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# A GUIDE TO THE LAFCO PROCESS FOR INCORPORATIONS

## APPENDICES

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# APPENDIX A

## INCORPORATION PRIMER

The purpose of this document is to provide basic information and practical advice on the entire incorporation process—starting with a group of residents discussing their community’s future to the first months of a newly incorporated city’s life. It is hoped this will help both citizens and Local Agency Formation Commission (LAFCO) staff unfamiliar with incorporations to avoid potential risks or pitfalls.

### I. INTRODUCTION

This primer is **NOT** intended to be an all-inclusive and definitive guide to the requirements for incorporations. Interested parties should obtain a copy of The Governor’s Office of Planning and Research (OPR) Incorporation Guidelines which explain the minimum legal requirements of the

**LAFCO’S ROLE IN AN INCORPORATION**

Incorporation proposals are often motivated by dissatisfaction with the status quo.

One of LAFCO’s roles is to be an intermediary and facilitator that is required, by law, to identify issues and to resolve them in an equitable manner.

LAFCO staff must communicate clearly the standard of review, the requirements, the estimated cost and the probable timing of an incorporation proposal.

Cortese-Knox-Hertzberg Act of 2000. In addition, many individual LAFCOs have adopted policies and procedures augmenting the minimum legal requirements. It is critical that any individual, group, agency or community interested in incorporation carefully review the OPR Incorporation Guidelines and meet with your LAFCO staff.

### II. BEFORE YOU START

Incorporations usually start with a group of residents forming a committee to explore the possible incorporation of their community. An incorporation committee defines and articulates incorporation goals, raises funds, collects signatures, assembles application materials, works with LAFCO staff and consultants, testifies at hearings and negotiates changes in the proposal. While each incorporation is unique, a committee of interested local residents is typically the impetus for incorporation.

#### A. Be Realistic

For any incorporation to succeed, it must have widespread community support since the voters

**INCORPORATIONS CAN BE EXPENSIVE**

Proponents are generally required to pay for LAFCO fees and staff costs, consultant costs, preparation of the CFA, application, map and legal descriptions as well as environmental review. It is not unusual for an incorporation to cost more than \$100,000.

must approve all successful incorporations. Therefore, ensuring that the residents are educated about the incorporation is critical during the incorporation process. It is recommended that the incorporation committee meet with people living in the incorporation area and in adjoining communities which may be directly affected by the proposal. Fund raising is another crucial task because the proponents of the incorporation are responsible for developing the information that will go into an

application and for paying the costs of processing the application.

## B. Look at Alternatives

Most unincorporated communities face the same challenges that cities face—changes in the character of their community, housing/jobs balance, provision of services, increased traffic and growth. Some communities see incorporation as a means to help address their problems without being aware of other alternatives. OPR strongly encourages any community investigating incorporation to explore a range of alternatives with their fellow residents, elected representatives, LAFCO and county officials before embarking on an incorporation effort.

### WHAT IS A LOGICAL INCORPORATION BOUNDARY?

A logical incorporation boundary does the following:

- Is realistic in its recognition of political opportunities and constraints.
- Recognizes existing jurisdictional boundaries of other agencies including special districts and cities.
- Includes a variety of land uses for a balanced community. While LAFCO has no direct authority to set or alter existing land use patterns, it will consider if a proposed new city will have a variety of land uses for fiscal balance.
- Considers topography, geography, historic boundaries and urban limit lines if adopted.
- Recognizes existing spheres of influence (SOI).
- Recognizes communities of interest or areas which may have financial, geographic or other various links to the incorporation area.
- Recognizes the ability and readiness of the area to provide municipal level services.
- Is consistent with the stated goals of incorporation. If the goal of incorporation is to give an area control over land use decisions, then the boundary should include areas which might have an impact on land use decisions.
- A logical incorporation boundary should not, if at all possible: Split a parcel by city boundaries.
- A logical incorporation boundary should not, if at all possible: Create islands which are unincorporated areas surrounded by incorporated territory. LAFCO is prohibited by law from creating islands.
- A logical incorporation boundary should not, if at all possible: Use school districts, zip codes, postal addresses or other boundaries which often serve multiple jurisdictions.

## C. Consult with LAFCO

Of all the actions incorporation proponents can take which will help to ensure a successful incorporation process, early and frequent consultation with LAFCO is the most important. The incorporation process can seem long and complicated and LAFCO staff can help the incorporation proponents avoid the most common pitfalls. It is strongly recommended that proponents develop the proposed boundaries of the new city with LAFCO staff early in the process—even before deciding to move forward with any incorporation efforts. The inclusion (or exclusion) of territory has a profound impact on the incorporation proposal and the preparation of the comprehensive fiscal analysis (CFA).

## D. Why Incorporate?

Incorporation shifts local government responsibility for an unincorporated area under the jurisdiction of a county board of supervisors to a newly established city council. The reasons for incorporation efforts may vary and can include, but are not limited to, the following:

**SERVICES:** Incorporations can be proposed to improve local public services. Cities can provide extensive services but are also required to fund their share of the cost to provide countywide services through a process called “revenue neutrality” which is explained in following sections.

<b>WHO PROVIDES WHAT SERVICES AFTER INCORPORATION?</b>	
<p style="text-align: center;"><b>Services Which A New City May Assume</b></p> <ul style="list-style-type: none"> <li>• Law enforcement</li> <li>• Fire protection and paramedics (some cases)</li> <li>• Water and sewer (some cases)</li> <li>• Planning (land use, environmental review, zoning, building inspection, etc.)</li> <li>• Public works (streets, engineering, traffic signals, streetlights, drainage, etc.)</li> <li>• Local parks and recreation</li> <li>• Libraries (in some cases)</li> <li>• Animal control</li> </ul>	<p style="text-align: center;"><b>Services that the County May Continue to Provide</b></p> <ul style="list-style-type: none"> <li>• Special services (welfare, child protective services, etc.)</li> <li>• Health services</li> <li>• Criminal justice (courts, prosecution, jails, probation, etc.)</li> <li>• Regional parks</li> <li>• Elections and voters services</li> <li>• General government (assessor, treasurer, recorder, tax collector, etc.)</li> </ul>

**REVENUES:** Incorporation may be proposed to capture increased revenues to support local services.

**LOCAL CONTROL:** An incorporation may be proposed to give a community more local control over land use, growth, planning policy and other governmental activities.

