



# South Orange County Governance Options

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## INTRODUCTION

Future local governance for the South Orange County unincorporated communities has been a key topic of discussion for the Commission and affected communities and agencies for decades. The most recent dialogue of this subject involved a multi-year effort led by OC LAFCO that began in 2013 and concluded in 2016. Coined as the South Orange County Visioning Process, the effort included representatives from the County, adjacent cities and special districts, and the unincorporated communities of Coto de Caza, Ladera Ranch, Los Flores, Stonecliffe, Wagon Wheel, and Rancho Mission Viejo. A charge of the visioning process was a comprehensive look at potential governance options for the region and provide a document outlining those options to the stakeholders that could be shared with their respective leadership and communities.

This document contains the information presented during the 2013 visioning process and has been updated where applicable. It is intended to inform the South Orange County affected local agencies and unincorporated communities and other interested parties through a comprehensive presentation of governance options within OC LAFCO's purview. This document is not intended to draw any conclusions or serve as an analysis or study relative to future governance options for the South Orange County region. Agencies or communities interested in a more direct presentation of this document to their respective boards, councils and other leadership, may contact OC LAFCO staff directly.

## SOUTH ORANGE COUNTY GOVERNANCE OPTIONS

This section provides a comprehensive overview of potential governance options available to the local agencies and unincorporated communities in South Orange County. Each governance option includes a description and a summary discussion involving the respective purpose, revenue opportunities, sustainability factors, and the OC LAFCO or other agency processes. The primary governance options that require OC LAFCO review and approval include: (1) annexation to an adjacent city; (2) formation of a county service area; (3) formation of a community services district; and (4) city incorporation. Potential governance options not directly under LAFCO authority are also referenced within this document and include the status quo governance provided by homeowners' associations and master maintenance agreements, the formation of an advisory council to the Board of Supervisors, or contractual arrangements for service levels with other public agencies. The three governance options not under OC LAFCO purview may provide local governance by addressing service levels or local control, or both. Additionally, *Fact Sheets* for each governance option and a matrix summarizing the options within OC LAFCO's

purview are referenced in Exhibits A through E. The fact sheets provide extensive details involving the OC LAFCO proceedings for each respective option, and the matrix is intended to highlight the key points of these document.

## **Annexation**

Transitioning of unincorporated areas to adjacent cities (“annexation”) has been a key priority of OC LAFCO for over the past twenty-five years. The Commission has been successful in this effort through its partnership with the County and cities as represented by over 50 approved annexations. Additionally, OC LAFCO has worked with local residents interested in joining adjacent cities to facilitate annexation. As the South Orange County unincorporated communities include large in size and population areas, OC LAFCO’s efforts and discussions with the community representatives and local agencies within the region have been deliberative and span over two decades.

Annexation of the unincorporated communities located within South Orange County to an adjacent city would facilitate the provision of municipal services by the respective city to the annexing community. Key municipal services provided by a city to its residents include public safety (police and fire), parks and recreation, and land use planning and regulation. The fiscal sustainability of an annexation to a city is largely dependent upon the annexing city’s financial ability to provide services over the long term within the subject area and negotiations involving the County and annexing city.

Prior to starting the annexation process, every effort should be made to assess community support or opposition relative to annexation, as registered voters, and landowners within the South Orange County unincorporated communities have an opportunity to protest the annexation by filing a written protest with the Commission. An overview of the OC LAFCO proceedings for annexation is referenced in Exhibit A.

## **County Service Areas (CSAs)**

County Service Areas (“CSAs”) are special districts that are “dependent” to the County. As a dependent district they are governed by the County Board of Supervisors and administered by County staff. They are established to provide specific services within county unincorporated areas and, the fiscal sustainability of CSAs may be funded by a portion of the property tax revenue generated in the district’s boundary and other taxes, fees, and assessments. There are currently three CSAs in Orange County that have been in existence for over 50 years. These CSAs provide a range of services that include maintenance of sewer infrastructure and local and regional parks and recreational facilities.

Similar to annexation, parties interested in the formation of a CSA should make an effort to engage residents and assess the relative support of the respective community, as registered voters and landowners within the community have an opportunity to protest the formation of a CSA by filing a written protest with the Commission. An overview of the OC LAFCO proceedings for the formation of a CSA is referenced in Exhibit B.

## **Community Services Districts (CSDs)**

Community Services Districts ("CSDs") are independent special districts that are governed by a locally elected board of directors. CSDs have broad statutory authority to provide services within their boundaries as permanent or transitional forms of governance. The fiscal sustainability of CSDs may be dependent in large part on property taxes or other taxes, and assessments and fees that are generated from the community to fund its operations. There are five CSDs in operation in Orange County providing a variety of services, including but not limited to, water, garbage collection, wastewater management, security, fire protection, public recreation, and street lighting.

Proponents of the formation of a CSD should engage the community to assess support to a change in local governance within their community. The formation of a CSD requires a defined service boundary, voter approval of the CSD, and any required taxes must demonstrate adequate long-term financing and reserve funding, and OC LAFCO approval. The formation of a CSD may also require County approval involving property taxes and other matters. An overview of the OC LAFCO proceedings for the formation of a CSD is referenced in Exhibit C.

## **Incorporation**

Incorporation is the creation or establishment of a new city. State law provides broad statutory authority for cities to enforce the state's laws and provide services. State law also places a high bar on the formation of new public agencies, specifically the incorporation of new cities. Orange County is home to large full-service cities and small contract cities, and the most recent approval by OC LAFCO of the County's 34<sup>th</sup> city occurred in 2001. Many older cities, such as Anaheim, Fullerton and Santa Ana provide a full array of municipal services (i.e., law enforcement, fire suppression and protection, water, sewer, parks and recreation). While some of the newer cities, such as Rancho Santa Margarita and Laguna Woods provide municipal services through contractual agreements with agencies such as Orange County Sheriff. Additionally, within the South Orange County region, some municipal services, such

as parks and recreation and local sewer and water are provided by special districts and HOAs.

As stated above, the minimum threshold to demonstrate long-term financial sustainability is very high for incorporations. Proponents seeking incorporation must demonstrate minimum reserves prior to OC LAFCO considering a formal application. Additionally, State legislation has limited potential tax revenue generation that could be realized by new cities, thus, making it challenging for unincorporated areas to demonstrate financial capacity without an existing tax base to cover the cost of providing services.

Much like the other governance options mentioned within this section, a deliberative and proactive effort to engage the community should be a key part of the proponents' exploration of forming a new city. As the incorporation process is extensive and costly, OC LAFCO staff encourages proponents to conduct community engagement prior to filing an application with the Commission. Exhibit D provides an overview of the OC LAFCO proceedings for incorporation.

## **Homeowners Associations and Master Maintenance Corporations**

Homeowners' Associations ("HOAs") are legal entities created and recognized by state law and not under OC LAFCO's purview. They are commonly non-profit mutual benefit corporations. Membership in the association is automatic and occurs when a person buys a lot, home, townhouse, or condominium in a common interest development. HOAs are inward focused whereby the associations regulate and maintain the properties and common areas within the HOA's boundary. The HOA is funded by dues collected from each homeowner, and its main objective is to enhance the community's property values by establishing and enforcing rules (covenant, conditions, and restrictions (CC&Rs)) and guidelines for the properties and residents located within the HOA's jurisdiction. HOAs also provide key services such as maintenance of common areas, including, but not limited to, landscape areas, swimming pools, tennis courts, and other common areas located within the HOA boundary.

HOAs have service provision and regulatory sustainability over the long term because they are required by zoning regulations, and their fiscal sustainability is supported through their revenue structure. HOA dues can increase overtime to cover increased maintenance costs and CC&Rs can be revised to address issues over time.

Master Maintenance Corporations (“MMCs”) are HOAs; however, MMCs provide services and maintenance to multiple HOAs or to a HOA that requires a service that is not covered by the primary HOA.

The following are examples of established MMCs in South Orange County:

- Rancho Santa Margarita Landscape and Recreation Corporation (SAMLARC) is a California non-profit mutual benefit corporation organized for the residential property owners within its boundaries. The HOA is funded by dues collected from each homeowner and provides landscape and recreation services to communities in the City of Rancho Santa Margarita.
- Ladera Ranch has two organizations that provide landscape and recreation services to the residents of the community. The Ladera Ranch Maintenance Corporation (LARMAC) provides landscaping services and aesthetic review, and Ladera Ranch Community Services (LARCS) provides recreation services.
- CZ Master Association provides an example of a status quo governance structure that provides security and street maintenance services to the residents of the gated Coto de Caza community.
- Rancho Mission Viejo also has a community services organization called RanchLife that funds recreational and educational programs and a community-wide web portal. RanchLife funds the management and maintenance of Rancho Mission Viejo community recreational facilities including all-access clubhouses, gardens/farms, parks, common area landscaping, hardscape, lighting, trails, and monuments as well as related staffing and administration. RanchLife is funded by a fee collected on the initial home sales and on the resale of all homes in the community. Additionally, there is a monthly general Rancho MCC assessment for Sendero homeowners. Additional fees may be assessed for other purposes including sub-associations and “special benefit areas” (i.e., covering the maintenance of slopes, alley areas, and gated access points).

HOAs are a prevalent form of service administration and regulation in the South Orange County region, and multiple HOAs within the region work together to address various regional issues.

## **Municipal Advisory Councils (MACs)**

A Municipal Advisory Council could serve as a valuable conduit of communicating for both the Orange County Board of Supervisors (BOS) and the unincorporated communities they represent. The authority to create a MAC resides with the Orange County Board of Supervisors, and State law allows the Board of Supervisors (BOS) to establish and provide funds, by resolution, for the operation of a MAC as an advisory body to the BOS. Unless the BOS specifically provides to the contrary, a MAC may represent the community to any state, county, city, special district or school district, agency or commission, or any other organization on any matter concerning the community. MACs can provide those living in unincorporated areas a platform to discuss and voice concerns that affect their community. Currently, there are no MACs in Orange County.

