

RIVERSIDE LAFCO DISADVANTAGED UNINCORPORATED COMMUNITIES (DUCs) POLICY

LEGISLATIVE BACKGROUND

Senate Bill 244 (Wolk), effective on January 1, 2012, imposed several new requirements and restrictions on LAFCOs, cities, and counties with regard to Disadvantaged Unincorporated Communities ("DUCs"). The Legislature found that DUCs lack access to basic infrastructure, including, but not limited to streets, sidewalks, storm drainage, clean drinking water, and adequate sewer service.

PURPOSE OF POLICY

Riverside LAFCO seeks to establish this policy and its procedural guidelines for identifying and addressing DUCs during the Commission's processing of a change of organization or reorganization, sphere of influence update and amendment, municipal service reviews, and mapping of DUCs in Riverside County. Staff will continue to monitor the DUCs and recommend updates to the Commission on an as-needed basis.

It is imperative that cities, special districts, and LAFCOs do not purposefully rule out a DUC from future annexations and that DUCs are included in the scope of municipal service review and spheres of influence updates.

IDENTIFYING DISADVANTAGED UNINCORPORATED COMMUNITIES (DUCs)

A DUC is defined as inhabited territory that is all or a portion of a Disadvantaged Community ("DC"). The first task in the implementation of SB 244 is identification of DCs and DUCs. The sole statutory criterion for determination of a DC is median household income ("MHI"). A DC is defined as a community with an annual MHI income that is less than 80 percent of the statewide annual MHI.

Assembling income data for specific geographic areas is not a straightforward task. Mapping DUC locations is a complex process because the delineation of the DUC boundaries may differ from the conventional local agency boundaries, statewide to local MHI ratios may change over a given timeframe that can result in a change to a community's disadvantaged status, and the number of registered voters can fluctuate during election years.

LAFCO staff engaged with a consultant to develop a process that would streamline the identification and designation of DUCs by analyzing available data utilizing the software program ArcGIS Pro from ESRI.

The following summarizes the methodology that has been undertaken thus far, identifies issues/challenges in identifying DUCs and how they are being addressed, and presents the criteria to be used for the identification of future DUCs.

A) METHODOLOGY

In order to refine information gathered at the census block group level, the following factors are considered in the ultimate determination of DUC boundaries: inhabited territory, median household income ("MHI"), average home sale price, mortgage cost and land use.

While there is no discretion in the determination of DCs, the statute does allow some policy discretion in the determination of DUCs.

Inhabited territory: DUCs must include inhabited territory using the statutory definition of inhabited (12 or more registered voters) or as otherwise determined by commission policy. A low threshold, such as 12 registered voters, will have two distinct effects:

1. First, by likely increasing the number of identifiable DUCs it will require a greater effort to make determinations required for Municipal Service Reviews ("MSR") and Sphere of Influence ("SOI") updates.
2. Second, it will likely increase the number of annexation proposals to which Commission approval restrictions will apply. Nevertheless, the Commission should also be cautious about establishing a policy threshold that is too high. The Legislature, by setting the default at 12 or more registered voters, clearly felt that the DUC provisions should apply to smaller enclaves that some might not consider full-fledged "communities".

Based on the considerations, the default threshold of 12 registered voters, which could represent an area containing three or four homes, seems unreasonably low. As such, current LAFCO policy establishes a threshold of 50 registered voters.

LAFCO shall consult with the Registrar of Voters to determine whether each potential DUC location's inhabited status consists of 50 or more registered voters. Note that the number of registered voters may fluctuate throughout any given period and inhabited status for a potential DUC can be more accurately assessed and determined at the time an application or proposal is submitted to LAFCO.

Median Household Income: The smallest geographic units for which median household income is available are census block groups. Block groups are aggregations of blocks. Several block groups typically make up a census tract. The Census Tract and Block Group are geographical units used by the U.S. Census Bureau to sample data from a fraction of all households within the designated geographic unit. Outside of heavily urbanized areas, block groups are rather large. They often include both incorporated and unincorporated territory and do not necessarily coincide with what might be thought of as community boundaries.

Although a block group might be identified as having a MHI of less than 80 percent of the State MHI, various portions of the block group could have significantly different MHIs. LAFCO should establish which block groups fall under the 80 percent figure and then follow through with subsequent refinements as identified in this section.