**MUNICIPAL REVENUES**

Cities can use a variety of revenue. A good source of information about the types of revenues available to cities is the California State Controller’s Annual Cities report which is available online. Another source is the League of California Cities’ library which contains many city budgets.

**REPRESENTATION:** Incorporations may also be proposed to create a politically accountable governing body (a city council) in a limited geographic area. Some incorporations are proposed because residents feel that a city council may be more accessible, more visible and responsive to the needs of their particular community.

**E. But Can It Fly? An Initial Feasibility Review**

If incorporation seems to be a potentially feasible option, the next step may be to conduct an initial fiscal analysis of the proposed incorporation. Some communities have found that a preliminary assessment of the potential to incorporate a community has been valuable. An

**WARNING!**

An initial feasibility review is NOT a comprehensive fiscal analysis (CFA). It is only an educational tool. Use of the initial feasibility review as a CFA may result in inadequate financial information, longer processing times and more expense

initial feasibility review is designed to help community groups conduct a quick appraisal of the potential for incorporation. Many incorporation groups focus on the fiscal impacts of incorporation—does the community have the financial resources to support a municipality? However, there are other issues which must also be addressed which would help a community determine if incorporation is right for them.

At a minimum, any community which is considering incorporation should first think about the following questions (taken from Institute of Governmental Affairs booklet “Choices for the Unincorporated Community”):

- What is the problem, if any, driving the desire for change in the existing governmental structure? Can the problem be addressed by other, more efficient means?
- What is the role of the County government in the community? Is the county willing or able to address the identified problems?
- What is the community's relationship to other adjacent communities?
- What would the proposed boundaries look like and how would that affect other agencies and communities?
- What is the past history of local efforts to incorporate?
- How is the community changing?
- What is the community's capacity for self-governance?
- How are services currently provided and how would they change?
- Who is likely to benefit from a change and who is likely to lose?

Incorporations have to be financially feasible. While this is often seen as the primary test for incorporation, it is only one of many standards of review LAFCO will use.

#### **F. The Comprehensive Fiscal Analysis (CFA)**

The primary issue for most incorporations is the fiscal feasibility of the proposed new city and the law requires that a Comprehensive Fiscal Analysis (CFA) be prepared. Determining the fiscal feasibility of an incorporation through preparation of the CFA can be expensive and the cost is usually borne by the incorporation proponents. The OPR Incorporation Guidelines recommend that a CFA be started after an application is submitted to LAFCO to help keep costs at a minimum.

The OPR Incorporation Guidelines contain detailed information on the preparation of a CFA, sources of revenues, examples of financial calculations and a one-year fiscal feasibility spreadsheet to help incorporation proponents.

### **III. THE MAIN STEPS IN THE INCORPORATION PROCESS**

The procedure for the incorporation of an unincorporated community in the State of California may require at least a year of formal review. The purpose of such a process is to ensure that any proposed incorporation is economically feasible, in the best interests of the community and environmentally and logically sound. The procedures for incorporation should be followed carefully to avoid delays and to reduce the risk of potential litigation.

The processing of an incorporation proposal can be divided into several separate stages. These are:

- 1) Initiating the incorporation process;
- 2) Application to LAFCO;
- 3) LAFCO staff review;
- 4) LAFCO Commission hearing;
- 5) Election and the first year;

**A. Initiating the Incorporation Process**

Incorporation can be initiated in one of three ways--by resolution of a public agency, by petition of registered voters or by petition of landowners. A notice of the proponents' intent to circulate a petition must be filed with LAFCO before starting and there are strict, legal time limits for gathering signatures. Proponents and LAFCO should use the "Notice of Intent" filing as an opportunity to review the petition and schedule to ensure legal conformance.

Once enough signatures are collected, the petitions are submitted to LAFCO and must be verified by the appropriate agency. If there are irregularities with petitions or signatures, some signatures may be disqualified which may mean that additional signatures may need to be obtained.

**COLLECT MORE THAN YOU NEED**

Incorporation proponents should plan on collecting at least 10% to 15% more signatures than the minimum requirement to compensate for invalid signatures.

**B. Application to LAFCO**

Once the petitions are verified, proponents must prepare a LAFCO application. The application must include:

- A map and legal description of the boundaries of the proposed incorporation area;
- Justification for the proposal;
- A plan for the transfer/provision of public services; and
- Other information as requested by LAFCO.

**FIRST THINGS FIRST!**

It is recommended that the incorporation boundaries be developed with LAFCO prior to submitting an application but that the CFA be started after submitting the application to LAFCO.

If the application is deemed complete by LAFCO, the Executive Officer will issue a Certificate of Filing and schedule a public hearing.

**C. LAFCO Staff Review**

The staff reviews all the application materials submitted, conducts its own analyses, performs the environmental review, determines the property tax transfer and revenue neutrality payments, solicits comments and produces a final report. The comprehensive fiscal analysis (CFA) is also usually prepared at this stage.

The CFA is one of the crucial elements of an incorporation application. It provides the financial information LAFCO needs to ensure that the proposed new city is fiscally stable, self-sufficient and the reallocation of revenues among affected agencies is equitable. The preparation of a CFA is complex, must satisfy legal requirements and should not be started without consulting with LAFCO.

**REVENUE NEUTRALITY**

The law states that an incorporation should not occur primarily for financial reasons and should result in a substantially equal exchange of both revenue and service responsibility. LAFCO cannot approve an incorporation unless it finds that the revenues currently received by the county are substantially equal to expenditures for services being transferred to the new city. Consult the OPR Incorporation Guidelines for more information on revenue neutrality.

LAFCO's Executive Officer can request the submittal of additional information/studies or make changes in the original proposal. LAFCO's staff review can take as long as twelve (12) months.

Incorporation proponents are required to pay fees and costs for processing of the application and providing any additional information requested by LAFCO.

LAFCO staff works cooperatively with all interested parties to ensure that a thorough, complete and accurate proposal is developed for LAFCO's Commission's consideration. When the proposed incorporation is ready for a public hearing, LAFCO's Executive Officer will schedule the item for a public hearing and prepare a report with a recommendation which will be sent to the proponents, interested parties and LAFCO's Commission prior to the public hearing.

#### **D. LAFCO Commission Hearing**

LAFCO's Executive Officer is responsible for preparing a staff report that will be considered at the public hearing. At the public hearing, LAFCO's Commission hears the staff report and testimony of interested parties both supporting and opposing the incorporation. LAFCO's Commission may continue the hearing to a future date or close the public hearing and act on the proposal.