## **Shared Services**

Shared services allow unincorporated communities to receive an enhancement of existing services or services not currently enjoyed by residents in the area by entering into contractual agreements with adjacent service providers. Agreements for shared services require the support of each affected local agency and community representation (i.e., HOA). Additionally, shared agreements should involve the guidance of each respective agency and community's legal counsel.



**EXHIBIT A**  
**ORANGE COUNTY LOCAL AGENCY FORMATION COMMISSION**

**ANNEXATION  
FACT SHEET**

**LEGISLATIVE INTENT**

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, as amended (Government Code §§56000 et seq.) establishes a legislative preference for annexation of territory to an existing public agency over the formation of a new agency, when appropriate: *"...the Legislature further finds and declares that this policy should be effected by the logical formation and modification of the boundaries of local agencies, with a preference granted to accommodating additional growth within, or through the expansion of, the boundaries of those local agencies which can best accommodate and provide necessary governmental services and housing for persons and families of all incomes in the most efficient manner feasible..."*(Government Code 56001)

**OC LAFCO'S ROLE**

Annexation is the transition of territory to a city or district and allows the annexing city or special district to provide a full range of municipal or special services (in the case of special district annexations) to the area. The legislature has charged OC LAFCO with the responsibility of reviewing annexation proposals and ultimately approving, modifying, or denying the proposals. Annexation territory must already be within an annexing agency's sphere of influence, or a concurrent amendment to the sphere of influence must be approved with the annexation. Annexations may be initiated by: (1) petition of registered voters or landowners within the annexation area; or (2) resolution of any affected agency, including the annexing city or special district, the county board of supervisors, or any other agency with jurisdictional or sphere of influence boundaries that overlap the annexation territory. Initiation of annexation triggers a set of processing and procedural requirements that must be completed before the proposal can be scheduled for public hearing by OC LAFCO. (See page 6 of this Exhibit for an OC LAFCO flowchart.) The following section outlines these requirements.

**OC LAFCO APPLICATION**

Prior to initiation of annexation and filing of any documents, applicants are required to meet with OC LAFCO staff for a pre-application meeting to discuss the LAFCO process, required application documents, and OC LAFCO's filing and processing fees. Standard

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application requirements include but are not limited to: (1) resolution of application or landowner/registered voter petition (5% of registered voters or 5% of the landowners owning at least 5% of the assessed value); (2) filing fees; (3) plan for services; (4) property tax exchange agreements; (5) map and legal description; (6) disclosure of political expenditures; and (7) indemnification agreement. Certain application requirements, most notably the property tax exchange agreement, may be developed during the course of the application process and are not expected to be submitted upfront by the applicant or County as part of the initial application submittal.

**Fees:** OC LAFCO filing fee for an annexation is \$4,600 (\$5,600 if the annexation includes a concurrent sphere of influence amendment). The fees are used to pay for the costs of: (1) verifying the signatures on the petition, if applicable; (2) preparing environmental review documents required under the California Environmental Quality Act ("CEQA"); and (3) other OC LAFCO direct and indirect costs, including staff time, legal costs, noticing, etc. Complex proposals may warrant the submission of additional fees.

**Boundary Map:** A map of the proposed annexation boundary is required. OC LAFCO staff, affected local agencies, and interested parties will review the boundary map to determine consistency with the boundaries of existing local agencies and to ensure that the boundaries are logical and reasonable. A more detailed map and legal description that meets specified requirements of the Orange County Surveyor's Office (stamp of approval from OC Surveyor required) and the State Board of Equalization must be completed before the proposal can be scheduled for public hearing.

**Property Tax Exchange Agreement:** OC LAFCO must consider the sufficiency of the city or special district revenues for the services following annexation. Revenue sources may include a portion of the property taxes, special taxes, and special benefit assessments (city annexations may also include other revenue sources, such as sales tax or transient occupancy tax). The County and other affected agencies are required to adopt resolutions agreeing to an exchange of property tax revenues generated in the proposed annexation territory. The amount of property taxes transferred is negotiated and agreed upon but typically aligns with the types, levels, and costs of services to be transferred to the annexing agency. For city annexations, the County typically retains a certain amount of the property tax revenues to support the provision of regional services provided by the County. Annexations to enterprise special districts usually do not result in the transfer of any property tax revenues from the County. Several cities have adopted master property tax exchange agreements with the County to streamline the process for standard annexations. However, each annexation may be negotiated separately, if so desired by the affected agencies.

**Plan for Services:** The "Plan for Services" must describe the current and future service providers and anticipated service level enhancements, if any (see table below). Services

EXHIBIT A

ORANGE COUNTY LOCAL AGENCY FORMATION COMMISSION

that may be addressed in the Plan for Services include the following (the provision of some services may not change):

Potential Municipal Services	Regional Services Retained by County
<b>Law enforcement and police protection</b>	General government administration
<b>Fire protection</b>	Legislative functions
<b>Parks, recreation, and open-space conservation</b>	Criminal justice (courts, prosecution, etc.)
<b>Animal control</b>	Regional parks
<b>Libraries</b>	Elections and voter services
<b>Community facilities</b>	Social services
<b>Flood control/drainage</b>	Sheriff and coroner
<b>Utilities (water &amp; sewer)</b>	Health services
<b>Solid waste</b>	
<b>Funding for services of a municipal advisory council</b>	
<b>Funding for land use planning (i.e., area planning commission)</b>	

The Plan for Services must also describe the long-term financing plan for the services to be transferred as part of the annexation. OC LAFCO is required to analyze the Plan for Services to determine the financial ability of the agency to provide the proposed services and other factors. Of importance is the financial viability of the proposal to ensure that the service provision to the annexation territory will be sustainable in the long-term.

**Sphere of Influence (SOI):** The annexation territory must be within the annexing agency's existing sphere of influence, or the proposal must include concurrent amendment of the annexing agency's sphere of influence. A sphere of influence is a long-range planning tool used by OC LAFCO and is defined in state law as "a plan for the probable physical boundaries and service area of a local agency, as determined by the Commission" (Government Code Section 56076). OC LAFCO is required to review and update the sphere of influence for each city and special district every five years, or as necessary. When an annexation request includes a sphere of influence amendment, OC LAFCO is required to analyze the request and prepare written statements of determinations with respect to each of the following:

- The present and planned land use in the area, including agricultural and open space lands.
- The present and probable need for public facilities and services in the area.
- The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide.
- The existence of any social or economic communities of interest in the area.

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- For those cities that provide public facilities or services related to sewers, water or fire protection, the present and probable need for those public facilities and services in any Disadvantaged Unincorporated Communities within the existing SOI.

**PUBLIC HEARING**

Once OC LAFCO receives an application, OC LAFCO staff will prepare and distribute a preliminary staff report to affected agencies for initial comments on the proposal. During the public review, OC LAFCO staff will continue to work with the County and various public agencies to analyze the proposal and craft a recommendation. When the OC LAFCO Executive Officer deems the application complete, the proposal will be scheduled for a legally noticed public hearing, as required.

During the annexation proceedings, based on various factors required to be considered by state law (see page 7 for information on factors), OC LAFCO may deny, approve, or conditionally approve the annexation with modifications and subject to terms and conditions. If OC LAFCO denies the proposal, the application is terminated. If approved or approved with modifications, subsequent steps in the annexation process are outlined in the following sections of this fact sheet.

**REQUEST FOR RECONSIDERATION**

Within 30 days of the adoption of the OC LAFCO resolution either approving or disapproving the proposal, any interested party can request the Commission to reconsider the action. Such a request must identify the new or different facts that warrant the reconsideration and requires the payment of a fee as determined by the OC LAFCO Schedule of Filing and Processing Fees in effect at that time. Upon receipt of a timely request, OC LAFCO will hold a legally noticed (at least 21 days prior to the hearing) public hearing on the reconsideration request. At the reconsideration hearing OC LAFCO may approve, deny, or continue the reconsideration request.

**PROTEST PROCEEDINGS**

If OC LAFCO approves the annexation proposal, the Commission may be required to conduct a protest hearing to collect written and oral opposition to the OC LAFCO action. The hearing is conducted at the conclusion of a protest period (may range between 21 to 60 days). Under certain circumstances, the Commission may waive protest proceedings.

The annexation for territory is ordered without election if written protests have been filed and not withdrawn by the following:

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- For inhabited territory either (1) less than 25% of the registered voters or (2) less than 25% of the number of landowners owning less than 25% of the land in the annexation boundary.
- For uninhabited territory, landowners owning less than 50% of the total assessed value of land within the annexation boundary

The annexation is terminated if a majority protest is deemed according to the following:

- For inhabited territory, written protests filed by 50% or more of the voters residing in the annexation boundary.
- For uninhabited territory, written protests filed by landowners owning 50% or more of the assessed value of the land within the annexation boundary.

