CITY AND COUNTY OF SAN FRANCISCO

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MEMORANDUM

TO: Taylor Emerson
Mayor's Budget Office

FROM: Thomas J. Owen
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DATE: April 16, 2002

RE: LAFCO Budget

In this memorandum we address a series of questions you asked us regarding the legal requirements governing the budget for the San Francisco Local Agency Formation Commission ("LAFCO").

(1) May the Mayor or the Board of Supervisors reduce the budget submitted by the LAFCO?

No. State law governs how the budget for a local agency formation commission is set. Before January 1, 2001, the Government Code provided that the commission would send the county board of supervisors an estimate of the amount of money the LAFCO needed for the following year. (Former Govt. C. sec. 56381.) The board of supervisors was then required to give the LAFCO either: (1) the amount requested by the commission, or (2) the amount the commission received the previous year, increased by the same percentage as any increase in the county's appropriations limit, plus any additional amount the board thought appropriate. (*Ibid*.) Thus, the LAFCO's budget was decided by the county board of supervisors.

In 2000, state law was amended and the process changed to give the LAFCO more authority over its own budget. Government Code section 56381 still governs the LAFCO budgeting and funding process. But under subsection (a), the LAFCO now prepares its own proposed and final budgets. The LAFCO transmits the budgets to the counties, cities and special districts represented on the commission. (In San Francisco, the City and County is the only entity involved.) Under subsection (b), the operational costs are apportioned among the counties, cities and special districts. Under

subsection (c), the LAFCO requests payment of the apportioned shares, and may collect those amounts from the delinquent entity's property taxes or other revenues.

In sum, the LAFCO sets its budget and bills the constituent entities. There is no provision for the entities to pass upon or modify the LAFCO's budget. Neither the Mayor nor the Board of Supervisors may reduce the budget submitted by the LAFCO.

Section 56381(a) further provides, "At a minimum, the proposed and final budget shall be equal to the budget adopted for the previous fiscal year unless the commission finds that reduced staffing or program costs will nevertheless allow the commission to fulfill the purposes and programs of this chapter." Thus, the LAFCO is guaranteed a baseline budget, but it may choose to budget less than that amount.[1]

(2) Must unspent dollars be rolled over to the next year's budget?

Yes. Section 56381(c) provides, in relevant part, that "[i]f, at the end of the fiscal year, the commission has funds in excess of what it needs, the commission may retain those funds and calculate them into the following fiscal year's budget." Under this provision, the LAFCO may keep whatever money it has in its accounts at the end of the year. If the LAFCO decides to roll over the extra monies, neither the Mayor nor the Board of Supervisors may reverse that action.

(3) May funds carried over from the previous year be used to offset the following year's appropriation from the constituent entities?

Yes. As noted above, unspent funds are carried over and included in the LAFCO's budget for the following year. The commission then apportions and bills the constituent entities for the "net operating expenses" of the LAFCO. (Govt. C. sec. 56381, subds. (b), (b)(4).) Thus, the LAFCO itself should offset carried-over funds against its operational costs in preparing its budget and only bill the constituent entities for its net expenses.

[1] The LAFCO may also charge fees to recover the costs of its proceedings. (Govt. C. sec. 56383.)