

RESOLUTION NO. 103
FRESNO LOCAL AGENCY FORMATION COMMISSION
FRESNO COUNTY, CALIFORNIA

IN THE MATTER OF

LAFCO DETERMINATION

REQUEST ADOPTION OF POLICY TO)
IMPLEMENT LEGISLATION (SB244))
REGARDING DISADVANTAGED)
UNINCORPORATED COMMUNITIES)

ADOPTED POLICY TO IMPLEMENT
SB 244 (DISADVANTAGED
UNINCORPORATED COMMUNITIES)

WHEREAS, on April 3, 1986, the Local Agency Formation Commission adopted its Policies, Standards, and Procedures; and

WHEREAS, over the years the Local Agency Formation Commission has found it necessary to revise the Policies, Standards, and Procedures to conform with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, to add new policies or revise and/or delete those that are obsolete, and to meet the rising costs of administering review of proposals and the day-to-day activity by the Commission; and

WHEREAS, SB 244 was signed into law on October 7, 2011, and requires LAFCOs to consider "*disadvantaged unincorporated communities*" (DUCs) when 1) making decisions about annexations and 2) when preparing Municipal Service Reviews (MSRs) and Spheres of Influence (SOI) updates; and

WHEREAS, since SB 244 was signed into law, a need was created for the Commission to adopt policies to implement the requirements of SB 244; and

WHEREAS, a notice regarding the adoption of the new policy was published in the newspaper per State law; and

WHEREAS, on January 9, 2013, the Executive Officer prepared a report for the Commission to consider adopting policies to address the requirements of SB 244 (Disadvantaged Unincorporated Communities Policy); and

WHEREAS, within three months of adoption of this policy, the Executive Officer will bring forth to the Commission one or more maps of probable DUCs within Fresno County that will be considered by the Commission and its consultants when making decisions about annexations and preparing MSRs and SOIs.

WHEREAS, the Commission considered all relevant factors and evidence and heard all interested parties wishing to speak on said amendments.

NOW, THEREFORE, BE IT RESOLVED that the Fresno Local Agency Formation Commission does **HEREBY STATE, FIND, RESOLVE, DETERMINE, AND ORDER** as follows:

Adopt Section 106 of the Commission's Policies, Standards, and Procedures as depicted on Exhibit "A"

ADOPTED THIS 9TH DAY OF JANUARY, 2013, BY THE FOLLOWING VOTE:

AYES: COMMISSIONERS PEREA, SILVA, POOCHIGIAN, SANTOYO, PEREA

NOES: NONE

ABSENT: NONE

**STATE OF CALIFORNIA)
COUNTY OF FRESNO)**

CERTIFICATION

I, Jeff Witte Executive Officer of the Fresno Local Agency Formation Commission (LAFCo), Fresno County, State of California, hereby certify that the foregoing resolution was adopted by the Commission on the 9th day of January, 2013.



**Jeff Witte, Executive Officer
Fresno Local Agency Formation Commission**

EXHIBIT A

106 LAFCo DISADVANTAGED COMMUNITIES POLICY

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

01 DISADVANTAGED UNINCORPORATED COMMUNITY

For the purposes of this policy, a DUC means an inhabited territory with an annual median household income that is less than 80 percent of the statewide annual median household income and as defined in Government Code section 56046 and Water Code section 79505.5, all as amended. LAFCo has determined that, as of the date of the adoption of this policy, there may be a deficiency in census data to accurately assess median income in unincorporated communities. As a result, LAFCo or its designee shall consider various sources of information in order to make a determination that a DUC exists. Such information considered by LAFCo shall result from the following: (i) conducting reasonable demographic surveys and studies; (ii) (iii) conducting reasonable site investigation, and (iv) and considering other materials supplied by government agencies and other interested parties (collectively, the "Information Sources"). A DUC shall have at least 15 dwelling units at a density not less than one unit per acre.

Cities and special districts will be required to identify DUCs within and contiguous to their boundaries; however, LAFCo will verify all information and make independent attempts to identify DUCs using the Information Sources.

02 MUNICIPAL SERVICE REVIEWS

Any MSR conducted by LAFCo for a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection, shall identify any DUCs within and contiguous to the sphere of influence of that city or special district and describe the present and probable needs and deficiencies for the provision of those public facilities and services within such DUC. In preparing the MSR, LAFCo and its consultants shall use all reasonably available Information Sources. and consider those characteristics LAFCo deems appropriate to determine if such area qualifies as a DUC.

03 SPHERE OF INFLUENCE UPDATES

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

04 CHANGES OF ORGANIZATION & REORGANIZATION FOR CITIES

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

Pursuant to Government Code 56375(a)(8)(B), an application to annex a contiguous DUC shall not be required if either of the following facts are present: (i) a prior application for annexation of the same DUC has been made in the preceding five (5) years; or (ii) the Commission finds, based upon written evidence sufficient to the Commission, that a majority of the residents within the affected DUC are opposed to annexation. The Commission will give great weight to a census, prepared independently of any project applicant, of DUC residents to determine opposition the subject annexation.

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

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

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

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

05 CONTIGUOUS REQUIREMENTS TO TRIGGER A DUC ANNEXATION APPLICATION

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

06 RESPONSIBILITY FOR ENVIRONMENTAL ASSESSMENT

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

07 RESPONSIBILITY FOR FIRE DISTRICT OR OTHER REQUIRED TRANSITION FEES

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

08 NEED FOR SERVICES RELATED TO DUCs

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

09 PAYMENT FOR DUC ANNEXATION

The processing costs for DUC annexation is the responsibility of the city or special district, or in the case of an annexation submitted by petition, the petitioner(s) of the triggering annexation. If the district has a financial hardship, a separate request may be considered by LAFCo for districts with budgets of less than \$500,000 or cities with budgets less than \$2,000,000.

10 DUC PROTEST PROCEEDINGS

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

11 LEGACY COMMUNITY

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