LAFCO's Commission has the authority to approve, deny or conditionally approve the incorporation proposal. If LAFCO's Commission approves the proposed incorporation, it must adopt a written resolution approving the incorporation and it must contain the following information:

- Confirmation that LAFCO has considered all the information and factors that it is legally required to consider,
- Written findings regarding consistency between the incorporation and the intent of the Cortese-Knox-Hertzberg Act,
- Conditions of approval, if any,
- Any other terms and conditions,
- A description of the final boundaries of the incorporating area,
- A temporary name for the new city if none has been assigned, and
- The effective date of the incorporation.

If LAFCO's Commission denies the proposed incorporation, no similar application can be filed for at least one year unless LAFCO's Commission waives that prohibition.

#### **E. Request for Reconsideration**

Any person or agency may file a request for reconsideration with LAFCO's Commission within 30 days after the resolution of approval is adopted. LAFCO must not take any further action on the incorporation proposal until a public hearing is held and the Commission acts on the request.

#### **F. Protest Hearing**

##### **WHY WASN'T I NOTIFIED?**

LAFCO is NOT required to mail a notice to all residents living within the incorporation boundaries. Residents may request, in writing, to be placed on the appropriate mailing list for notices of incorporation hearings and/or distribution of incorporation reports.



If the approval of the incorporation still stands after a request for reconsideration, LAFCO's Commission will hold a public hearing to count protests to the incorporation. A protest hearing will be held after being duly noticed. LAFCO does not have the discretion to modify the incorporation proposal. LAFCO must terminate the incorporation proceeding if a majority protest is recorded.

### G. Election and First Year

If not terminated by a majority protest, the incorporation will be placed on the ballot of the next general election (unless a special election is requested). LAFCO's Executive Officer must draft an impartial analysis of the incorporation issue for inclusion on the ballot. The Commission may review and approve the impartial analysis. A simple majority vote is required for final approval of the incorporation.

After the incorporation is approved by the voters, LAFCO's work is complete. However, the work of the new city has just begun. It is recommended that all new cities contact the League of California Cities which offers several publications, classes and workshops for new city councils.

#### **AFFORDABLE HOUSING AND THE NEW CITY**

State law recognizes the vital role local governments play in the affordability of housing. Every city council in California is required to adopt a comprehensive, long-term housing element in its general plan which provides for, and does not unduly constrain, affordable housing development. Housing element law also requires the Department of Housing and Community Development (HCD) to review local housing elements for compliance with State law.

## APPENDIX B

### GLOSSARY

**Affected agency:** An affected agency can be a city, county or special district which contains, or whose sphere of influence contains any territory for which an incorporation is proposed or ordered either singularly or as part of a reorganization.

**Auditor's ratio:** The Auditor's ratio is the ratio of property taxes allocated to the general fund of the county and each affected agency to all revenues received by the county and affected agencies for general purposes during the prior fiscal year.

**Base year costs:** Base year costs are the costs that would have been incurred to provide municipal level services if the incorporation area had been a city during the base year.

**CEQA:** California Environmental Quality Act, the law regulating the environmental review process. Public Resources Code Section 21000 et. seq.

**Certificate of Completion:** The document prepared by LAFCO's Executive Officer and recorded with the county recorder that confirms the final successful resolution of a change of organization or reorganization.

**Certificate of Filing:** A certificate issued by a LAFCO Executive Officer when an application is accepted for filing. A certificate of filing shall be in the form prescribed by the Executive Officer and shall specify the date upon which the proposal shall be heard by LAFCO's Commission.

**Certificate of Sufficiency:** A certificate of sufficiency indicates whether the requisite number of signers signed the petition. If the petition does not contain the requisite number of signatures, a notice or certificate of insufficiency shall be provided by the appropriate reviewing agency.

**Change of Organization:** A change of organization means any of the following: city incorporation; district formation; annexation to, or detachment from, a city or district; disincorporation of a city; district dissolution; consolidation of cities or special districts; and, merger or establishment of a subsidiary district.

**Comprehensive Fiscal Analysis (CFA):** An analysis of the projected revenues and expenditures resulting from a proposed incorporation.

**Conducting Authority:** LAFCO's Commission of the principal county of the entity proposing a change of organization or reorganization, unless another conducting authority is specified by law.

**Contract City:** A city that provides municipal services through a contract(s) with service providers such as special districts, the county or private companies providing municipal services.

**County Auditor-Controller:** The Auditor and Controller of most counties typically performs fiscal management and control of County revenues and appropriations, administration of the secured and unsecured real property tax system, payment of all claims, payroll and travel accounting, tabulation of the annual County and special district budget, grants accounting, and other fiscal services. Specific duties may vary by county.

**Determination:** A decision of LAFCO's Commission contained within LAFCO's resolution of approval as required by Government Code Section 56880.

**Direct costs:** Direct costs are costs associated directly with providing a service such as salaries, benefits, supplies, maintenance, equipment and professional services costs.

**Effective date:** The effective date is the date upon which the new city is deemed organized or incorporated.

**Feasible:** A term defined by law as capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, legal, social, and technological factors.

**Findings:** Government Code Section 56720 states LAFCO's Commission may not approve or conditionally approve any incorporation, unless the Commission finds, based on the entire record, that the proposed incorporation is consistent with the intent of the law, that the Commission has reviewed the spheres of influence of the affected local agencies and the incorporation is consistent with those spheres of influence, that the Commission has reviewed the comprehensive fiscal analysis, that it has reviewed the executive officer's report and recommendation and that the proposed city is expected to receive revenues sufficient to provide public services and facilities and a reasonable reserve during the three fiscal years following incorporation. These findings must be made in writing in the Resolution of Approval.

**Franchise fees:** Franchise fees are fees currently paid to the county by the affected utilities including gas, electric and cable TV providers. Franchise fees may also be received from solid waste disposal/recycling services, if applicable.

**Full service city:** A city which provides all municipal level services (such as fire, police, garbage collection, water, sewer, etc.) through city employees in departments governed by the city council.

**Gann Limit:** The Gann limit is a constitutional appropriations limit on governmental agencies. The appropriations limit is the amount of money that a governmental agency can spend in a fiscal year.

**General Fund:** General funds are unrestricted or discretionary revenues used to fund any municipal service expenditure. Examples of General Fund revenues include, but are not limited to, general property taxes, sales taxes, transient occupancy taxes, franchise fees and property transfer taxes.