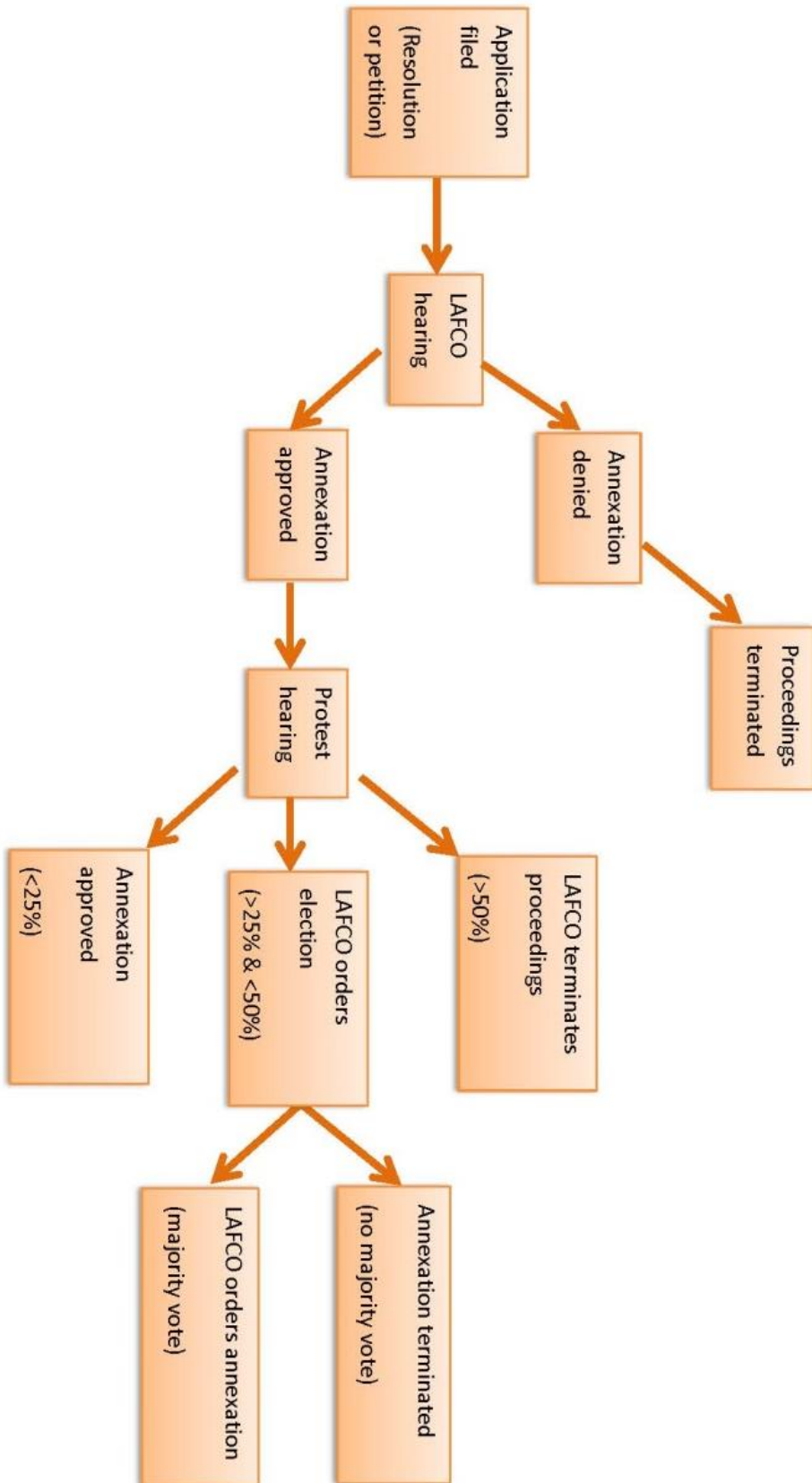
For inhabited territory, the Commission shall order the annexation subject to voter confirmation according to either of the following:

- At least 25%, but less than 50%, of the registered voters residing in the annexation boundary.
- At least 25% of the number of owners of land who also own at least 25% of the assessed value of land within the annexation boundary.

**ELECTION PROCESS**

If required, the Commission shall inform the Board of Supervisors and the County elections official of the determination and request the Board to direct the elections official to conduct the necessary election. The election may occur at the next regularly scheduled election or at a special election. A simple majority of the registered voters (residing within the annexation boundary) is required to approve the annexation.

OC LAFCCO PROCESS: ANNEXATION



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**EVALUATING VIABILITY:  
PLAN FOR SERVICES & FACTORS CONSIDERED BY LAFCO**

Applications for annexations must be accompanied by a Plan for Services enumerating and describing the services that will be extended to the annexation territory, including the level of services and financing plan for service provision. OC LAFCO evaluates the Plan for Services and a variety of factors outlined in state law when making decisions on annexations. Excerpts from LAFCO law addressing these requirements are provided below.

**PLAN FOR SERVICES (GOVERNMENT CODE SECTION 56653(b))**

The Plan for Services must include all of the following information:

- An enumeration and description of the services to be extended to the affected territory.
- The level and range of those services.
- An indication of when those services can feasibly be extended to the affected territory.
- An indication of any improvements or upgrading of structures, roads, sewer or water facilities, or other conditions the local agency would impose or require within the affected territory if the change of organization or reorganization is completed.
- Information with respect to how those services will be financed.
- Any additional information required by the Commission or OC LAFCO Executive Officer.

**FACTORS CONSIDERED BY LAFCO IN THE REVIEW OF PROPOSALS (GOVERNMENT CODE SECTION 56668)**

Factors that LAFCO considers in the review of a proposal are outlined in state law (Government Code Section 56668) and listed below.

- (a) Population and population density; land area and land use; per capita assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next 10 years.
- (b) The need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs of those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of service and controls in the area and adjacent areas. "Services," as used in this subdivision, refers to governmental services whether or not the services

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- are services which would be provided by local agencies subject to this division, and includes the public facilities necessary to provide those services.
- (c) The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county.
  - (d) The conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities in Section 56377.
  - (e) The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Section 56016.
  - (f) The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.
  - (g) A regional transportation plan adopted pursuant to Section 65080, and its consistency with city or county general and specific plans.
  - (h) The sphere of influence of any local agency which may be applicable to the proposal being reviewed.
  - (i) The comments of any affected local agency or other public agency.
  - (j) The ability of the newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.
  - (k) Timely availability of water supplies adequate for projected needs as specified in Section 65352.2.
  - (l) The extent to which the proposal will affect a city or cities and the county in achieving their respective fair shares of the regional housing needs as determined by the appropriate council of governments consistent with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7.
  - (m) Any information or comments from the landowner or owners, voters, or residents of the affected territory.
  - (n) Any information related to existing land use designations.
  - (o) The extent to which the proposal will promote environmental justice. As used in this subdivision, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services.
  - (p) Information contained in a local hazard mitigation plan, information contained in a safety element of a general plan, and any maps that identify land as a very high fire hazard zone pursuant to Section 51178 or maps that identify land determined to be in a state responsibility area pursuant to Section 4102 of the Public Resources Code, if it is determined that such information is relevant to the area that is the subject of the proposal.



**Exhibit B**  
**ORANGE COUNTY LOCAL AGENCY FORMATION COMMISSION**

**COUNTY SERVICE AREA  
FACT SHEET**

**LEGISLATIVE INTENT**

County Service Areas ("CSAs") are dependent special districts that are governed by the County Board of Supervisors. To accommodate new growth, state law authorizes CSAs to provide an array of public services, provided that the County does not perform the services to the same extent countywide.

*"State law declares that population growth and development in unincorporated areas result in new and increased demands for public facilities and services that promote the public peace, health, safety, and general welfare. Residents and property owners in these areas should have reasonable methods available to finance and provide these needed facilities and services. In the absence of independent special districts, County boards of supervisors should have alternative organizations and methods to finance and provide the needed public facilities and services to these areas."*

*"It is the intent of the California State Legislature to continue a broad statutory authority for county boards of supervisors to use county service areas as a method to finance and provide needed public facilities and services" and "to meet the diversity of local conditions, circumstances, and resources of unincorporated communities." (Government Code Sections 25210 et seq.)*

**OC LAFCO'S ROLE**

The legislature has charged OC LAFCO with the responsibility of determining the viability of a proposed county service area ("CSA") and ultimately approving, modifying, or denying the formation proposal. CSA formations may be initiated by: (1) petition of registered voters or landowners within the identified area; or (2) resolution by any of the county board of supervisors. Initiation of a CSA formation triggers a lengthy and complex set of processing and procedural requirements that must be completed before the proposal can be scheduled for public hearing by OC LAFCO. (See page 5 for an OC LAFCO flowchart.) The following section outlines these requirements.

**OC LAFCO APPLICATION**

Prior to initiation and filing of any documents, applicants are required to meet with OC LAFCO staff for a pre-application meeting to discuss the OC LAFCO process, required application documents, and OC LAFCO's filing and processing fees. Standard application requirements include but are not limited to: (1) resolution of application or landowner/registered voter petition (either 25% of the registered voters or 25% of the

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landowners who own at least 25% of the assessed value of land); (2) filing fees; (3) plan for services; (4) map and legal description; (5) disclosure of political expenditures; and (6) indemnification agreement.

Certain application requirements may be developed during the course of the application process and all of the items listed are not expected to be submitted upfront by the applicant as part of the initial application submittal.

**Fees:** OC LAFCO filing fees for special district formations is \$10,000. The fees are used to pay for the costs of: (1) verifying the signatures on the petition, if applicable; (2) preparing environmental review documents required under the California Environmental Quality Act ("CEQA"); and (3) other OC LAFCO direct and indirect costs, including staff time, legal costs, noticing, etc. Complex proposals may warrant the submission of additional fees.

**Boundary Map:** A map of the proposed special district boundary is required. OC LAFCO staff, affected local agencies, and interested parties will review the boundary map to determine consistency with the boundaries of existing local agencies and to ensure that the boundaries are logical and reasonable. A more detailed map and legal description that meets specified requirements of the Orange County Surveyor's Office and the State Board of Equalization will need to be completed before the proposed CSA formation can be scheduled for Commission consideration.

**Property Tax Exchange:** State law requires that the Commission determine that the proposed CSA will have sufficient revenues to carry out its purposes. Revenue sources may include a portion of the property taxes, special taxes, and special benefit assessments. OC LAFCO is required to work with the County Auditor-Controller to determine the amount of property taxes, if any, that transfer from existing taxing entities to the proposed CSA. The amount of property taxes received by the CSA is typically associated with the number of services to be provided and their respective service levels. The County always retains a certain amount of the property tax revenues to support the provision of regional services retained by the County.