Average Home Sale Price: Based on data provided by the Riverside County Assessor-Clerk-Recorder, the average residential home sale provides an indicator of property values in an area. This sale data is analyzed by Tax Rate Area ("TRA") and compared to the Countywide median home value, which allows for further refinement of areas being considered as DUCs. All TRA's with average home sale prices higher than the County median are removed from the census block group level. What remains are the areas with below average property values, a criterion that further distinguishes them as relatively disadvantaged.

Mortgage Cost: As a further refinement for identifying disadvantaged communities based on property values, a metric was established in ArcGIS Pro to identify areas where hypothetical mortgage costs, using the average property values, a metric was established in ArcGIS Pro to identify areas where hypothetical mortgage costs, using the average home sale price, are above 30 percent of area MHI. This would indicate that households in that area are able to afford homes above what median income should be able to afford or qualify for (a finding confirmed by satellite imagery showing larger, newer homes that are unrepresentative of other DUCs in the County). Applying this metric to the remaining areas further refined the number of potential DUCs.

Land Use: The definition of a DUC focuses on inhabited (i.e. residential) areas. Aerial imagery can be used to refine the DUCs, manually removing areas determined visually to be uninhabited including vacant land as well as commercial or industrial land. Having already refined the areas considered for DUCs with the objective data-driven process above.

B) DUC CENSUS DATA

LAFCO relies on the U.S. Census Bureau's American Community Survey ("ACS") data to approximate the statewide and DUC median household income. LAFCO also utilizes five-year estimates of Census Tract and, Block Group information from the ACS to inventory potential DUC locations in Riverside County.

The ACS dataset is important for identifying trends for small communities and geographies, which is critical for planning future investments and services. This data has provided communities with detailed information about people, places, and the economy for the last 15 years.

Five-year datasets are "period" estimates that represent data collected over that period of time. The primary advantage of using multiyear estimates is the increased statistical reliability of the data for less populated areas and small population subgroups.

Every five years, in conjunction with city sphere updates and MSR reviews, demographic data and maps of the DUCs will be updated, as necessary, based on available census data.

PROCEDURAL DIRECTION:

A) MUNICIPAL SERVICE REVIEWS & DETERMINATIONS §56430

SB 244 requires the Commission to prepare specific written determinations on infrastructure needs or deficiencies related to sewer, water, and fire protection services in any DUCs within or contiguous to the sphere of influence of a city or special district that provides those services.

B) SPHERE OF INFLUENCE UPDATES & DETERMINATIONS §56425

SB 244 requires the Commission, after July 1, 2012, to adopt additional determinations for an update of a sphere of influence of a city or special district that provides public facilities or services related to sewer, water, or fire protection. The Commission must make determinations regarding the present and probable need for those public facilities and services in any DUCs within the existing sphere of influence.

C) CITY ANNEXATION APPROVAL RESTRICTIONS §56375 (a)(8)(A)

SB 244 imposes restrictions on approval of city annexations greater than 10 acres, or as determined by Commission policy, where there is a DUC contiguous to the area of the proposed annexation. The Commission is prohibited from approving such an annexation unless an application to annex the DUC has also been filed. However, there are two exemptions to the requirement to file an application to annex a contiguous DUC:

- An application to annex the DUC has been filed in the past five years.
- The Commission finds, based upon **written evidence**, that a majority of the registered voters within the affected territory are opposed to annexation.

Government Code section 56375(a)(8)(A) shall also apply to the annexation of two or more contiguous areas that take place within five years of each other and that are individually less than 10 acres but cumulatively more than 10 acres.

Staff recommends that DUCs be identified when annexation applications are submitted to LAFCO. The current LAFCO application would be modified to ask the applicant if any DUCs are contiguous to the proposed annexed area. Staff would then confirm this information to verify the existence of any DUCs.

D) WRITTEN EVIDENCE §56375 (a) (8) (B) (ii)

In addition to the identification of DUCs, there is another element of SB 244 implementation that requires policy direction from the Commission. As noted above, the annexation restrictions imposed by SB 244 can be waived if written evidence is presented demonstrating that a majority of the *registered voters* within the DUC are opposed to the annexation.

Prior to submittal for LAFCO consideration, cities are typically directed to survey the DUC areas adjacent to the proposed annexation area to determine respective interest or opposition in joining the proposed annexation proceedings. The survey results assist staff and the Commission when considering potential modifications of submitted proposal areas to create more logical and orderly boundaries following the proposed jurisdictional change.