**Incorporation:** The incorporation, formation, creation, and establishment of a city with corporate powers.

**Indirect costs:** Costs associated with supporting a direct service function that may include, but are not limited to: personnel support; administration and policy, legal, accounting/financial support; general insurance; and facility operation and maintenance.

**Initial feasibility review:** A preliminary fiscal assessment of a community's potential to incorporate, as described in the OPR Incorporation Guidelines.

**Initiation by petition:** A method of starting the incorporation process involving a registered voter or landowner petition for incorporation, requiring the signatures of a specific percentage of the total number of registered voters or landowners residing in the area to be incorporated.

**Islands:** An island is unincorporated territory completely surrounded by a city or by territory of a city on one or more sides and the Pacific Ocean on the remaining sides.

**LAFCO:** An acronym for the Local Agency Formation Commission.

**Metes and bounds legal description:** A *metes and bounds* description (metes refers to directions and distances, bounds refers to monuments, both physical and legal), describes the perimeter of a parcel of land. A metes and bounds description is often lengthy, as it may contain bearings and distances for each line, descriptive geometry of each curve, and references to other adjacent or nearby parcels of land.

**Mitigation:** Mitigation includes: avoiding environmental impacts by not taking a certain action or parts of an action; minimizing impacts by limiting the degree or magnitude of the action and its implementation; rectifying the impact by repairing, rehabilitating, or restoring the impacted environment; reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action; and, compensating for the impact by replacing or providing substitute resources or environments.

**Motor Vehicle In-Lieu fees:** Motor vehicle fees consist of vehicle license, registration, weight, and driver's license fees, and various other charges related to vehicle operation. The vehicle license fee (VLF) is imposed for the privilege of operating a vehicle on the public highways in California. This tax is imposed in lieu of a local personal property tax on automobiles and is administered by the State Department of Motor Vehicles. All of the revenues from this tax, other than administrative costs and fees on trailer coaches and mobile homes, are constitutionally dedicated to local governments.

**Municipal level services:** Services typically provided by cities such as fire, police, garbage collection, water, sewer, etc.

**Municipal Service Review:** A review of the municipal services provided in the county or other appropriate area such as a proposed incorporation area designated by LAFCO's Commission.

**Notice of Intent: (to Circulate a Petition)** A notice filed by incorporation proponents with LAFCO prior to circulating any petition for change of organization.

**Ordinance:** An ordinance is a law adopted by the state, county, city or other appropriate agency.

**Primer:** The Primer is a brief overview of the incorporation process that can be used as general information by people unfamiliar with incorporations.

**Proponent:** A proponent is the person or persons who file a Notice of Intent to circulate a petition.

**Reorganization:** A reorganization is two or more changes of organization initiated in a single proposal.

**Resolution:** A document prepared by LAFCO's Commission indicating approval of a proposed incorporation and initiating confirmation by the voters.

**Revenue Neutrality:** The intent of the California Legislature (Government Code Section 56815) that any incorporation should result in a similar exchange of both revenue and responsibility for service delivery among the county, the proposed city, and other affected agencies and that an incorporation should not occur primarily for financial reasons.

**Sales Tax:** Sales taxes are taxes charged on qualifying retail sales by businesses within the proposed incorporation area.

**Service Plan:** A service plan is a proposal submitted by the incorporation proponents detailing which municipal services, after incorporation, will be provided by the new city and by other agencies.

**SOI:** A Sphere of Influence (SOI) means a plan for the probable physical boundaries and service area of a local agency, as determined by LAFCO.

**Special district:** An agency of the state, formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries.

**State Controller:** The State Controller is the state's chief financial officer and is elected by a vote of the people every four years. Duties of the State Controller are prescribed by the Constitution with additional powers or functions set by statute.

**TOT:** Transient Occupancy Taxes (TOT) are taxes collected on hotels and motels.

**Transition period:** The period of time between the successful election for an incorporation and the date upon which the new city is deemed organized or incorporated.

**Unincorporated communities:** Territory not within the boundaries of an incorporated city.

# APPENDIX C

## INITIAL FISCAL FEASIBILITY SPREADSHEET

### INITIAL FISCAL FEASIBILITY ANALYSIS\*

<b>GENERAL FUND</b>	
<b>General Fund Revenues</b>	
Property Tax	0
Property Transfer Tax	0
Sales and Use Tax	0
Transient Occupancy Tax	0
Motor Vehicle In-Lieu	0
Franchise Fees	0
Fines & Forfeitures	0
<b>Total Revenues</b>	<b>0</b>
<b>General Fund Expenditures</b>	
City Council	0
City Manager	0
City Clerk	0
City Attorney	0
Finance	0
Community Development	0
Law Enforcement	0
Fire Protection	0
Animal Control (Net Cost)	0
Parks and Recreation	0
Non-Departmental	0
Subtotal	0
<u>Contingency (@ 5%)</u>	0
<b>Total Expenditures</b>	<b>0</b>
<b>General Fund Operating Surplus (Deficit)</b>	<b>0</b>
<b>ROAD FUND</b>	
<b>Road Fund Revenues</b>	
Gas Taxes	0
Transportation Related Sales Tax	0
<b>Total Revenues</b>	<b>0</b>
<b>General Fund Expenditures</b>	
Street Maintenance	0
<u>Contingency (@ 5%)</u>	0
<b>Total Expenditures</b>	<b>0</b>
<b>General Fund Operating Surplus (Deficit)</b>	<b>0</b>

\*WARNING: The initial fiscal feasibility spreadsheet is only to be used for educational purposes. It should not be used as the basis or as a substitute for a CFA.

## Appendix D

### Civil Rights and Environmental Justice Issues

This appendix includes background on the civil rights and environmental justice responsibilities of LAFCO.

#### A. Federal Framework

The Constitutional basis for environmental justice lies in the Equal Protection Clause of the

**LAFCO EJ PROGRAMS**

In response to these recent federal actions, many state and local agencies that receive federal funding have initiated environmental justice programs of their own. OPR recommends that LAFCOs consider whether it would be useful to implement their own environmental justice program in order to further their responsibilities under CKH Act.

U.S. Constitution. The Fourteenth Amendment expressly provides that the states may not “deny to any person within [their] jurisdiction the equal protection of the laws” (U.S. Constitution, amend. XIV, §1).

On February 11, 1994, President Clinton signed Executive Order (E.O.) 12898, titled “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations.” The executive order followed a 1992 report by the U.S.

