LAFCO
Local Agency Formation Commission of Santa Clara County

LAFCO MEETING AGENDA

Wednesday, August 1, 2007
1:00 p.m.

Board of Supervisors' Chambers
70 West Hedding Street, First Floor
San Jose, CA 95110

CHAIRPERSON: Blanca Alvarado • VICE-CHAIRPERSON: Pete Constant
COMMISSIONERS: Don Gage, John Howe, Susan Vicklund-Wilson
ALTERNATES: Pete McHugh, Sam Liccardo, Terry Trumbull, Roland Velasco

The items marked with an asterisk (*) are included on the Consent Agenda and will be taken in one motion. At the beginning of the meeting, anyone who wants to discuss a consent item should make a request to remove that item from the Consent Agenda.

Disclosure Requirements

1. If you wish to participate in the following proceedings, you are prohibited from making a campaign contribution of more than $250 to any commissioner or alternate. This prohibition begins on the date you begin to actively support or oppose an application before LAFCO and continues until three months after a final decision is rendered by LAFCO. No commissioner or alternate may solicit or accept a campaign contribution of more than $250 from you or your agent during this period if the commissioner or alternate knows, or has reason to know, that you will participate in the proceedings. If you or your agent have made a contribution of more than $250 to any commissioner or alternate during the twelve (12) months preceding the decision, in the proceeding that commissioner or alternate must disqualify himself or herself from the decision. However, disqualification is not required if the commissioner or alternate returns the campaign contribution within thirty (30) days of learning both about the contribution and the fact that you are a participant in the proceedings.

2. Pursuant to Government Code Sections 56700.1 and 81000 et seq., any person or combination of persons who directly or indirectly contribute $1,000 or more in support of or in opposition to a change of organization or reorganization that has been submitted to Santa Clara County LAFCO and will require an election must comply with the disclosure requirements of the Political Reform Act of 1974 which apply to local initiative measures. These requirements contain provisions for making disclosures of contributions and expenditures at specified intervals. Additional information about the requirements pertaining to the local initiative measures to be presented to the electorate can be obtained by calling the Fair Political Practices Commission at (916) 322-5660.

1. ROLL CALL

2. PUBLIC PRESENTATIONS

This portion of the meeting is reserved for persons desiring to address the Commission on any matter not on this agenda. Speakers are limited to THREE minutes. All statements that require a response will be referred to staff for reply in writing.

3. APPROVE MINUTES OF MAY 30, 2007 MEETING

PUBLIC HEARING

4. DRAFT REPORT FOR NORTHWEST SANTA CLARA COUNTY AREA SERVICE REVIEWS AND SPHERE OF INFLUENCE UPDATES

Possible Action: Consider the draft report for the Northwest Santa Clara County Area Service Reviews and Sphere of Influence Recommendations, accept public comment, and direct staff to prepare the final report and set a hearing date.

ITEMS FOR COMMISSION DISCUSSION / ACTION

5. SAN MARTIN INCORPORATION PROPOSAL

5.1 Fee Agreement for the San Martin Incorporation Proposal

Information only.

5.2 Update on Comprehensive Fiscal Analysis

Information only.

5.3 Update on CEQA Process

Information only.

5.4 Indemnification Agreement for the San Martin Incorporation Proposal

Possible Action: Accept staff report and provide staff with direction.

5.5 Invoices for LAFCO Staff Costs

Information only.

6. CLARIFICATION OF "AGRICULTURAL USE"

Commissioner Wilson has requested that this item be continued to October 3, 2007.

7. OPTIONS FOR LAFCO LEGAL SERVICES

Possible Action: Accept staff report and provide staff with direction.

8. LAFCO's COMMENTS ON COYOTE VALLEY SPECIFIC PLAN DRAFT ENVIRONMENTAL IMPACT REPORT

Possible Action: Information only.

9. LAFCO ANNUAL REPORT

Possible Action: Accept LAFCO Annual Report. (July 1, 2006-June 30, 2007)

10. EXECUTIVE OFFICER'S REPORT

10.1 CALAFCO Annual Conference on August 28-31, 2007

Possible Action: Designate a voting delegate for the 2007 CALAFCO Annual Conference.

11. COMMISSIONERS' REPORTS

12. WRITTEN CORRESPONDENCE

13. NEWSPAPER ARTICLES

14. PENDING APPLICATIONS / UPCOMING PROJECTS

- West Valley Sanitation District 2007-1
- Out of Agency Contract for Sewer Service by the Town of Los Altos Hills

15. ADJOURN

Adjourn to the next regular meeting on Wednesday, October 3, 2007.