**Plan for Services:** A CSA may provide any governmental services within its boundary that the county is authorized to perform and does not perform to the same extent countywide. The "Plan for Services" must describe the current and future service providers and anticipated improvements in service levels, if any. (See page 6 for more on plan for services.) Services that may be addressed in the Plan for Services include the following (the provision of some services may not change):

## EXHIBIT B

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Potential CSA Services	Regional Services Retained by County
Parks, recreation, and open-space conservation	General government/administration/legislative functions
Community facilities	Criminal justice (courts, prosecution, etc.)
Utilities (water & sewer)	Social services
Solid waste	Health services
Law enforcement and police protection	Regional parks
Funding for land use planning (i.e. area planning commission)	Sheriff and coroner
Funding for services of a municipal advisory council	Elections and voter services

OC LAFCO must perform a fiscal analysis to determine if the anticipated revenues are sufficient to provide the proposed services. OC LAFCO's analysis will include review of the current county revenues and departmental cost data, the calculation of the property tax allocation, and the analysis of fiscal and service level assumptions provided by the applicant. Formation proposals are highly scrutinized by the Commission and OC LAFCO staff to ensure that the new agency will be financially **viable and sustainable** long-term. Fiscal factors influencing long-term viability include, but are not limited to, the size of the community, diversity of the proposed revenue stream, costs of providing the proposed public services, the amount of property taxes, if any, as determined by OC LAFCO, existing assessments and fees, and any proposed new taxes, assessments, or fees.

#### **PUBLIC HEARING**

The CSA formation process is an open, public process with several opportunities for the public and affected local agencies to participate in discussions and provide input. Once OC LAFCO receives an application, OC LAFCO staff prepares and distributes a preliminary staff report to all affected agencies for initial comments on the proposal. During the public review, OC LAFCO staff will continue to work with the County and various public agencies to analyze the proposal and develop a recommendation. When the OC LAFCO Executive Officer deems the application complete, the proposal will be scheduled for public hearing. The formation proposal will be considered by OC LAFCO at a minimum of one public hearing. OC LAFCO may hold the public hearing in the community to ensure maximum exposure of the process and to solicit public testimony on the proposal.

During the application proceedings, based on various factors required to be considered by state law (See page 6 for more on factors.), OC LAFCO may deny, approve, or conditionally approve the proposal with modifications and subject to terms and conditions. If OC LAFCO denies the proposal, the application is terminated and no new

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proposal, which is the same, or substantially similar may be filed for one year. If approved or approved with modifications, subsequent steps in the formation process are outlined in the following sections of this fact sheet.

**REQUEST FOR RECONSIDERATION**

Within 30 days of the adoption of the LAFCO resolution either approving or disapproving the proposal, any interested party can request the Commission to reconsider the action. Such a request must identify the new or different facts that warrant the reconsideration and requires the payment of a fee as determined by the OC LAFCO Schedule of Filing and Processing Fees in effect at that time. Upon receipt of a timely request, OC LAFCO will hold a legally noticed (at least 21 days prior to the hearing) public hearing on the reconsideration request. At the reconsideration hearing OC LAFCO may approve, deny, or continue the reconsideration request.

**PROTEST PROCEEDINGS**

If OC LAFCO approves the proposal, the Commission is required to conduct a protest hearing to collect written and oral opposition to the OC LAFCO action. The hearing is conducted at the conclusion of a protest period (may range between 21 to 60 days). The CSA formation is terminated if a majority protest is deemed according to either of the following:

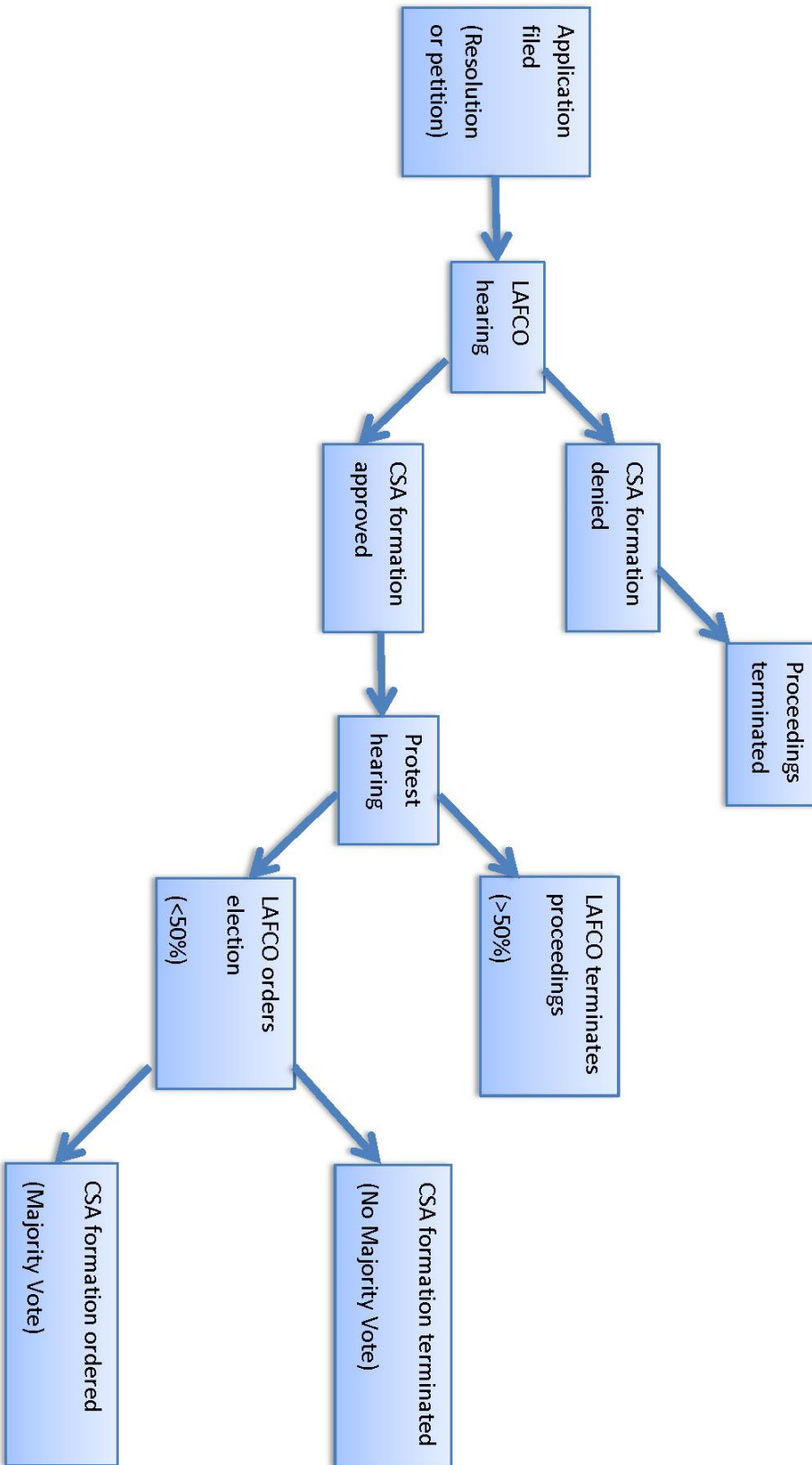
- For uninhabited territory, written protests filed by landowners owning 50% or more of the assessed value of the land within the boundary of the proposed CSA.
- For inhabited territory, written protests filed by 50% or more of the voters residing in the boundary of the proposed CSA.

**ELECTION PROCESS**

If there is no majority protest OC LAFCO shall order the formation without an election where all of the following apply: (1) the area is not inhabited; (2) there is 100% landowner consent; and (3) no special tax, benefit assessment, or property related fee or charge is needed.

Where the above requirements are not met, the Commission will order the proposal to be placed on the ballot for voter approval. A simple majority of the registered voters (residing within the proposed CSA boundary) is required to approve the formation of the new CSA. If OC LAFCO has conditioned the CSA formation upon a tax, fee, or assessment necessary to make the CSA financially viable, the proposed tax, fee, or assessment will be placed on the ballot along with the proposed formation. Some taxes may require two-thirds voter approval under Proposition 218.

OC LAFCO PROCESS: CSA FORMATION



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**EVALUATING VIABILITY:  
PLAN FOR SERVICES & SUFFICIENCY OF REVENUES**

Applications for CSA formations must be accompanied by a detailed Plan for Services enumerating and describing the services that will be extended to the CSA territory, including the levels of services and financing plan for service provision. CSA law requires OC LAFCO to make a determination that the proposed CSA will have sufficient revenues to provide the services described in the Plan for Services, or otherwise conditionally approve the formation of a special tax, benefit assessment, and/or property-related fee or charge, subject to voter approval. Excerpts from state law addressing these requirements are provided below.

**PLAN FOR SERVICES (GOVERNMENT CODE SECTION 56653(b))**

The Plan for Services must include all of the following information:

- An enumeration and description of the services to be extended to the affected territory.
- The level and range of those services.
- An indication of when those services can feasibly be extended to the affected territory.
- An indication of any improvements or upgrading of structures, roads, sewer or water facilities, or other conditions the local agency would impose or require within the affected territory if the change of organization or reorganization is completed.
- Information with respect to how those services will be financed.
- Any additional information required by the Commission or OC LAFCO Executive Officer.

**DETERMINATION OF SUFFICIENCY OF REVENUES (GOVERNMENT CODE SECTION 25211.4(b))**

- (1) Notwithstanding any other provision of law, a local agency formation commission shall not approve a proposal that includes the formation of a county service area unless the commission determines that the proposed county service area will have sufficient revenues to carry out its purposes.
- (2) Notwithstanding paragraph (1), a Local Agency Formation Commission may approve a proposal that includes the formation of a county service area where the commission has determined that the proposed county service area will not have sufficient revenues provided that the commission conditions its approval on the concurrent approval of special taxes, benefit assessments, or property-related fees or charges that will generate those sufficient revenues. In approving the proposal, the commission shall provide that if the voters or property owners do not

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approve the special taxes, benefit assessments, or property-related fees or charges, the proposed county service area shall not be formed.

**EVALUTING VIABILITY:  
FACTORS CONSIDERED BY LAFCO**

Factors that LAFCO considers in the review of a proposal are outlined in state law (Government Code Section 56668) and listed below.

- (a) Population and population density; land area and land use; per capita assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next 10 years.
- (b) The need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs of those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of service and controls in the area and adjacent areas. "Services," as used in this subdivision, refers to governmental services whether or not the services are services which would be provided by local agencies subject to this division, and includes the public facilities necessary to provide those services.
- (c) The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county.
- (d) The conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities in Section 56377.
- (e) The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Section 56016.
- (f) The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.
- (g) A regional transportation plan adopted pursuant to Section 65080, and its consistency with city or county general and specific plans.
- (h) The sphere of influence of any local agency which may be applicable to the proposal being reviewed.
- (i) The comments of any affected local agency or other public agency.
- (j) The ability of the newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.