For these types of surveys or adjacent property owners, a non-response is usually interpreted as a non-interest in annexation; however, because SB 244 requires written evidence of the will of the registered voters in a second proposal area, a non-response does not comply with this statutory requirement. Accordingly, it is recommended that the Commission require signed and dated statements and or petitions using LAFCO's Registered Voter Petition, including signatures of the registered voters within the affected contiguous area be provided to the Commission to satisfy the "*written evidence*" provision.

The Commission may make the finding regarding the registered voters support or opposition to annexation of a DUC pursuant to Section 56375(a)(8)(B)(ii) based on either of the following:

- A petition or statement stating support or opposition signed by a majority of the registered voters residing within the DUC. The written evidence should include statements signed and dated by the registered voters within the affected area. The validity of the petition shall be determined in the same manner as required by Section 56707.
- A scientific survey conducted by an academic institution or professional polling company determined to be satisfactory to LAFCO. The polling results shall be accompanied by the specific question asked of respondents and the methodology employed. The applicant seeking the annexation pays for the survey. LAFCO is not responsible for costs, however, if LAFCO must retain such an organization for a survey, the applicant must reimburse LAFCO. The Commission shall have a copy of the survey and any mailing list used to collect this survey. The survey must be completed no longer than 12 months before the filing of the underlying annexation proposal. The following must be included as part of the survey:

- 1) Survey Cover Letter
- 2) Survey/Poll

- 3) Map of the proposed annexation boundaries and DUC in relation to existing city boundaries.
 - 4) The subject agency should identify all city services upon annexation (a review of the types of services), disclose any fees or assessments charged to annexing territory, timing of when the services would be provided and financing of the services), effects of city/zoning/land use and city elections and disclose any terms and conditions associated with annexation when surveying the affected registered voters/landowners.
- All information sent to residents in DUCs should be English and Spanish, and any other languages reasonably calculated by LAFCO to be understood by a majority of the residents of a household area.

In cases where a city is required to file an application for annexation of a DUC, the Commission still retains discretion over approval of that proposal. For example, there could be cases where an identified DUC is a portion of a larger established community. The Commission may determine that the DUC should not be placed within a different jurisdiction but remain as a part of its larger unincorporated community.

E) CONTIGUOUS REQUIREMENTS TO TRIGGER A DUC ANNEXATION

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

F) PAYMENT FOR DUC ANNEXATION

If a second proposal to annex a contiguous DUC is not opposed by written evidence of a majority of the affected registered voters, the Commission should consider a fee reduction or waiving of the associated LAFCO processing fees for the secondary proposal.

The processing costs for a 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.

G) DUC PROTEST PROCEEDINGS

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

DUCs that meet the criteria for unincorporated island annexations pursuant to Section 56375.3, shall be processed under the provisions of Section 56375.3.

H) LEGACY COMMUNITY

A legacy community is geographically isolated community that (i) meets DUC criteria, (ii) is at least 50 years old, and (iii) is beyond the adopted sphere of influence of any city or special district. 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 material supplied by local agencies and interested parties.

I) NOTIFICATION AFTER IDENTIFICATION OF DUCS

The Commission shall identify, map, and inform the County and affected cities and special districts of the DUCs adjacent to or within their respective spheres of influence. (Sections 56425 and 56430). The County, cities and special districts will be provided maps for DUCs located within their respective spheres. In addition, the maps will be continued to be posted within the DUC section on our website.

Attachments:

- 1) SB Relevant Code Sections
- 2) SB 244 – City Annexation DUC Program Processing Flowchart
- 3) LAFCO's Registered Voter Petition

Interim Policy Adoption Date: 3/22/2012
 Policy Revision Date: 2/25/2021
 Policy Revision Date: 10/28/2021

SB 244 Relevant Code Sections

Govt. Code 56033.5. "Disadvantaged unincorporated community" means inhabited territory, as defined by Section 56046, or as determined by commission policy, that constitutes all or a portion of a "disadvantaged community" as defined by Section 79505.5 of the Water Code.

Govt. Code 56046. "Inhabited territory" means territory within which there reside 12 or more registered voters. The number of registered voters, as determined by the elections officer, shall be established as of the date a certificate of filing is issued by the executive officer.

Water Code 79505.5. As used in this division, the following terms shall have the following meanings:

(a) "Disadvantaged community" means a community with an annual median household income that is less than 80 percent of the statewide annual median household income.