Environmental Protection Agency (U.S. EPA) indicating that “racial minority and low-income populations experience higher than average exposures to selected air pollutants, hazardous waste facilities, and other forms of environmental pollution.” E.O. 12898 directed federal agencies to incorporate environmental justice into their missions.

In a memorandum accompanying E.O. 12898, President Clinton underscored existing federal laws that could be used to further environment justice. These laws include Title VI of the Civil Rights Act of 1964 and the National Environmental Policy Act (NEPA), among others. Title VI prohibits any recipient (state or local entity, or public or private agency) of federal financial assistance from discriminating on the basis of race, color, or national origin in their programs or activities (42 USC §2000d to §2000d-7).

State and local agencies that receive federal funding must comply with Title VI. Under the Civil Rights Restoration Act of 1987, this requirement is not limited to the programs and activities that receive direct federal funding, but applies to all agency activities.

#### B. State Framework

Anti-discrimination laws existed in California prior to the passage of the first environmental justice legislation in 1999. The California Constitution prohibits discrimination in the operation of public employment, public education, or public contracting (Article I, §31). State law further prohibits discrimination under any program or activity that is funded or administered by the state (§11135).

The Planning and Zoning Law prohibits any local entity from denying any individual or group of the enjoyment of residence, land ownership, tenancy, or any other land use in California due to the race, sex, color, religion, ethnicity, national origin, ancestry, lawful occupation, or age of the individual or group of individuals (GC §65008).

The Fair Employment and Housing Act (FEHA) specifically prohibits housing discrimination on the basis of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, familial status, disability, or source of income (§12900, et seq)

In 1999, Governor Davis signed SB 115 (Solis, Chapter 690, Statutes of 1999), that defines environmental justice in statute and establishes OPR as the coordinating agency for state environmental justice programs (GC §65040.12).

As the primary agency with responsibility for approving changes in boundaries, LAFCO play an important role in coordinating growth and ensuring that proposed changes are consistent with environmental justice obligations.

### C. Forms of Inequity

Problems of environmental justice can be broken down into two categories: procedural inequity and geographic inequity. In other words, unfair treatment can manifest itself in terms of process or in terms of results.

Procedural inequity occurs when the planning process is not applied uniformly. Examples of procedural inequity include:

“Stacking” commissions or committees with certain interests while ignoring the interests of other segments of the community, such as minority and low-income residents.

Holding meetings at times or locations that minimize public participation by certain groups or individuals.

Using English-only written or verbal communication when a non-English speaking population will be affected by a planning decision.

Requiring lower levels of mitigation for projects affecting low-income or minority populations.

Unevenly enforcing environmental rules.

Geographic inequity describes a situation in which the burdens of undesirable land uses are concentrated in certain areas of the county while the benefits are received elsewhere. Municipal service reviews can play a key role in identifying these inequities and should therefore, when available, be used in reviewing incorporation proposals. LAFCO may need to adjust boundaries to ensure that geographic inequities are not exacerbated by the establishment of a new city. Examples of geographic inequity include:

Certain areas of the county have a disproportionate share of industrial facilities that handle or produce hazardous waste, while the economic benefits are distributed to other areas (in the form of jobs and tax revenue).

Certain areas have a disproportionate share of waste disposal facilities, while the benefits of such facilities are received by the community or region as a whole.

Certain areas experience more of the environmental benefits associated with community centers, parks, and open space, while other neighborhoods have fewer such amenities.

### D. Information and Analysis

As discussed throughout these guidelines, informed decisions regarding the incorporation proposal requires good information. A clear identification of the lands, population and facilities (existing and proposed) is essential in analyzing the information in the application. When evaluating the issues identified in this chapter that relate to environmental justice, LAFCO may wish to consider the following data layers:

Base map of the study area.

General plan designations of land use (existing and proposed).



Current demographic data: Population (location and density); Income (distribution of very-low, low, moderate and above moderate income groups); Ethnicity (distribution of minority populations); Age (distribution of seniors and children throughout the community)

Location of public facilities that enhance community quality of life, including open space, water quality, and fire protection.

Location of industrial facilities with its existing and projected service needs and other uses that contain or produce materials that, because of their quantity, concentration, or physical or chemical characteristics, pose a significant hazard to human health and safety.

Location of existing and proposed schools.

Location and density of existing and proposed residential development.

Preventing and reversing historical problems of procedural and geographic inequity requires accurate information in order to develop policies and prioritize implementation measures.

#### **EJ INFORMATION HAS MANY USES**

Data obtained in the incorporation review process can be used by LAFCO and other public agencies for:

- Improving the community participation process.
- Identifying low-income/minority neighborhoods under-served by public facilities and services that enhance quality of life.
- Considering the equitable distribution of public facilities and services.
- Considering infrastructure and housing needs.
- Identifying low-income/minority neighborhoods where facilities and uses that pose a significant hazard to human health and safety may be over-concentrated.
- Screening of issues for potential environmental justice implications.

# APPENDIX E

## SAMPLE FORMS

### PETITION FOR PROCEEDINGS PURSUANT TO THE CORTESE-KNOX-HERTZBERG LOCAL GOVERNMENT REORGANIZATION ACT OF 2000

#### Part I: NOTICE OF INTENT TO CIRCULATE PETITION

**Proponents are required to file a NOTICE OF INTENT TO CIRCULATE PETITION with the Executive Officer of the Local Agency Formation Commission before a petition to initiate a change of organization or reorganization can be circulated (Govt. Code § 56700.4).**

1. Notice is hereby given to circulate a petition proposing to \_\_\_\_\_

2. The reason(s) for the proposal are: \_\_\_\_\_

Proponent's Name (print) \_\_\_\_\_ Signature of proponent or representative \_\_\_\_\_

Proponent's Address \_\_\_\_\_ City, State, Zip \_\_\_\_\_

Pursuant to Section 56700.4 of the California Government Code, this NOTICE OF INTENT TO CIRCULATE PETITION was filed with me on \_\_\_\_\_

Date

\_\_\_\_\_, Executive Officer

#### PART II: DISCLOSURE REQUIREMENTS

The Political Reform Act prohibits a person appointed to the Local Agency Formation Commission from soliciting or accepting campaign contributions or more than \$250 within the preceding 12 months from parties, participants, or their agents while a proceeding is pending before LAFCO and for three months following the decision. LAFCO commissioners who receive such contributions are required to disqualify themselves from participating in the proceedings. Both commissioners and contributors who are parties to the proceeding are required to disclose the contributions received or made. Names of current LAFCO commissioners and LAFCO disclosure forms are available at \_\_\_\_\_ or by calling \_\_\_\_\_.