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- (k) Timely availability of water supplies adequate for projected needs as specified in Section 65352.2.
- (l) The extent to which the proposal will affect a city or cities and the county in achieving their respective fair shares of the regional housing needs as determined by the appropriate council of governments consistent with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7.
- (m) Any information or comments from the landowner or owners, voters, or residents of the affected territory.
- (n) Any information related to existing land use designations.
- (o) The extent to which the proposal will promote environmental justice. As used in this subdivision, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services.
- (p) Information contained in a local hazard mitigation plan, information contained in a safety element of a general plan, and pursuant to Section 51178 or maps that identify land determined to be in a state responsibility area pursuant to Section 4102 of the Public Resources Code, if it is determined that such information is relevant to the area that is subject of the proposal.



**EXHIBIT C**  
**ORANGE COUNTY LOCAL AGENCY FORMATION COMMISSION**

**COMMUNITY SERVICES DISTRICT**  
**FACT SHEET**

**LEGISLATIVE INTENT**

Community Services Districts ("CSDs") are independent special districts that are governed by a locally elected board of directors. To accommodate new growth, state law authorizes the establishment of CSDs as permanent or transitional forms of governance.

*State law declares that differences among California's communities reflect the broad diversity of the state's population, geography, natural resources, history, and economy. The Community Services District Law was enacted to address the desires of California's diverse communities for public facilities and services that promote the public peace, health, safety, and welfare.*

*It is the intent of the Legislature: to provide a broad statutory authority for a class of limited-purpose special districts to provide a wide variety of public facilities and services; to encourage LAFCOs to use municipal service reviews, sphere of influence, and boundary powers, where feasible and appropriate, to combine special districts that serve overlapping or adjacent territory into multifunction community services districts; and that residents, property owners, and public officials use the powers and procedures provided by Community Services District Law to meet the diversity of the local conditions, circumstances, and resources.*

*The Legislature also finds and declares that community services districts can serve a wide range of purposes: a permanent form of governance that can provide locally adequate levels of public facilities and services; a multifunction special district in place of multiple individual special districts; a form of governance that is an alternative to city incorporation; or a transitional form of governance as a community approaches cityhood. (Government Code Sections 61000 et seq.)*

**LAFCO'S ROLE**

The legislature has charged OC LAFCO with the responsibility of determining the viability of a proposed community services district ("CSD") and ultimately approving, modifying, or denying the proposal. CSD formations may be initiated by: (1) petition of registered voters or landowners with the identified area; or (2) resolution of any affected agency, including the county board of supervisors or any other agency with jurisdictional

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boundaries overlapping the proposed CSD territory. Initiation of a CSD formation triggers a lengthy and complex set of processing and procedural requirements that must be completed before the proposal can be scheduled for public hearing by LAFCO. (See Page 6 of this Exhibit for a flowchart.) The following section outlines these requirements.

**OC LAFCO APPLICATION**

Prior to initiation and filing of any documents, applicants are required to meet with OC LAFCO staff for a pre-application meeting to discuss the OC LAFCO process, required application documents, and LAFCO's filing and processing fees. Standard application requirements include, but are not limited to: (1) resolution of application adopted by any county, city, or special district that contains any of the territory proposed to be included in the district or by petition of 25% of the registered voter residing in the area to be included in the district; (2) filing fees; (3) plan for services; (4) property tax exchange agreement; (5) map and legal description; (6) disclosure of political expenditures; and (7) indemnification agreement. Certain application requirements may be developed during the course of the application process and all of the items listed are not expected to be submitted upfront by the applicant as part of the initial application submittal.

**Fees:** OC LAFCO filing fee for special district formations is \$10,000. The fees are used to pay for the costs of: (1) verifying the signatures on the petition, if applicable; (2) preparing environmental review documents required under the California Environmental Quality Act ("CEQA"); and (3) other OC LAFCO direct and indirect costs, including staff time, legal costs, noticing, etc. Complex proposals may warrant the submission of additional fees.

**Boundary Map:** A map of the proposed special district boundary is required. OC LAFCO staff, affected local agencies, and interested parties will review the boundary map to determine consistency with the boundaries of existing local agencies and to ensure that the boundaries are logical and reasonable. A more detailed map and legal description that meets specified requirements of the Orange County Surveyor's Office and the State Board of Equalization will need to be completed before the proposed CSD formation can be scheduled for Commission consideration.

**Property Tax Exchange:** State law requires that the Commission determine that the proposed CSD will have sufficient revenues to carry out its purposes. Revenue sources may include a portion of the property taxes, special taxes, and special benefit assessments. OC LAFCO is required to work with the County Auditor-Controller to determine the amount of property taxes, if any, that transfer from existing taxing entities to the proposed CSD. The amount of property taxes received by the CSD is typically associated with the number of services to be provided and their respective service levels. The County always retains a certain amount of the property tax revenues to support the provision of regional services retained by the County.

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**Plan for Services:** CSDs may provide a wide array of municipal level services; however, certain regional services (e.g., social services, courts, etc.) and land use authority will be retained by the county. The “Plan for Services” must describe the current and future service providers and anticipated improvements in service levels, if any (see page 7 for more on plan for services). Services that may be addressed in the Plan for Services include the following (the provision of some services may not change):

Potential CSD Services	Regional Services Retained by County
Law enforcement and police protection	General government/administration/legislative functions
Fire protection	Health services
Parks, recreation, and open-space conservation	Criminal justice (courts, prosecution, etc.)
Animal control	Regional parks
Libraries	Elections and voter services
Community facilities	Social services
Flood control/drainage	Sheriff and coroner
Utilities (water & sewer)	
Solid waste	
Funding for services of a municipal advisory council	
Funding for land use planning (i.e. area planning commission)	

OC LAFCO must perform a fiscal analysis to determine if the anticipated revenues are sufficient to provide the proposed services (see page 7). LAFCO’s analysis will include review of the current county revenue and departmental cost data, the calculation of the property tax allocation, and the analysis of fiscal and service level assumptions provided by the applicant. State law prohibits OC LAFCO from approving formation of a CSD unless the Commission determines that the proposed district will be financially viable and sustainable long-term. Fiscal factors influencing long-term viability include, but are not limited to, the size of the community, diversity of the proposed revenue stream, costs of providing the proposed public services, the property tax allocation, if any, as determined by LAFCO, existing assessments and fees, and any proposed new taxes, assessments, or fees.

**PUBLIC HEARING**

The CSD formation process is an open, public process with several opportunities for the public and affected local agencies to participate in discussions and provide input. Once OC LAFCO receives an application, OC LAFCO staff prepares and distributes a preliminary staff report to all affected agencies for initial comments on the proposal.

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During the public review, OC LAFCO staff will continue to work with the County and various public agencies to analyze the proposal and develop a recommendation. When the OC LAFCO Executive Officer deems the application complete, the proposal will be scheduled for public hearing. The formation proposal will be considered by OC LAFCO at a minimum of one public hearing. OC LAFCO may hold the public hearing in the community to ensure maximum exposure of the process and to solicit public testimony on the proposal.

During application proceedings, based on various factors required to be considered by state law (see page 8), OC LAFCO may deny, approve, or conditionally approve the proposal with modifications and subject to terms and conditions. If OC LAFCO denies the proposal, the application is terminated and no new proposal, which is the same, or substantially similar may be filed for one year. If approved or approved with modifications, subsequent steps in the formation process are outlined in the following sections of this fact sheet.

**REQUEST FOR RECONSIDERATION**

Within 30 days of the adoption of the LAFCO resolution either approving or disapproving the proposal, any interested party can request the Commission to reconsider the action. Such a request must identify the new or different facts that warrant the reconsideration and requires the payment of a fee as determined by the OC LAFCO Schedule of Filing and Processing Fees in effect at that time. Upon receipt of a timely request, OC LAFCO will hold a legally noticed (at least 21 days prior to the hearing) public hearing on the reconsideration request. At the reconsideration hearing OC LAFCO may approve, deny, or continue the reconsideration request.

