducted a full public hearing on the above-referenced issue; and

WHEREAS, the Executive Officer informed LAFCO that the Cortese-Knox-Hertzberg Reorganization Act of 2000 requires that LAFCO follow certain statutes as well as local policies when it comes to annexing land to a city or special district. One of the requirements is that "islands" of unincorporated territory not be created by any proposed new annexation. Another policy is that annexations produce "clear" lines of jurisdictional boundaries, and;

WHEREAS, the Executive Officer explained that because of landowner opposition we still have some minor problem areas where "pockets" of land exist that essentially prevent nearby property from annexing in the future; and,

WHEREAS, the Executive Officer informed LAFCO that there have been several proposed annexations submitted that create complex and irregular boundaries. Although the Executive Officer accepted the annexation applications he has required that certain additional steps be taken by both the developer and the city; and;

WHEREAS, it is proposed that the Executive Officer have the authority to request any applicant for an annexation to include additional property, as an alternative proposal, and that the Executive Officer has the additional authority to request that the annexing city include the land in its pre-zoning.

NOW THEREFORE BE IT RESOLVED, by the LOCAL AGENCY FORMATION COMMISSION of the County of Imperial, State of California, that:

LAFCO adopts the motion made by Commissioner Maruca to accept and approve the Executive Officer's recommendation. The Executive Officer will have the authority to request any applicant for an annexation to include additional property when in the opinion of the Executive Officer; the application creates an irregular boundary or an island which is not consistent with the intent of the Cortese-Knox- Hertzberg Reorganization Act. The applicant may be requested to either amend the proposed annexation boundaries or prepare a dual application with two parts (i.e. - Part A - the applicant's proposal or Part B - the Executive Officer's proposed boundary). At the request of the Executive Office the city shall include the additional land in its "pre-zoning" and "CEQA" process. The motion carried on the affirmative roll call vote of all Commissioners present.

PASSED, ADOPTED AND APPROVED this 23rd day of **October, 2008** by the following roll call votes:

AYES: Maruca, Snively, Carrillo, Ludwig

NAYES: None

ABSENT: None



Victor Carrillo

APPENDIX IX

**RESOLUTIONS OF
MINOR ANNEXATIONS
WITH RIGHT-OF-WAYS**

RESOLUTION #A102308 OF THE LOCAL AGENCY FORMATION COMMISSION OF THE COUNTY OF IMPERIAL ("LAFCO") MAKING A DETERMINATION AND APPROVING DIRECTION OF THE MINOR ANNEXATIONS DEALING WITH RIGHTS-OF-WAYS

WHEREAS, LAFCO conducted a full public hearing on the above-referenced issue; and

WHEREAS, the Executive Officer informed LAFCO that a number of years ago the Commission adopted a policy to require that all annexations include the full width of every contiguous right-of-way, easement, road, and/or canal. Prior to that policy some annexations excluded contiguous rights-of-ways and;

WHEREAS, the Executive Officer explained that in some cases when a development project occurs contiguous to a city, and the County acquires the right-of-way for future roads, there is no mechanism to give that right-of-way to the city as "incorporated" property when annexation occurs; and;

WHEREAS, the Executive Officer proposes that LAFCO consider authorizing this type of "annexation" to be allowed under the administrative heading of the Executive Officer, much like the ability to extend via administrative procedure, water and sewer services.

NOW THEREFORE BE IT RESOLVED, by the **LOCAL AGENCY FORMATION COMMISSION** of the County of Imperial, State of California, that:

LAFCO adopts the motion made by Commissioner Maruca to accept and approve the Executive Officer recommendations. The Executive Officer may approve annexations of rights-of way, roads, canals and other public infrastructure by administrative review. This shall occur only after public notice to the contiguous land owners and affected agencies. The motion carried on the affirmative roll call vote of all Commissioners present.

PASSED, ADOPTED AND APPROVED this 23rd day of October, 2008, by the following roll call votes:

AYES: Maruca, Snively, Carrillo, Ludwig

NAYES: None

ABSENT: None



Victor Carrillo, Chairman

T H A N K Y O U !

For any questions regarding the information contained within this document, please contact the LAFCO Office at the following information:

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**Last revision:
April 2013**