NOTE TO COMMISSIONERS:
Upon receipt of this agenda, please contact Emmanuel Abello, LAFCO Clerk, at (408) 299-6415, if you are **unable** to attend the LAFCO meeting.

In compliance with the Americans with Disabilities Act, those requiring accommodation for this meeting should notify the LAFCO Clerk 24 hours prior to the meeting at (408) 299-6415, or at TDD (408) 993-8272, indicating that message is for the LAFCO Clerk.

LOCAL AGENCY FORMATION COMMISSION OF SANTA CLARA COUNTY
MINUTES
WEDNESDAY, MAY 30, 2007

1. ROLL CALL

The Local Agency Formation Commission (LAFCO) of Santa Clara County convenes this 30th day of May 2007 at 1:08 p.m. in the Chambers of the Board of Supervisors, County Government Center, 70 West Hedding Street, San Jose, California, with the following members present: Chairperson Blanca Alvarado, Commissioners Don Gage, John Howe and Susan Vicklund-Wilson. Commissioner Constant is absent. Alternate Commissioners Terry Trumbull and Roland Velasco arrive at 1:10 p.m.

The LAFCO staff in attendance includes Neelima Palacherla, LAFCO Executive Officer; Kathy Kretchmer, LAFCO Counsel; Dunia Noel, LAFCO Analyst; and, Ginny Millar, LAFCO Surveyor.

The meeting is called to order by Chairperson Alvarado and the following proceedings are had, to wit:

2. PUBLIC PRESENTATIONS

There are no public presentations.

3. APPROVE MINUTES OF APRIL 4, 2007 MEETING

On motion of Commissioner Gage, seconded by Commissioner Howe, it is unanimously ordered on a vote of 4-0, with Commissioner Constant absent, that the minutes of April 4, 2007 meeting be approved, as submitted.

4. CONSENT ITEMS

4.1* CUPERTINO SANITARY DISTRICT ANNEXATION: PROSPECT ROAD NO. 6.

On motion of Commissioner Gage, seconded by Commissioner Howe, it is unanimously ordered on a vote of 4-0, with Commissioner Constant absent, that Resolution No. 2007-03 be adopted approving the annexation to Cupertino Sanitary District of one parcel (APN 366-32-002) with a total area of about 1.14 acres located at 21781 Prospect Road outside the City of Saratoga, and that further protest proceedings be waived.

5. OUT OF AGENCY EXTENSION OF WATER SERVICE TO 2404 URIDIAS RANCH ROAD BY THE CITY OF MILPITAS

This being the time and place set to consider the application by the City of Milpitas for an out-of-agency contract for service (OACS) to 2404 Uridias Ranch Road in the unincorporated area outside the City of Milpitas, Chairperson Alvarado declares the public hearing open and requests the staff report.

Ms. Palacherla reports that the City of Milpitas is requesting LAFCO approval to extend water service to a single-family home in the unincorporated area within the City's sphere of influence (SOI) but outside its urban service area (USA) and urban growth boundary (UGB). The request is being made because the water produced by the onsite well is not sufficient for the needs of a single household and results in a health and safety risk.

Ms. Palacherla advises that LAFCO policies favor annexation to extension of service outside an agency's boundary, and if immediate annexation is not feasible, a city resolution expressing intention to annex is required. However, this area could not be annexed because it was removed from the city's USA in 2006 to comply with Measure Z, a 1998 voter-approved initiative that established the 20-year UGB boundary. In terms of the proposal's growth-inducing impact, she informs that the County General Plan designates the area as Hillsides (HS) and it has no further potential for subdivision. However, there is a potential that other existing homes in the vicinity may also request water service because of historical water supply issues in the area. In terms of health and safety, and public benefit issues, Ms. Palacherla advises that the onsite well does not meet the minimum supply requirement of the County Department of Environmental Health (DEH) is 2.5 gallons per minute over a 24-hour period. She informs that refurbishing the existing well or drilling a new well are not options because the water table is at least 500 feet deep in certain places, and according to DEH there is a high level of salt and total dissolved solids in the water, along with the presence of total coliform. Therefore, the water is considered non-potable and is a public health concern for those using the system. Spring Valley Heights Subdivision, located in the vicinity, had previously requested LAFCO approval for water service extension from Milpitas because of unreliable water supply in the area.

Ms. Palacherla advises this proposal meets the policies of the City for extending water service beyond its boundaries and the City has the ability to provide that service. She adds that the proposal does not impact agricultural and open space lands. She recommends approval of water service extension.