...

Govt. Code 56375(a)...

(8) (A) Except for those changes of organization or reorganization authorized under Section 56375.3, and except as provided by subparagraph (B), a commission shall not approve an annexation to a city of any territory greater than 10 acres, or smaller as determined by commission policy, where there exists a disadvantaged unincorporated community that is contiguous to the area of proposed annexation, unless an application to annex the disadvantaged unincorporated community to the subject city has been filed with the executive officer.

(B) An application to annex a contiguous disadvantaged community shall not be required if either of the following apply:

(i) A prior application for annexation of the same disadvantaged community has been made in the preceding five years.

(ii) The commission finds, based upon written evidence, that a majority of the registered voters within the affected territory are opposed to annexation.

(C) This paragraph shall also apply to the annexation of two or more contiguous areas that take place within five years of each other and that are individually less than 10 acres but cumulatively more than 10 acres.

Govt. Code 56425 ...

(5) For an update of 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, that occurs pursuant to subdivision (g) on or after July 1, 2012, the present and probable need for those public facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.

...

Govt. Code 56430

(a) In order to prepare and to update spheres of influence in accordance with Section 56425, the commission shall conduct a service review of the municipal services provided in the county or other appropriate area designated by the commission. The commission shall include in the area designated for service review the county, the region, the subregion, or any other geographic area as is appropriate for an analysis of the service or services to be reviewed, and shall prepare a written statement of its determinations with respect to each of the following:

(1) Growth and population projections for the affected area.

(2) The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence.

(3) Present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged, unincorporated communities within or contiguous to the sphere of influence.

...Govt. Code 65302.10

(Note: These definitions are included in the Planning & Zoning Law and only applicable to cities and counties.)

Section 65302.10 is added to the Government Code, to read:

(a) As used in this section, the following terms shall have the following meanings:

(1) "Community" means an inhabited area within a city or county that is comprised of no less than 10 dwellings adjacent or in close proximity to one another.

(2) "Disadvantaged unincorporated community" means a fringe, island, or legacy community in which the median household income is 80 percent or less than the statewide median household income.

(3) "Fringe community" means any inhabited and unincorporated territory that is within a city's sphere of influence.

(4) "Island community" means any inhabited and unincorporated territory that is surrounded or substantially surrounded by one or more cities or by one or more counties and a county boundary or the Pacific Ocean.

(5) "Legacy community" means a geographically isolated community that is inhabited and has existed for at least 50 years.

(b) On or before the due date for the next adoption of its housing element pursuant to Section 65588, each city or county shall review and update the land use element of its general plan, based on available data, including, but not limited to, the data and analysis developed pursuant to Section 56430, of unincorporated island, fringe, or legacy communities inside or near its boundaries. The updated land use element shall include all of the following:

(1) In the case of a city, an identification of each island or fringe community within the city's sphere of influence that is a disadvantaged unincorporated community. In the case of a county, an identification of each legacy community within the boundaries of the county that is a disadvantaged unincorporated community, but not including any area within the sphere of influence of any city. This identification shall include a description of the community and a map designating its location.

(2) For each identified community, an analysis of water, wastewater, stormwater drainage, and structural fire protection needs or deficiencies.