**PROTEST PROCEEDINGS**

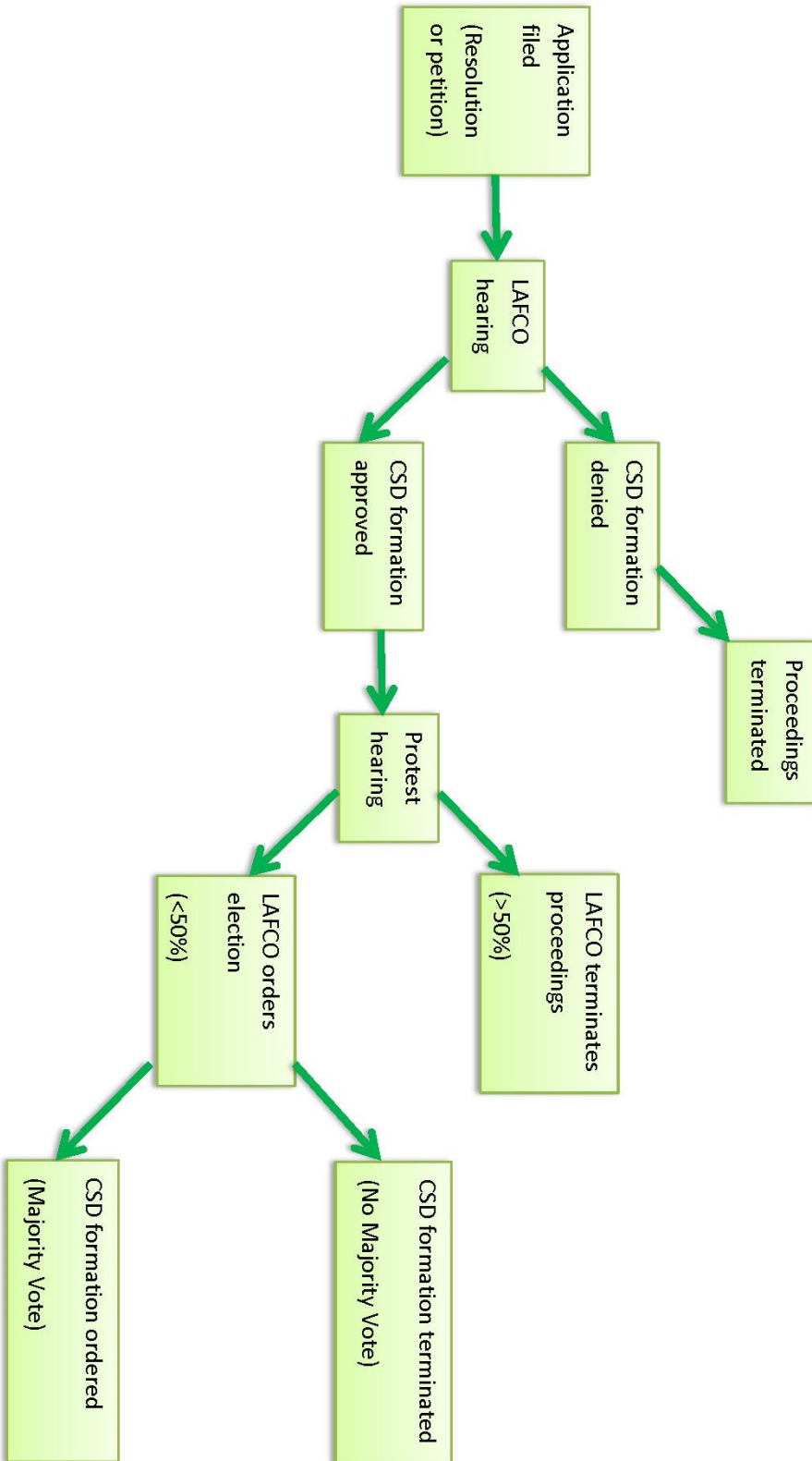
If OC LAFCO approves the proposal, the Commission is required to conduct a protest hearing to collect written and oral opposition to the OC LAFCO action. The hearing is conducted at the conclusion of a protest period (may range between 21 to 60 days). The CSD formation is terminated if a majority protest is deemed according to either of the following:

- For uninhabited territory, written protests filed by landowners owning 50% or more of the assessed value of the land within the boundary of the proposed CSD.
- For inhabited territory, written protests filed by 50% or more of the voters residing in the boundary of the proposed CSD.

**ELECTION PROCESS**

If there is no majority protest, the Commission will order the proposal to be placed on the ballot for voter approval. The election may occur at the next regularly scheduled election or at a special election. A simple majority of the registered voters (residing within the proposed CSD boundary) is required to approve formation of a new CSD. If OC LAFCO has conditioned the CSD formation upon a tax, fee, or assessment necessary to make the CSD financially viable, the proposed tax, fee, or assessment will be placed on the ballot along with the proposed formation. Some taxes may require two-thirds voter approval under Proposition 218.

OC LAFCO PROCESS: CSD FORMATION



**EVALUATING VIABILITY:  
PLAN FOR SERVICES & SUFFICIENCY OF REVENUES**

Applications for CSD formations must be accompanied by a detailed Plan for Services enumerating and describing the services that will be extended to the CSD territory, including the levels of services and financing plan for service provision. CSD law requires OC LAFCO to make a determination that the proposed CSD will have sufficient revenues to provide the services described in the Plan for Services, or otherwise conditionally approve of the formation on a special tax, benefit assessment, and/or property-related fee or charge, subject to voter approval. Excerpts from state law addressing these requirements are provided below.

**PLAN FOR SERVICES (GOVERNMENT CODE SECTION 56653(b))**

The Plan for Services must include all of the following information:

- An enumeration and description of the services to be extended to the affected territory.
- The level and range of those services.
- An indication of when those services can feasibly be extended to the affected territory.
- An indication of any improvements or upgrading of structures, roads, sewer or water facilities, or other conditions the local agency would impose or require within the affected territory if the change of organization or reorganization is completed.
- Information with respect to how those services will be financed.
- Any additional information required by the Commission or OC LAFCO Executive Officer.

**DETERMINATION OF SUFFICIENCY OF REVENUES (GOVERNMENT CODE SECTION 61014)**

(b) Notwithstanding any other provision of law, a local agency formation commission shall not approve a proposal that includes the formation of a district unless the commission determines that the proposed district will have sufficient revenues to carry out its purposes.

(c) Notwithstanding subdivision (b), a local agency formation commission may approve a proposal that includes the formation of a district where the commission has determined that the proposed district will not have sufficient revenue provided that the commission conditions its approval on the concurrent approval of special taxes or benefit assessments that will generate those sufficient revenues. In approving the proposal, the commission shall provide that, if the voters or property owners do not approve the special taxes or benefit assessments, the proposed district shall not be formed.

**EVALUATING VIABILITY:  
FACTORS CONSIDERED BY LAFCO**

Factors that OC LAFCO considers in the review of a proposal are outlined in state law (Government Code Section 56668) and listed below.

- (a) Population and population density; land area and land use; per capita assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next 10 years.
- (b) The need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs of those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of service and controls in the area and adjacent areas. "Services," as used in this subdivision, refers to governmental services whether or not the services are services which would be provided by local agencies subject to this division, and includes the public facilities necessary to provide those services.
- (c) The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county.
- (d) The conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities in Section 56377.
- (e) The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Section 56016.
- (f) The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.
- (g) A regional transportation plan adopted pursuant to Section 65080, and its consistency with city or county general and specific plans.
- (h) The sphere of influence of any local agency which may be applicable to the proposal being reviewed.
- (i) The comments of any affected local agency or other public agency.
- (j) The ability of the newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.
- (k) Timely availability of water supplies adequate for projected needs as specified in Section 65352.2.



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- (l) The extent to which the proposal will affect a city or cities and the county in achieving their respective fair shares of the regional housing needs as determined by the appropriate council of governments consistent with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7.
- (m) Any information or comments from the landowner or owners, voters, or residents of the affected territory.
- (n) Any information related to existing land use designations.
- (o) The extent to which the proposal will promote environmental justice. As used in this subdivision, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services.
- (p) Information contained in a local hazard mitigation plan, information contained in a safety element of a general plan, and pursuant to Section 51178 or maps that identify land determined to be in a state responsibility area pursuant to Section 4102 of the Public Resources Code, if it is determined that such information is relevant to the area that is subject of the proposal.

**EXHIBIT D**  
**ORANGE COUNTY LOCAL AGENCY FORMATION COMMISSION**

**CITY INCORPORATION  
FACT SHEET**

**LEGISLATIVE INTENT**

State law places a high bar on the formation of new public agencies, specifically the incorporation of new cities, and requires LAFCOs to consider the ability of existing service providers to provide the needed services instead of creating a new entity.

*“When the formation of a new government entity is proposed, a commission shall make a determination as to whether existing agencies can feasibly provide the needed service or services in a more efficient and accountable manner.” (Government Code Section 56301)*

**OC LAFCO'S ROLE**

The legislature has charged LAFCO with the responsibility of determining the viability of proposed incorporations and ultimately approving, modifying, or denying the proposal. City incorporations may be initiated by: (1) petition of registered voters or landowners within the identified area; or (2) resolution of any affected local agency, including the county board of supervisors or any other agency with jurisdictional boundaries overlapping the proposed incorporation territory. The processing of an incorporation proposal involves a lengthy and complex review of procedural and policy requirements and conduct of a public hearing by OC LAFCO. (See Page 5 for an OC LAFCO flowchart.) The incorporation process can take one to two years to complete. The following section outlines these requirements.

**OC LAFCO APPLICATION PROCESS AND REQUIREMENTS**

Prior to initiation and filing of any documents, incorporation applicants are required to meet with OC LAFCO staff for a pre-application meeting to discuss the incorporation process, required documents, and OC LAFCO's fee/deposit requirements. Incorporation application requirements include, but are not limited to: (1) filing fees; (2) resolution of application by an affected agency, or landowner and/or registered voter petition (petitions must be signed by either 25% of registered voters or 25% of landowners owning at least 25% of the assessed valuation of the land); (3) plan for services; (4) comprehensive fiscal analysis (CFA); (5) revenue neutrality agreement; (6) map and legal description; (7) disclosure of political expenditures; and (8) indemnification agreement. Several of the application requirements, most notably the CFA and revenue neutrality

## ORANGE COUNTY LOCAL AGENCY FORMATION COMMISSION

agreement, are developed during the course of the application process and are not expected to be submitted upfront by the applicant as part of the initial application submittal.

**Fees:** Due to the complex nature of incorporation proposals, OC LAFCO fees for incorporation typically exceed \$150,000. The fees are used to pay for the costs of: (1) verifying the signatures on the petition, if applicable; (2) preparing a Comprehensive Fiscal Analysis; (3) preparing environmental review documents required under the California Environmental Quality Act ("CEQA"); and (4) other OC LAFCO direct and indirect costs, including but may not be limited to staff time, legal costs, and noticing.

**Boundary Map:** A map of the proposed incorporation boundary is required. OC LAFCO staff, affected local agencies, and interested parties will review the boundary map to determine consistency with the boundaries of existing local agencies and to ensure that the boundaries are logical and reasonable. A more detailed map and legal description that meets specified requirements of the Orange County Surveyor's Office and the State Board of Equalization are required.

**Revenue Neutrality:** To ensure that counties are kept "whole" in any incorporation, state law requires that the incorporation be "revenue neutral" and results "in a similar exchange of both revenue and responsibility for service delivery among the county, the proposed city, and other affected agencies" (see table on page 2). While cities can provide an array of services, certain regional services will always remain the responsibility of the county. Revenue neutrality requires: (1) a similar exchange of revenue and service responsibility between the proposed new city and the county and (2) a negotiated revenue neutrality payment accepted by the County. The revenue neutrality process may result in the adoption of agreements sharing property taxes, providing lump-sum payments, payments over a fixed period of time, modification of the incorporation boundary, or other provisions that keep the county financially whole following incorporation.