Chairperson Alvarado opens the public comment period for this item.

Karen Lipscomb, a resident in the area, expresses support for the proposal and requests the Commission to approve the application because this has been a long standing health and safety concern in the area.

Chairperson Alvarado determines that there are no other members of the public who wish to speak on the item and orders that the public hearing be closed.

On motion of Commissioner Gage, seconded by Commissioner Howe, it is unanimously ordered on a vote of 4-0, with Commissioner Constant absent, that Resolution No. 2007-02 be adopted approving the request for extension of water service by the City of Milpitas to a single-family residence located at 2404 Uridias Ranch Road in the unincorporated area, and approving the Categorical Exemption for this proposal under Class 3, Section 15303(d).

At this point, Chairperson Alvarado acknowledges the attendance of Alternate Commissioners Terry Trumbull and Roland Velasco.

The Chairperson announces that, depending on time, the discussion on clarification of "agricultural use" (Item No. 10) may be deferred to the August 1, 2007 meeting. Additionally, at the request of Commissioner Howe, there being no objection, it is ordered on Commission consensus that the adoption of the final LAFCO budget (Item No. 6) be taken out of order because it may be impacted by discussions on incorporation policies (Item No. 7) and the proposed incorporation of San Martin (Item No. 8).

6. INCORPORATION POLICIES AND FILING REQUIREMENTS

This being the time and place set to consider and adopt the proposed incorporation policies and filing requirements for incorporation proposals, Chairperson Alvarado declares the public hearing open and requests the staff report.

At the request of the Chairperson, Roseanne Chamberlain, LAFCO consultant for developing the incorporation policies, reports that the draft policies were posted on the

LAFCO website in early May 2007 and have been provided to participants at the Community Workshop held in San Martin on May 17, 2007. Ms. Chamberlain states that the public has had the opportunity to review and evaluate the draft policies.

Chairperson Alvarado opens the public comment period for this item.

The Chairperson informs that the proponents for San Martin incorporation designate Richard Van't Rood, Chairperson of the Incorporation Committee, San Martin Neighborhood Alliance (SMNA), Inc., as their spokesperson.

Mr. Van't Rood states that some of the changes that SMNA proposed have not been included and, at the request of the Chairperson, summarizes them. On Policy No. 2, relating to processing fees, he notes that the County and other government agencies could fund the incorporation process because a more accountable government for San Martin is a public benefit to the residents, the neighboring cities and the County. He indicates that different LAFCOs have varying estimates on staff time cost; however, he proposes that $100,000 be reduced because San Martin is a small area with a small population. He likewise suggests that instead of actual staff time costs, either a fixed fee be established or the fees be waived altogether. Chairperson Alvarado informs that this issue would be discussed under Item 8.3, noting that there may be alternate sources of revenues. He indicates objection to Policy No. 3, relating to the indemnification agreement, and states that two Southern California LAFCOs do not require this. He states that such an agreement would require the proponents to pay for LAFCO's legal costs even if the proponents themselves are suing LAFCO. He likewise requests that the terms "agricultural and open space lands" under Policy No. 4h be defined in line with SMNA's goal to create a rural residential community with small scale agriculture, and proposes that the County's zoning ordinance definitions be used. Additionally, Mr. Van't Rood requests that proponents be allowed free access to consult with the consultants because it is difficult to demonstrate fiscal feasibility if staff filters the information. On Policy No. 9, he notes that the current timeline is vague and suggests that LAFCO set a specific and enforceable schedule, indicating when the CFA and the Initial Study would be completed. Under Item 10g, Mr. Van't Rood also recommends that the two percent cap be removed from annual property tax revenue growth because it would limit the fiscal feasibility of the

projections. He concludes by stating that these issues must first be resolved before the policies are adopted.

Chairperson Alvarado determines that there are no other members of the public who wish to speak on the item and orders that the public hearing be closed.

The Chairperson comments that these policies have to be adopted immediately to start the incorporation process and deferral of this item would impact the timeline. Mr. Van't Rood responds that many items on the policies are not required by law, such as those relating to indemnification agreement and processing fees. He informs that the County of Santa Barbara had loaned money for the Goleta incorporation while Santa Barbara LAFCO charged a flat fee and waived other fees. He adds that the fiscal assumptions being established would render the incorporation infeasible.