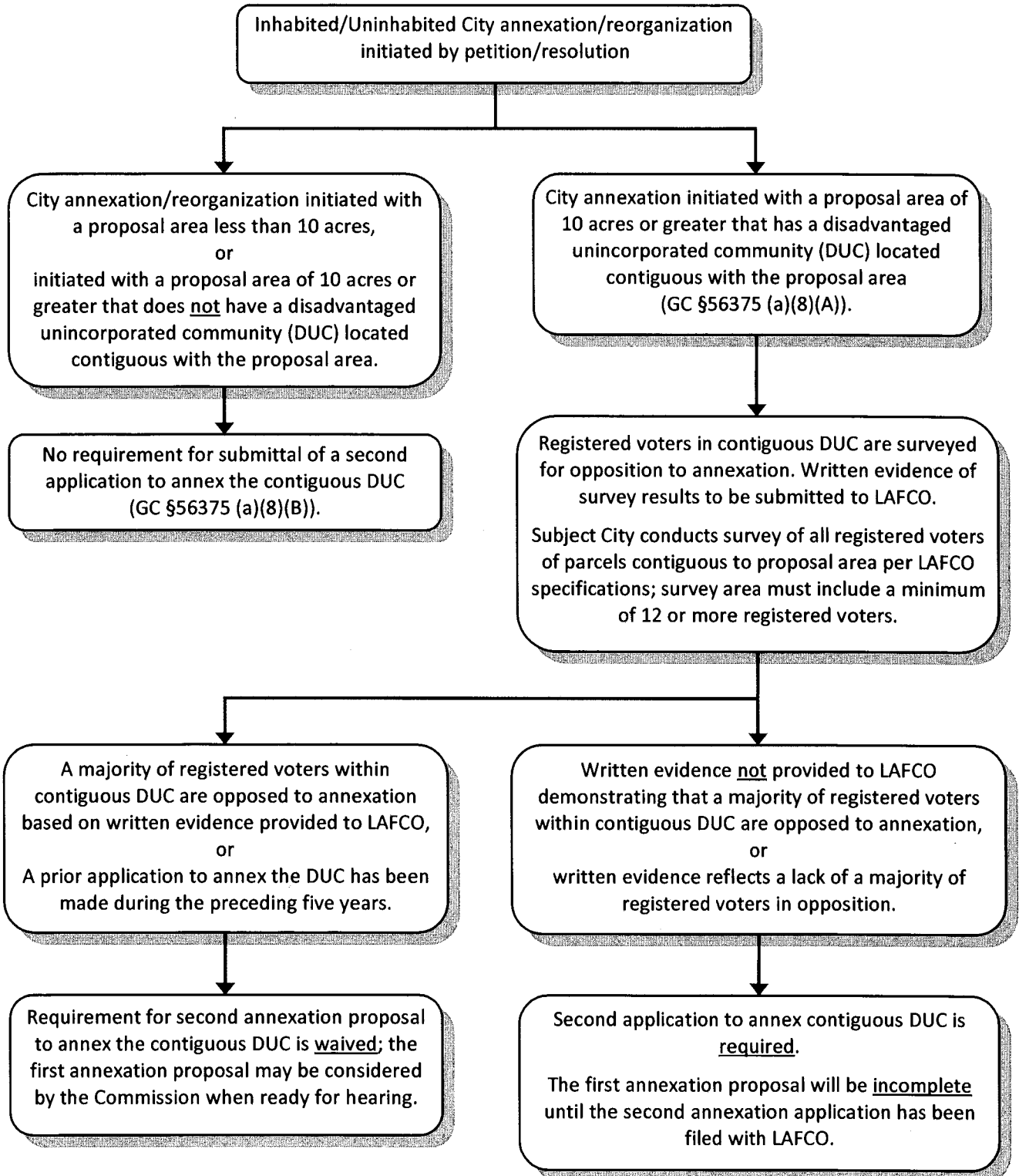
(3) An analysis, based on then existing available data, of benefit assessment districts or other financing alternatives that could make the extension of services to identified communities financially feasible.

(c) On or before the due date for each subsequent revision of its housing element pursuant to Section 65588, each city and county shall review, and if necessary, amend, its general plan to update the analysis required by this section.

Introduced: 1/26/2012

Revised: 2/25/2021

City Annexation Disadvantaged Unincorporated Community Program



PLEASE CONSULT LAFCO STAFF CONCERNING YOUR FINAL PETITION
PRIOR TO CIRCULATION

**REGISTERED VOTER PETITION FOR PROCEEDINGS PURSUANT
TO THE LOCAL AGENCY FORMATION COMMISSION (LAFCO) DISADVANTAGED
UNINCORPORATED COMMUNITY (DUC) POLICY AND THE CORTESE - KNOX – HERTZBERG
LOCAL GOVERNMENT REORGANIZATION ACT OF 2000**

The undersigned hereby petition(s) the Riverside Local Agency Formation Commission for approval of a proposed change of organization or reorganization, and stipulate(s) as follows:

This proposal was made pursuant to Part 3, Division 3, Title 5 of the California Government Code (commencing with Section 56650, Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000), and this proposal is made pursuant to Section 56375(a)(8)(b)(ii) based on Senate Bill 244 (Wolk) on the following:

- A petition or statement stating support or opposition signed by a majority of the registered voters residing within the DUC. The written evidence should include statements signed and dated by the registered voters within the affected area. The validity of the petition shall be determined in the same manner as required by GOV § 56707.