Expenditures for political purposes related to a change of organization or reorganization proposal which has been submitted to a commission, and contributions in support of, or in opposition to such measures, shall be disclosed and reported to the same extent and subject to the same requirements as provided for local initiative measures to be presented to the electorate [Govt. Code § 56700.4(a)].

**PETITION FOR THE INCORPORATION  
OF THE CITY OF-----, CALIFORNIA**

We, the undersigned registered voters, do hereby petition the Local Agency Formation Commission pursuant to the Cortese/Knox/Hertzberg Local Government Reorganization Act of 2000 commencing Section 56000 of the California Government Code, for the incorporation of the City of -----, California within the boundaries of the community of -----, more particularly described on the Legal Description and Map attached hereto as Exhibit "A".

The reasons for the proposed incorporation are: 1) -----; 2) -----; and 3) to -----.

The Chief Petitioners for this proposal are: (name), ---(address)-----, (name), ---(address)-----, and (name), ---(address)-----.

We hereby request that the -----County Local Agency Formation Commission conduct these proceedings for the incorporation of the City of ----- pursuant to Govt. Code Section 56000 et. seq. and in those proceedings provide for the City Council appointment of a City Manager, City Clerk, and City Treasurer.

The voter must sign his name, residence, and date of signing in his own handwriting. RESIDENCE means a number and a street address or description sufficient for the Registrar of Voters to locate property on a map. Post office box numbers or route numbers cannot be used and will not be accepted.

1. Sign Name	Residence Address	Date	Precinct
Print Name			
2. Sign Name	Residence Address	Date	Precinct
Print Name			
3. Sign Name	Residence Address	Date	Precinct
Print Name			
4. Sign Name	Residence Address	Date	Precinct
Print Name			
5. Sign Name	Residence Address	Date	Precinct
Print Name			
6. Sign Name	Residence Address	Date	Precinct
Print Name			
7. Sign Name	Residence Address	Date	Precinct
Print Name			

**AFFIDAVIT OF CIRCULATOR**

I, \_\_\_\_\_ residing at \_\_\_\_\_

Precinct Number \_\_\_\_\_

under penalty of perjury, state that between the dates of \_\_\_\_\_ and \_\_\_\_\_ I circulated the attached or foregoing petition

subsequent to such circulation; and that no pages have been added thereto.

I circulated the petition and saw all signatures appended thereto, and that to the best of my knowledge and belief, they are the signatures of persons whose names they purport to be.

DATED: \_\_\_\_\_ SIGNATURE OF CIRCULATOR \_\_\_\_\_

## LOCAL AGENCY FORMATION COMMISSION

### LANDOWNER PETITION INITIATING PROCEEDINGS

We, the undersigned Landowners, do hereby petition the Local Agency Formation Commission, pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Sections 56000 et seq.), as follows:

---



---

(List all proposed changes of organization)

To the best of our knowledge, the proposal is consistent with the adopted sphere(s) of influence for an affected agency or agencies, and we understand that this proposal cannot be considered unless and until such spheres are consistent.

We certify that we are true and legal landowners of the named property and understand that these petitions may not be circulated separately from a current legal description and a current map showing the area of review.

The names and addresses of the Chief Petitioners for this proposal are as follows (not to exceed three persons):


The reason(s) for this proposal is (are):

---

The requested terms and conditions for this proposal, if any, are as follows:

---

We hereby request that the Local Agency Formation Commission for \_\_\_\_\_ County conduct proceedings on this proposal pursuant to the provisions of Government Code Sections 56000 et seq.

*The landowner must sign his/her name, residence address, and the date of signing in his/her own handwriting. His/her parcel number must be included.*

SIGN NAME PRINT NAME <hr/> <hr/>	RESIDENCE ADDRESS <hr/> <hr/>	DATE <hr/> <hr/>	PARCEL NUMBER <hr/> <hr/>
SIGN NAME PRINT NAME <hr/> <hr/>	RESIDENCE ADDRESS <hr/> <hr/>	DATE <hr/> <hr/>	PARCEL NUMBER <hr/> <hr/>
SIGN NAME PRINT NAME <hr/> <hr/>	RESIDENCE ADDRESS <hr/> <hr/>	DATE <hr/> <hr/>	PARCEL NUMBER <hr/> <hr/>
SIGN NAME PRINT NAME <hr/> <hr/>	RESIDENCE ADDRESS <hr/> <hr/>	DATE <hr/> <hr/>	PARCEL NUMBER <hr/> <hr/>
SIGN NAME PRINT NAME <hr/> <hr/>	RESIDENCE ADDRESS <hr/> <hr/>	DATE <hr/> <hr/>	PARCEL NUMBER <hr/> <hr/>

*Form courtesy of San Bernardino County LAFCO*

## APPENDIX F

### SAMPLE CITY COUNCIL MEETING AGENDA

#### GOLETA CITY COUNCIL

Special Meeting - Friday, February 1, 2002 - 5:30 PM

Goleta Community Center

#### AGENDA

- Agendas are posted on the City's internet web site: [www.GoletaCity.com](http://www.GoletaCity.com)
- A complete packet of information containing staff reports and exhibits relating to each item on the agenda is available for public review prior to each City Council meeting at the City Hall (Address)
- Agendas may be picked up at the City Hall located at (address) for no charge or to request information regarding being placed on the annual subscription list please contact the City Clerk.

#### **A. SWEARING IN CEREMONY FOR CITY COUNCIL MEMBERS - COUNTY CLERK**

#### **B. OPENING MATTERS**

1. Call to Order
2. Pledge of Allegiance to the flag
3. Roll Call
4. Individual Council Member Comments

#### **C. PUBLIC COMMENTS**

At this time the public is permitted to address the City Council on non-agendized items only. COMMENTS SHOULD NOT EXCEED THREE (3) MINUTES.

In accordance with State Law no City Council action or discussion may take place on any item not appearing on the posted agenda. The Council may respond to statements made or questions asked, and may direct staff to report back at a future meeting regarding the matter.

Members of the public may contact the City Clerk's Office related to the proper procedure to place an item on a future City Council agenda.

The exceptions under which the City Council MAY discuss and/or take action on items not appearing on the posted agenda are contained in Government Code Section 54954.2 (b) (1) (2) (3).