At the request of the Chairperson, Ms. Palacherla explains that the policies are written in generic terms and not specifically for the San Martin incorporation. As for the timeline, she adds that the goal is to place the incorporation on the November 2008 ballot and complete the incorporation prior to the vehicle license fee (VLF) sunset, adding that the CEQA and CFA processes would have detailed timelines. At the request of the Chairperson, Ms. Chamberlain, advises that the policies are the Commission's direction to staff on how incorporation is processed and do not bind the Commission to decide in a particular way, nor restrict their authority to make determinations. In order to ensure that the Commission's decision will be the best possible decision, a certain amount of information is needed to determine the fiscal feasibility and viability of the new city. She notes that input from meetings and conference calls with the proponents has been seriously considered in drafting the policies. The State's Office of Planning and Research (OPR) guidelines and the current and past experiences with other incorporations have guided the development of the policies. Along these lines, Ms. Palacherla adds that the policies merely discourage, not prohibit, the inclusion of agricultural and open space lands. On Mr. Van't Rood's suggestion to use the County's agricultural and open space lands, Chairperson Alvarado informs that these policies are the framework by which the Commission directs staff on how to process the incorporation so these policies should be generic rather than exclusively designed for San Martin. In response to another comment

by Mr. Van't Rood, Chairperson Alvarado informs that while San Martin may be the only community that will ever incorporate, the Commission, by law, has to do due diligence to create generic policies and secure all information from the community and from other sources in order to make thoughtful and fully-informed decisions. Along this line, Commissioner Wilson reminds that the Commission is not the applicant, rather the filter of information for an independent and neutral analysis to determine the strengths and weaknesses of the proposed city, to decide whether or not to approve it, and to set conditions if approved. She notes that the Commission would support defensible decisions because of litigations on incorporations in other counties. She continues that as a Board member of the California Association of LAFCOs (CALAFCO), she talks to many LAFCOs about incorporations and is aware of serious fiscal issues in some cases. Relating to the proponents' request to have access to the CFA consultant, Commissioner Wilson clarifies that the LAFCO consultant has been hired to do an independent and neutral study. She notes that while there is a benefit from informal communications, everyone involved should have the same information from everybody. It is important that the consultants do not have separate conversations with or lobby the consultant. In addition, she notes that the consultants themselves have objective and professional standards to uphold because it is easy to have an appearance of compromise if they are influenced by third parties, including interest groups such as the proponents. Commissioner Wilson states that this ensures that everybody has the same information at every step of the process and no one is excluded.

In response to an inquiry by Commissioner Howe, Ms. Palacherla advises that staff would interface with CFA and CEQA consultants. In response to another inquiry by Commissioner Howe, Ms. Palacherla explains that the draft policies guide consultants, staff, proponents and the Commission in determining whether the proposed incorporation is feasible. The Commission may deviate from these policies if there is a compelling reason provided by staff, consultants, proponents or the public. Commissioner Wilson states that Policy No. 4h means that LAFCO will look at and identify agricultural lands where such lands exist within the proposed boundaries. Commissioner Gage informs that agricultural lands are zoned as such under the County zoning ordinance and suggests that this be used

to define agricultural and open space lands instead of creating a new definition. Ms. Palacherla advises that when the boundaries are drawn, it has to be determined how much agricultural lands are involved and whether those boundaries are necessary and logical for the new city. Commissioner Gage states that it would be more advantageous for San Martin to leave agricultural lands in its SOI instead of the city limits because these are sparsely populated areas that are difficult and expensive to provide services to. Commissioner Wilson expresses agreement with Commissioner Gage stating that the Commission would make better boundary decisions when the agricultural lands in the area are excluded. Commissioner Gage proposes that the incorporation policies should be tailor-made for the San Martin incorporation because it will be the only incorporation in the County because VLF sunsets in July 2009. In response to this, Chairperson Alvarado notes that generic policies, unlike those tailored to San Martin, provide neutral parameters for staff and consultant to work because, in the end, the results of CFA and CEQA will determine whether or not voters will support the incorporation.

In response to Commissioner Howe's inquiry on the definition of agricultural land, Commissioner Wilson states that it is necessary to have a neutral definition. In response to the inquiry of Chairperson Alvarado, Commissioner Wilson states that boundary issues would come to the Commission and adds that the VLF sunset date may be extended as was the island annexation bill. In response to an inquiry by Commissioner Wilson, Ms. Palacherla states that there would be separate consultants for CFA and CEQA.

Commissioner Wilson moves for approval of the incorporation policies, with deferral of section on indemnification to the August 1, 2007. Chairperson Alvarado seconds the motion.