In addition to the identification of DUCs, there is another element of SB 244 implementation that requires policy direction from LAFCO. The annexation restrictions imposed by SB 244 can be waived if written evidence is presented demonstrating that a majority of the registered voters within the DUC are opposed to the annexation.

The specific change(s) of organization proposed (i.e., annexation, detachment, dissolution, etc.) is/are:

The boundaries of the territory included in the proposal are described in Exhibit(s) _____ attached hereto and by this reference incorporated herein.

The territory included in the proposal is:

☐ **INHABITED**
(12 or more registered voters)

☐ **UNINHABITED**
(Less than 12 registered voters)

This proposal ☐ is ☐ is not consistent with the sphere(s) of influence of the affected city(ies) and/or district(s).

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

This proposal is requested to be made subject to the following terms and conditions:

The persons signing this petition have signed as **REGISTERED VOTERS**.

Wherefore, petitioner(s) request(s) that proceedings be taken in accordance with the provisions of Section 56000, et seq., of the Government Code and herewith affix signature(s) as follows:

THE CHIEF PETITIONERS OF THIS PROPOSAL ARE:

(Not to exceed three)

Printed Name	Signature	Mailing Address	Date

NOTICE TO THE PUBLIC

THIS PETITION MAY BE CIRCULATED BY PAID SIGNATURE GATHERER OR A VOLUNTEER.
YOU HAVE THE RIGHT TO ASK.

THE USE OF YOUR SIGNATURE FOR ANY PURPOSE OTHER THAN QUALIFICATION
OF THIS MEASURE FOR THE BALLOT IS A MISDEMEANOR. COMPLAINTS ABOUT THE
MISUSE OF YOUR SIGNATURE MAY BE MADE TO THE SECRETARY OF STATE'S OFFICE.

Each of us for himself or herself states: I have personally affixed my own signature and date of such signature to this petition. Further, I am an eligible registered voter of the County of Riverside, California, within the affected area of this proposal, at the time of signing and I have correctly printed my place of residence hereon. RESIDENCE means a number and street address or description sufficient for the Registrar of Voters to locate property on a map. Post Office box numbers or route numbers CANNOT BE USED AND WILL NOT BE ACCEPTED. I understand that this petition may not be circulated separately from a description of the area involved and a map showing the area involved. The specific proposal being requested must appear on the reverse side of this sheet.

1. Print Your Name	Residence Address Only	☐ Support	Date	For Official Use Only
Signature as Registered to Vote	City	Oppose ☐		
2. Print Your Name	Residence Address Only	☐ Support	Date	For Official Use Only
Signature as Registered to Vote	City	Oppose ☐		
3. Print Your Name	Residence Address Only	☐ Support	Date	For Official Use Only
Signature as Registered to Vote	City	Oppose ☐		
4. Print Your Name	Residence Address Only	☐ Support	Date	For Official Use Only
Signature as Registered to Vote	City	Oppose ☐		
5. Print Your Name	Residence Address Only	☐ Support	Date	For Official Use Only
Signature as Registered to Vote	City	Oppose ☐		
6. Print Your Name	Residence Address Only	☐ Support	Date	For Official Use Only
Signature as Registered to Vote	City	Oppose ☐		
7. Print Your Name	Residence Address Only	☐ Support	Date	For Official Use Only
Signature as Registered to Vote	City	Oppose ☐		
8. Print Your Name	Residence Address Only	☐ Support	Date	For Official Use Only
Signature as Registered to Vote	City	Oppose ☐		
9. Print Your Name	Residence Address Only	☐ Support	Date	For Official Use Only
Signature as Registered to Vote	City	Oppose ☐		
10. Print Your Name	Residence Address Only	☐ Support	Date	For Official Use Only
Signature as Registered to Vote	City	Oppose ☐		

DECLARATION OF CIRCULATOR
(To be completed after above signatures have been obtained)
(All blanks must be written in circulator's own hand)

I, _____, circulated this section of petition and witnessed each of the appended signatures being written. Each signature on this petition is, to the best of my information and belief, the genuine signature of the person whose name it purports to be.

My residence address is: _____

All signatures on this document were obtained between the dates of _____ and _____

I declare under penalty of perjury under the laws of the State of California that the foregoing declaration is true and correct.

Executed on _____ at _____, California.
(date) (place)

Complete Signature of Petition Circulator _____