## D. DISCUSSION/ACTION ITEMS

1. Waive the reading and adopt urgency ordinance providing for all County ordinances to remain in effect for 120 days.

*Note: This ordinance adopts the Santa Barbara County Code as the ordinances within the City for 120 days. Adoption is required by Government Code §56376.*

2. Adopt resolution designating (name) as the Mayor and (name) as the Mayor Pro Tem effective immediately, and (name) as Mayor beginning on January 1, 2003.

*Note: The Council will: (a) adopt resolution establishing the procedure for selecting the mayor and mayor pro tempore and their responsibilities and (b) by motion select the Mayor and Mayor Pro Tempore for the initial city council.*

3. Adopt resolution designating the place and time for regular City Council meetings.

*Note: This resolution will designate the place and time of regular Council meetings as required by Government Code 54954(a). The regular meetings will be held on the (week, day of week) of each month at (time and place of meeting).*

4. Adopt resolution establishing procedures for conduct of Council meetings.

*Note: This resolution establishes procedures for the conduct of Council meetings.*

5. Waive the reading and adopt urgency ordinance creating and establishing a City Manager form of government and the position of City Manager, to be effective immediately.

*Note: This ordinance establishes a City Manager form of government for the City. It is effective immediately and requires a 4/5th vote*

6. Adopt resolution appointing (name) as City Manager and approving agreement for interim City Manager services

*Note: This resolution appoints (name) as the Interim City Manager and includes terms of appointment including compensation.*

7. Adopt resolution appointing (name) as City Attorney and approving an agreement for legal services with (name of firm).

*Note: This resolution appoints (name) as the City Attorney and approves an agreement for legal services including compensation.*

8. Waive reading and introduce ordinance imposing a Sales and Use Tax to be administered by the State Board of Equalization and providing penalties for violations; adopt resolution approving agreement for State administration of local Sales and Use Taxes and adopt a resolution authorizing and examination of Sales and Use Tax records.

*Note: The Council will take three actions that establish but do not increase sales and use tax rates within the City.*

*First, waive the reading and introduce ordinance to adopt a sales and use tax within the City consistent with the Bradley-Burns Act. The ordinance will be continued to the (date) Council meeting for second reading and adoption.*

*Second, approve an agreement with the State Board of Equalization for collection of the tax.*

*Third, adopt a resolution authorizing the State Board of Equalization to examine records.*

9. Waive reading and adopt an urgency ordinance to continue the existing Transit Occupancy Tax.

*Note: The ordinance continues the County's transient occupancy tax (hotel tax) in effect at the current County rate. The ordinance will become effective immediately and requires a 4/5<sup>th</sup> vote.*

10. Waive reading and adopt urgency ordinance to continue the existing business license tax.

*Note: The ordinance continues the County's business license tax in effect at the current County rate. The ordinance will become effective immediately and requires a 4/5<sup>th</sup> vote.*

11. Waive reading and adopt urgency ordinance to continue the existing documentary transfer tax.

*Note: The ordinance continues the County's documentary (real property) transfer tax in effect at the current County rate. The ordinance will become effective immediately and requires a 4/5<sup>th</sup> vote.*

12. Adopt resolution setting the Provisional Appropriations Limit for Fiscal Year 2001-02.

*Note: The California Constitution Article XIII B and Government Code §7900 et seq. require the City to adopt an "appropriations limit." LAFCO Resolution 99-20 establishes an provisional appropriations limit pursuant to Government Code §56842.6 as \$24,100,000. This resolution will formally adopt that amount as the City's appropriations limit until subsequent voter approval.*

13. Adopt resolution selecting (name of bank) as the City's bank and providing for authorized signatures on warrants and checks.

*Note: This resolution will designate the (name) Bank, (name) branch as the city's bank. It will also designate the City Manager (and/or Finance Director or City Clerk) and Mayor as the officials authorized to sign warrants and checks over \$2,500, with the City Manager authorized to sign checks for less than \$2,500.*

14. Adopt resolution authorizing investment of City monies in the Local Agency Investment Fund.

*Note: This resolution authorizes the City to invest monies in the State's Local Agency Investment Fund. The City Manager and the Finance Director are authorized to deposit or withdraw monies.*

15. Adopt resolution authorizing a petty cash fund.

*Note: This resolution establishes a petty cash fund of \$250 for minor expenses for the daily operations of the City.*

16. Adopt resolution approving a budget for fiscal year 2001-02.

*Note: This resolution will adopt a budget for the City for Fiscal Year 2001-2002 based on the City Manager's recommendation.*

17. Adopt resolution consenting to cancellation of uncollected taxes, penalties and costs based on the consent of the County legal advisor.

*Note: This resolution authorizes the City Council to consent to canceling uncollected taxes, penalties and costs on behalf of the City.*

18. Waive the reading and adopt urgency ordinance establishing a Special Gas Tax Street Improvement Fund.

*Note: This ordinance establishes a special fund into which all gas tax revenues will be deposited. The ordinance will become effective immediately and requires a 4/5<sup>th</sup> vote.*

19. Adopt a resolution adopting the County General Plan on an interim basis as the City's General Plan.

*Note: This resolution will adopt the County General Plan and Goleta Valley Community Plan as the general plan for the City, to be effective until the City adopts its own general plan.*

20. Adopt resolution adopting County zoning atlas on interim basis.

*Note: This resolution will adopt Santa Barbara County's zoning atlas (map) in effect on February 1, 2002 as the zoning map of the City.*

21. Adopt resolution authorizing County officials to enforce laws in City during transition year.

*Note: The County is required to continue to provide all services in the City that it provided prior to incorporation through June 30, 2002. This resolution will authorize County employees performing services within the City to enforce any laws within the City while the County is providing such services.*

22. Adopt resolution requiring bonds for City employees.

*Note: This resolution will establish the amount of the official bonds for designated city employees.*

23. Waive the reading and adopt urgency ordinance continuing County fees, charges and rates in effect.

*Note: This ordinance will continue County fees, charges and rates in effect as the City's fees, charges and rates for programs and services. The ordinance will become effective immediately and requires a 4/5<sup>th</sup> vote. It does not apply to development impact fees.*

24. Adopt resolution establishing cost recovery program for land use applications.



*Note: This resolution will require applicants for land use approvals to pay the cost of processing such applications, including all staff time, overhead and the City's actual out-of-pocket costs for legal and other services required to review and process applications.*

25. Waive reading and introduce ordinance providing for reimbursement of City Council member expenses.

*Note: This ordinance will provide a policy for members of the Council to be reimbursed for actual reasonable and necessary expenses incurred in performing their duties, as authorized by Government Code §36514.5. It will require a second reading and adoption at the February (date) Council meeting.*

26. Adopt resolution providing for posting of ordinances.

*Note: This resolution will allow the City to provide notice of proposed actions when notice is legally required by posting in three (3) public places.*

27. Waive reading and introduce ordinance establishing a local claims procedure and authorizing the City Manager to reject or settle claims.