Commissioner Gage proposes that staff and proponents work to discuss and resolve the indemnification and fee issues, that staff provide a report and staff recommendations at the next meeting. Commissioner Gage indicates that staff's desire for analysis of agricultural lands in the proposed and alternative boundaries is important because, after incorporation, the city would have the ability to subdivide large tracts of agricultural lands. Commissioner Howe expresses agreement with Commissioner Gage. In response to the inquiry by the Chairperson, Commissioner Gage proposes to amend the

motion to include instruction to staff to resolve issues with the proponents and come up with policies. Commissioner Wilson and Chairperson Alvarado express agreement.

Chairperson Alvarado indicates that while the Commission is for open government LAFCO does not want undue influence by the proponents on the consultants. Mr. Van't Rood responds that LAFCO seems to have an "unwritten" policy barring proponents from interacting with the CFA consultant. He notes that OPR Guidelines require LAFCO to enable the public to understand the incorporation and not to put roadblocks on incorporation. Mr. Van'tRood continues by stating that the two issues regarding the definition of agricultural and open space, and the two percent limit on annual property tax revenues assumptions seem to set up the process for failure.

Commissioner Howe notes that property tax growth is not a very reliable factor to project the proposed town's future revenues because a sale of only one house can change the whole picture. In response to this, Mr. Van't Rood states that the consultant should be the one to determine whether or not to use property tax revenues to forecast future income. Commissioner Howe states that he would wait for staff and consultant to determine how much growth on property tax revenues is realistic.

Commission Wilson calls the question. It is unanimously ordered on a vote of 4-0, with Commissioner Constant absent, that the Incorporation Policies and Filing Requirements be adopted to be effective immediately.

7. PROPOSED INCORPORATION OF THE TOWN OF SAN MARTIN

7.1 RFP FOR CONSULTANT TO PREPARE A CEQA INITIAL STUDY

Dunia Noel, LAFCO Analyst, reports that the California Environmental Quality Act (CEQA) requires environmental review for an incorporation project. LAFCO will be the lead agency for incorporation and the Initial Study must be prepared based on CEQA, LAFCO's incorporation policies, as well as LAFCO's procedures for processing environmental documents. If the Initial Study shows no substantial evidence that the project will create significant adverse negative environmental impact, LAFCO may adopt a negative declaration. However, if the study concludes that the project may have significant adverse negative environmental impacts, then the preparation of an environmental impact report will be required.

Ms. Noel adds that LAFCO proposes to hire a qualified consultant to prepare an independent and impartial Initial Study and directs attention to the draft request for proposals (RFP). If the Commission authorizes the issuance of the RFP, staff will mail the RFP to prospective consultants, and post it on LAFCO and CALAFCO websites. The deadline for proposals will be on June 18, 2007, interviews held by the end of June 2007, consultants selected soon after, and agreement executed by early July 2007. Additionally, Ms. Noel recommends that delegation of authority be approved for the Executive Officer to negotiate and execute agreement with the consultant, subject to review and approval of the LAFCO Counsel.

In response to the inquiry by Commissioner Wilson, Ms. Noel advises that the applicant will pay for the cost of the CEQA analysis.

The Chairperson opens the public comment period for this item.

Brian Schmidt, Committee for Green Foothills (CGF), states that the CGF has no position on San Martin, however, he requests that the Habitat Conservation Plan (HCP) be included in the incorporation process to ensure that HCP will also be implemented in San Martin. He notes that there are endangered species in Cordovalle and in the western hills.

In response to this, Commissioner Gage indicates that this may not be feasible since cities pay HCP fees and San Martin has neither the revenue nor the legislative body that could decide now; hence, it must first be incorporated before it can decide. Chairperson Alvarado suggests that HCP staff should be made aware of the incorporation proposal, and Commissioner Wilson states that this could be made a part of the environmental reports and analysis.

Mr. Schmidt continues by stating that it may be difficult to work programmatically, explaining that San Martin may not implement HCP if it is incorporated.

Chairperson Alvarado determines that there are no other members of the public who wish to speak on the item.

On motion of Commissioner Howe, seconded by Chairperson Alvarado, it is unanimously ordered on a vote of 4-0, with Commissioner Constant absent, that staff be authorized to issue the RFP for a consultant to prepare a CEQA Initial Study; and that the LAFCO Executive Officer be delegated authority to enter into an agreement with the most

qualified consultant in an amount not to exceed $25,000 and to execute any necessary amendments subject to LAFCO Counsel review and approval.