**Comprehensive Fiscal Analysis ("CFA"):** The incorporation proponents must describe the services that the new city (see page 6 for Plan for Service requirements) will provide and are required to submit a preliminary fiscal analysis ("PFA") for evaluation by OC LAFCO staff. The cost for preparing the PFA is not included in the OC LAFCO fees and is the responsibility of the applicant. The PFA includes a "Plan for Services" which must describe the current and future service providers and anticipated improvements in service levels, if any, for the following services (the provision of some services may not change):

## ORANGE COUNTY LOCAL AGENCY FORMATION COMMISSION

Potential New City Services	Regional Services Retained by County
General administration/legislative functions	General government/administration/legislative functions
Police protection	Health services
Planning and land use administration	Criminal justice (courts, prosecution, etc.)
Public works	Regional parks
Animal control	Elections and voter services
Parks and recreation	Social services
Fire protection	Sheriff and coroner
Library	
Flood control/drainage	
Solid waste	
Utilities (water & sewer)	

The PFA is the starting point for the Comprehensive Fiscal Analysis (CFA) that OC LAFCO must independently prepare, usually with the expert assistance of financial consultants (see page 6). Incorporation proposals are highly scrutinized by the Commission, OC LAFCO staff, county staff, other affected local agencies, and the public to ensure that the new city will not only be financially **feasible**, but financially **viable and sustainable** in the long-term over future economic cycles. Fiscal factors influencing long-term viability include, but are not limited to, the size of the community, strength of retail sales tax base, diversity of the proposed revenue stream, costs of providing the proposed public services, the property tax exchange and revenue neutrality negotiations with the county, existing assessments and fees, and any proposed new taxes, assessments, or fees.

### **PUBLIC HEARING**

The incorporation process is an open, public process with multiple opportunities for the public and affected local agencies to participate in discussions and provide input. Once OC LAFCO receives an application, OC LAFCO staff will prepare and distribute a preliminary staff report to affected agencies for initial comments on the proposal. Upon completion of the comprehensive fiscal analysis, OC LAFCO staff will publish a legal notice setting a 30-day public review period for the CFA. Depending on the comments received on the CFA, OC LAFCO may host a community workshop in the community. Once the CFA is finalized and the OC LAFCO Executive Officer deems the application complete, the proposal will be scheduled for public hearing. The incorporation proposal will be considered by OC LAFCO at a minimum of one, but most likely several, public hearings. These hearings will address the various factors required to be considered in state law (see page 9), the CFA (including the proposed Plan for Services and Revenue Neutrality requirement), the OC LAFCO staff report, and any other relevant information. OC LAFCO may also hold the public hearing in the community to ensure maximum exposure of the process and to solicit public testimony on the proposal. OC LAFCO may

## ORANGE COUNTY LOCAL AGENCY FORMATION COMMISSION

deny, approve, or conditionally approve the proposal with modifications and subject to terms and conditions. If OC LAFCO approves the proposal as submitted or with conditions, the item proceeds to the next steps listed below. If OC LAFCO denies the incorporation proposal, the application is terminated. No new proposal which is the same or substantially similar may be filed for one year.

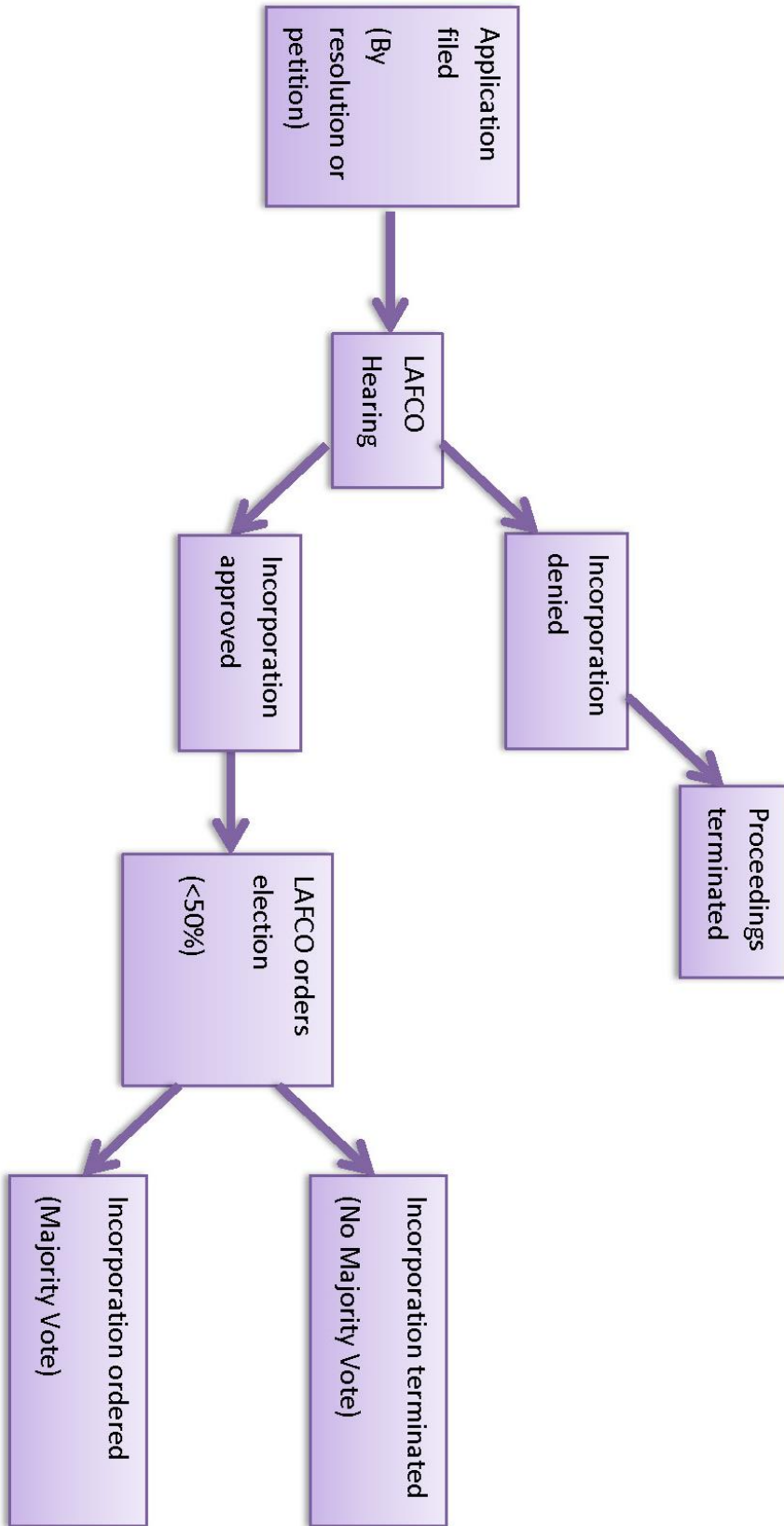
**REQUEST FOR RECONSIDERATION**

Within 30 days following the adoption of the LAFCO resolution either approving or disapproving the proposal, any interested party can request the Commission to reconsider the action. Such a request must identify the new or different facts that warrant the reconsideration and requires the payment of a fee as determined by the OC LAFCO Schedule of Filing and Processing Fees in effect at that time. Upon receipt of a timely request, OC LAFCO will hold a legally noticed (at least 15 days prior to the hearing) public hearing on the reconsideration request. At the reconsideration hearing OC LAFCO may approve, deny, or continue the reconsideration request.

**ELECTION PROCESS**

If OC LAFCO approves the incorporation of a new city at a public hearing, the Commission will order the incorporation proposal to be placed on the ballot for voter approval. The election may occur at the next regularly scheduled election or at a special election. A simple majority of the registered voters (residing within the proposed incorporation territory) is required to approve formation of a new city. Sometimes an additional tax may be placed on the ballot with the proposed incorporation in order for the incorporation to be feasible. Some taxes may require two-thirds voter approval under Proposition 218.

OC LAFCO PROCESS: CITY INCORPORATION



## ORANGE COUNTY LOCAL AGENCY FORMATION COMMISSION

**EVALUATING VIABILITY:  
PLAN FOR SERVICES & SUFFICIENCY OF REVENUES**

Incorporation proposals require the preparation of a Plan for Services and Comprehensive Fiscal Analysis, which provide the information necessary for OC LAFCO to make a determination that the proposal will have sufficient revenues to carry out the proposed services and facilities, including reserves. Excerpts from LAFCO law addressing these requirements are provided below. OC LAFCO also has a locally adopted "Policy & Procedural Guidelines for Processing Incorporation Applications and Implementing Revenue Neutrality Provisions" that further guide the incorporation process. Visit the OC LAFCO website at [www.oclafco.org](http://www.oclafco.org) to download the OC LAFCO Policies & Procedures Handbook.

**PLAN FOR SERVICES (GOVERNMENT CODE SECTION 56653(b))**

The Plan for Services must include all of the following information:

- An enumeration and description of the services to be extended to the affected territory.
- The level and range of those services.
- An indication of when those services can feasibly be extended to the affected territory.
- An indication of any improvements or upgrading of structures, roads, sewer or water facilities, or other conditions the local agency would impose or require within the affected territory if the change of organization or reorganization is completed.
- Information with respect to how those services will be financed.
- Any additional information required by the Commission or OC LAFCO Executive Officer.

**COMPREHENSIVE FISCAL ANALYSIS (GOVERNMENT CODE SECTIONS 56720, 56800, and 56815)*****Required LAFCO Findings for Incorporations (Government Code Section 56720)***

The commission shall not approve or conditionally approve any proposal that includes an incorporation, unless the commission finds, based on the entire record, that:

- The proposed incorporation is consistent with the intent of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, as amended (Government Code Sections 56000 et seq.), including, but not limited to, the policies of Sections 56001, 56300, 56301, and 56377.
- It has reviewed the spheres of influence of the affected local agencies and the incorporation is consistent with those spheres of influence.
- It has reviewed the comprehensive fiscal analysis prepared pursuant to Section 56800 and the Controller's report prepared pursuant to Section 56801.