*Note: This ordinance will require that claims be presented to the City before filing a law suit for those types of claims that are exempt from the California Tort Claims Act. The ordinance would also authorize the City Manager to reject or settle claims less than \$2,500, all as authorized by Government Code §935 and 935.4. It will require a second reading and adopt at the February (date) Council meeting.*

28. Adopt resolution adopting CEQA guidelines.

*Note: This resolution will adopt the State CEQA Guidelines as the City's CEQA Guidelines pending adoption of other local guidelines.*

29. Adopt resolution requesting Federal Tax Identification Number and directing filing of information with Secretary of State.

*Note: This resolution will authorize the City Manager to (a) file with the California Secretary of State information pursuant to Government Code §53051 and (b) file with the Federal Government to obtain a Federal taxpayer identification number for the City as required.*

30. Adopt resolution of intent to adopt Conflict Of Interest Code and invite public comments.

*Note: A 60-day public comment period is required prior to adopting a conflict of interest code for the City. This resolution will provide notice of the intent for the County to adopt the conflict of interest code.*

31. Adopt resolution consenting to enforcement by County health officer of all health laws within the City.

*Note: This resolution will consent to the enforcement by the County Health Officer of all laws related to public health, as authorized by Health & Safety Code §101375.*

32. Adopt a resolution regarding insurance.

*Note: This resolution will authorize the City Manager to obtain insurance for the City.*

33. Waive reading and introduce ordinance declaring the need for a redevelopment agency to function in the community.

*Note: This ordinance will declare the need for a redevelopment agency in the City and declare the Council to be the Goleta Redevelopment Agency, consistent with the provisions of LAFCO Resolution 99-20.*

34. Consideration of ordinance providing for City Council member salaries

*Note: Consideration will be given to adopting an ordinance to would provide salaries for members of the City Council.*

## **E. REPORTS TO COUNCIL**

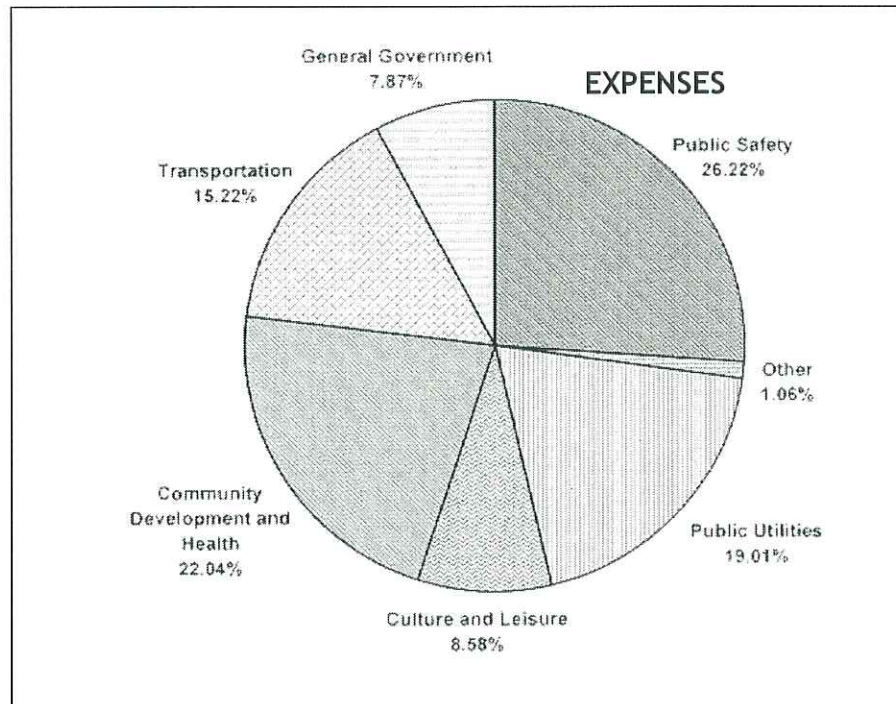
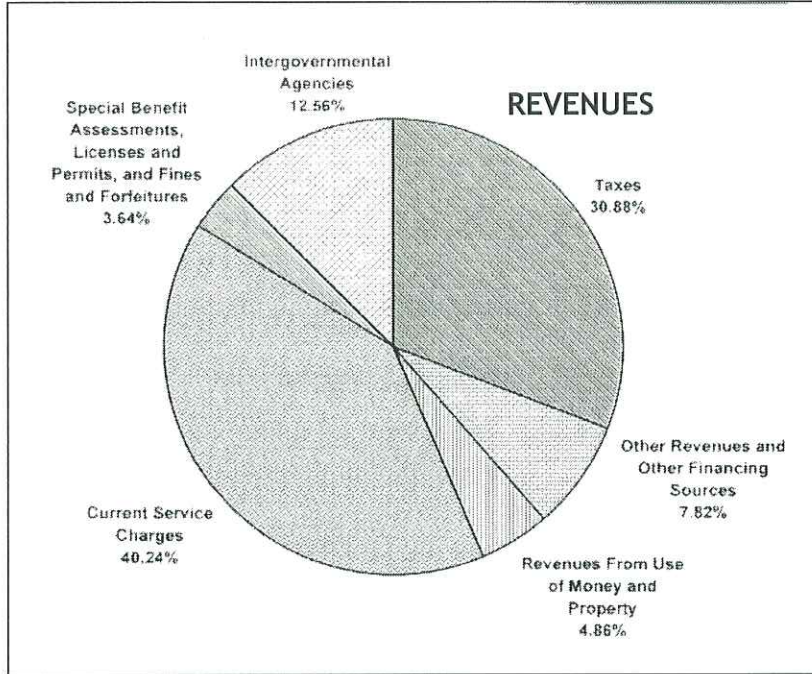
## **F. CLOSING COMMENTS**

## **G. ADJOURN**

*Note: The public is invited to an open house at (location) at 4:30 p.m. to celebrate the successful incorporation of the City of Goleta.*

## APPENDIX G

### TYPICAL SOURCES AND USES OF MUNICIPAL FUNDING



# Incorporation Flow Chart