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- It has reviewed the executive officer's report and recommendation prepared pursuant to Section 56665, and the testimony presented at its public hearing.
- 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.

***Comprehensive Fiscal Analysis Requirements (Government Code Section 56800)***

For any proposal that includes an incorporation, the executive officer shall prepare, or cause to be prepared by contract, a comprehensive fiscal analysis. This analysis shall become part of the report required pursuant to Section 56665. Data used for the analysis shall be from the most recent fiscal year for which data are available, preceding the issuances of the certificate of filing. When data requested by the executive officer in the notice to affected agencies are unavailable, the analysis shall document the source and methodology of the data used. The analysis shall review and document each of the following:

- (a) The costs to the proposed city of providing public services and facilities during the three fiscal years following incorporation in accordance with the following criteria:
  - (1) When determining costs, the executive officer shall include all direct and indirect costs associated with the current provision of existing services in the affected territory. These costs shall reflect the actual or estimated costs at which the existing level of service could be contracted by the proposed city following an incorporation, if the city elects to do so, and shall include any general fund expenditures used to support or subsidize a fee-supported service where the full costs of providing the service are not fully recovered through fees. The executive officer shall also identify which of these costs shall be transferred to the new city that result in an administrative cost reduction to other agencies. In the analysis, the executive officer shall also review how the costs of any existing services compare to the costs of services provided in cities with similar populations and similar geographic size that provide a similar level and range of services and shall make a reasonable determination of the costs expected to be borne by the newly incorporated city.
  - (2) When determining costs, the executive officer shall also include all direct and indirect costs of any public services that are proposed to be assumed by the new city and that are provided by state agencies in the area proposed to be incorporated.
- (b) The revenues of the proposed city during the three fiscal years following incorporation.
- (c) The effects on the costs and revenues of any affected local agency during the three fiscal years of incorporation.



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- (d) Any other information and analysis needed to make the findings required by Section 56720.

**Revenue Neutrality Requirement (Government Code Section 56815)**

- (a) It is the intent of the Legislature that any proposal that includes an incorporation should result in a similar exchange of both revenue and responsibility for service delivery among the county, the proposed city, and other subject agencies. It is the further intent of the Legislature that an incorporation should not occur primarily for financial reasons.
- (b) The commission shall not approve a proposal that includes an incorporation unless it finds that the following two quantities are substantially equal:
- (1) Revenues currently received by the local agency transferring the affected territory that, but for the operation of this section, would accrue to the local agency receiving the affected territory.
  - (2) Expenditures, including direct and indirect expenditures, currently made by the local agency transferring the affected territory for those services that will be assumed by the local agency receiving the affected territory.
- (c) Notwithstanding subdivision (b), the commission may approve a proposal that includes an incorporation if it finds either of the following:
- (1) The county and all of the subject agencies agree to the proposed transfer.
  - (2) The negative fiscal effect has been adequately mitigated by tax sharing agreements, lump-sum payments, payments over a fixed period of time, or any other terms and conditions pursuant to Section 56886.
- (d) Nothing in this section is intended to change the distribution of growth on the revenues within the affected territory unless otherwise provided in the agreement or agreements specified in paragraph (2) of subdivision (c).
- (e) Any terms and conditions that mitigate the negative fiscal effect of a proposal that contains an incorporation shall be included in the commission resolution making determinations adopted pursuant to Section 56880 and the terms and conditions specified in the questions pursuant to Section 57134.

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**EVALUTING VIABILITY:  
FACTORS CONSIDERED BY LAFCO**

Factors that LAFCO considers in the review of a proposal are outlined in state law (Government Code Section 56668) and listed below.

- (a) Population and population density; land area and land use; per capita assessed valuation; topography, natural boundaries, and drainage basins; proximity to other populated areas; the likelihood of significant growth in the area, and in adjacent incorporated and unincorporated areas, during the next 10 years.
- (b) The need for organized community services; the present cost and adequacy of governmental services and controls in the area; probable future needs of those services and controls; probable effect of the proposed incorporation, formation, annexation, or exclusion and of alternative courses of action on the cost and adequacy of service and controls in the area and adjacent areas. "Services," as used in this subdivision, refers to governmental services whether or not the services are services which would be provided by local agencies subject to this division, and includes the public facilities necessary to provide those services.
- (c) The effect of the proposed action and of alternative actions, on adjacent areas, on mutual social and economic interests, and on the local governmental structure of the county.
- (d) The conformity of both the proposal and its anticipated effects with both the adopted commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities in Section 56377.
- (e) The effect of the proposal on maintaining the physical and economic integrity of agricultural lands, as defined by Section 56016.
- (f) The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries.
- (g) A regional transportation plan adopted pursuant to Section 65080, and its consistency with city or county general and specific plans.
- (h) The sphere of influence of any local agency which may be applicable to the proposal being reviewed.
- (i) The comments of any affected local agency or other public agency.
- (j) The ability of the newly formed or receiving entity to provide the services which are the subject of the application to the area, including the sufficiency of revenues for those services following the proposed boundary change.
- (k) Timely availability of water supplies adequate for projected needs as specified in Section 65352.2.
- (l) The extent to which the proposal will affect a city or cities and the county in achieving their respective fair shares of the regional housing needs as determined

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by the appropriate council of governments consistent with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7.

- (m) Any information or comments from the landowner or owners, voters, or residents of the affected territory.
- (n) Any information related to existing land use designations.
- (o) The extent to which the proposal will promote environmental justice. As used in this subdivision, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services.
- (p) Information contained in a local hazard mitigation plan, information contained in a safety element of a general plan, and pursuant to Section 51178 or maps that identify land determined to be in a state responsibility area pursuant to Section 4102 of the Public Resources Code, if it is determined that such information is relevant to the area that is subject of the proposal.

**EXHIBIT E**

<b>South County Governance Options Matrix</b>					
<b>Governance Options</b>	<b>Description</b>	<b>Governance Objectives</b>	<b>Financing Sources</b>	<b>Average LAFCO Processing Time</b>	<b>Determining Variables</b>
<b>Annexation</b>	Annexation to adjacent city	<ul style="list-style-type: none"> <li>• Service administration</li> <li>• Local control</li> <li>• Land use</li> <li>• Representation &amp; accountability</li> </ul>	<ul style="list-style-type: none"> <li>• Property taxes</li> <li>• Sales tax, TOT, etc.</li> <li>• Other taxes, assessments, and fees</li> </ul>	Up to 1 Year	<ul style="list-style-type: none"> <li>• City support</li> <li>• Community support</li> <li>• Voter approval of required taxes</li> <li>• County support</li> <li>• State legislation related to VLF revenue</li> <li>• Existing legal agreements</li> </ul>
<b>County Service Area (CSA)</b>	Dependent special district of the County	<ul style="list-style-type: none"> <li>• Service administration</li> <li>• Localized financial accounting</li> </ul>	<ul style="list-style-type: none"> <li>• Property taxes</li> <li>• Other taxes, assessments, and fees</li> </ul>	1 Year	<ul style="list-style-type: none"> <li>• County support</li> <li>• CSA boundary</li> <li>• Voter approval of CSA &amp; any required taxes</li> <li>• Adequate long-term financing and reserve funding</li> </ul>
<b>Community Services District (CSD)</b>	Independent special district	<ul style="list-style-type: none"> <li>• Service administration</li> <li>• Representation</li> <li>• Localized financial accounting</li> </ul>	<ul style="list-style-type: none"> <li>• Property taxes</li> <li>• Other taxes, assessments, and fees</li> </ul>	1 Year	<ul style="list-style-type: none"> <li>• County support</li> <li>• Community support</li> <li>• CSD boundary</li> <li>• Voter approval of CSD &amp; any required taxes</li> <li>• Adequate long-term financing and reserve funding</li> </ul>
<b>Incorporation</b>	Creation of new city	<ul style="list-style-type: none"> <li>• Service administration</li> <li>• Local control/land Use</li> <li>• Localized financial accounting</li> <li>• Representation and accountability</li> </ul>	<ul style="list-style-type: none"> <li>• Property taxes</li> <li>• Sales tax, TOT, etc.</li> <li>• Other taxes, assessments, and fees</li> </ul>	2 to 3 years	<ul style="list-style-type: none"> <li>• County support</li> <li>• Community support</li> <li>• Incorporation boundary</li> <li>• Voter approval of new city &amp; any required taxes</li> <li>• State legislation related to VLF revenue</li> <li>• Adequate long-term financing and reserve funding</li> </ul>

**EXHIBIT E**

**South County Governance Options Matrix**

Governance Options	Description	Governance Objectives	Financing Sources	Average LAFCO Processing Time	Determining Variables
<b>Homeowners Association (HOA)</b>	Status quo / expanded HOA role	<ul style="list-style-type: none"> <li>• Service administration</li> </ul>	<ul style="list-style-type: none"> <li>• HOA Dues</li> </ul>	NA	<ul style="list-style-type: none"> <li>• CC&amp;Rs</li> </ul>
<b>Municipal Advisory Council (MAC)</b>	Advisory Council to the Board of Supervisors	<ul style="list-style-type: none"> <li>• Representation and accountability</li> <li>• Advisory input on land use issues</li> </ul>	<ul style="list-style-type: none"> <li>• Administered by the County.</li> </ul>	NA	<ul style="list-style-type: none"> <li>• Community support</li> <li>• Supervisorial support</li> </ul>
<b>Shared Services</b>	Municipal services contract (e.g., joint use agreement)	<ul style="list-style-type: none"> <li>• Service administration</li> <li>• Local control</li> </ul>	<ul style="list-style-type: none"> <li>• Administration and contractual arrangement determined by affected agencies.</li> </ul>	NA	<ul style="list-style-type: none"> <li>• County support</li> <li>• Community support/HOA Board support</li> <li>• Support from other affected agencies</li> <li>• CC&amp;Rs/</li> <li>• Adequate funding</li> </ul>



## Map of South Orange County Governance Areas