7.2 INDEMNIFICATION AGREEMENT BETWEEN LAFCO AND THE PROPONENTS OF SAN MARTIN INCORPORATION

Chairperson Alvarado requests the staff report. Ms. Chamberlain reports that indemnification agreement provides that proponents participate in funding the cost of LAFCO's defense if sued. She informs that incorporation is a complex process, and over the last 15 years, most have been litigated. Ms. Chamberlain adds that indemnification agreements are very common among LAFCOs statewide and recommends that the Commission protect itself from financial disaster that may or may not have anything to do with the nature of its action. Ms. Kretchmer adds that the indemnification agreement excludes claims caused by the sole negligence and willful misconduct by LAFCO staff.

Commissioner Gage expresses concern on requiring the applicant to indemnify because it is the Commission that makes decisions, and therefore, the outcome of the application is the responsibility of the Commission and staff. Commissioner Wilson recalls that there may have been indemnification agreement between the Santa Clara and San Mateo LAFCOs with regard to the Midpeninsula Regional Open Space District. She notes that other LAFCOs require indemnification and it is due diligence to protect the Commission because LAFCO is funded by the County and the cities. In response to an inquiry by Commissioner Howe, Ms. Kretchmer advises that the Commission could not require the new city to indemnify. Ms. Palacherla adds that litigation generally happens after LAFCO takes action on the CFA, CEQA and the application. In response to a follow-up inquiry by Commissioner Howe, Ms. Kretchmer indicates that it is possible to condition approval on signing an indemnification agreement; however, it would have the same effect whether it is approved today or in the future, and approving it today gives enough time for proponents to prepare. Commissioner Gage expresses concern because proponents could lose their homes and properties if LAFCO is sued. In response to Commissioner Gage's comments that proponents are individuals without resources, unlike the cities, Ms. Kretchmer explains that the intent is make proponents defend the lawsuit because they are the real party of interest who caused the LAFCO action.

Commissioner Gage states that he is on governing boards and bodies because the County, cities, Valley Transportation Authority or other agencies defend him from lawsuits and indemnify him.

Chairperson Alvarado states that individuals named in the agreement are representing SMNA, Inc. She comments that the agreement is very important because out of the 6,000 population, 2,000 have signed the petition and there could be many players and interests who may not want San Martin incorporated. She proposes that the Commission take due diligence to protect itself by hiring legitimate, credible and licensed professionals to do the analyses. The Chairperson adds that while SMNA, Inc., and not the individuals would be responsible, the Commission should protect the interests of the County and the cities that provide its budget. In response to the inquiry of Commissioner Howe, Ms. Kretchmer advises that the statute defines proponent as the person(s) who signed the Notice of Intent to Circulate a Petition. At the request of the Chairperson, Ms. Palacherla informs that Sylvia Hamilton signed on behalf of SMNA, Inc.

Commissioner Gage maintains that the proponents should not be required to indemnify LAFCO because they have nothing to do with the Commission's action. To illustrate, when the proposed boundary is changed, landowners excluded from the city will sue because their land would have been more valuable if it was included. Commissioner Gage continues that the proponents have nothing to do with that decision, if LAFCO established the boundary.

Discussion ensues to determine whether the proponents individually or the SMNA, Inc., would indemnify LAFCO. Mr. Van't Rood informs that the SMNA is the statutory proponent. Ms. Kretchmer determines that SMNA would indemnify LAFCO under the proposed agreement. In response to another inquiry by Commissioner Howe, Ms. Kretchmer explains that the corporation would be liable and will defend the lawsuit with whatever it has, and suggests that SMNA may designate attorneys residing in the area to minimize the cost.

At the request of Commissioner Wilson, Ms. Chamberlain indicates that many LAFCOs have very similar indemnification agreements where proponents share in the cost of legal defense.

Commissioner Gage proposes to defer this item to the August 1, 2007 meeting to give more time to the Commission and because Commissioner Constant would be present at that time. Chairperson Alvarado states that the proposal may end up in a split vote; Commissioner Gage notes that if a vote is made today, it would still fail.

Commissioner Howe moves to defer the item to the August 1, 2007 meeting. Commissioner Gage seconds the motion.

In response to the inquiry by Commissioner Wilson, Ms. Kretchmer advises that the proponents are aware that they may or may not need to sign the agreement, and should plan accordingly if they need to sign.

Mr. Van't Rood informs the Commission that SMNA will not sign an indemnification agreement. He notes that Southern California LAFCOs have indicated that they do not require indemnification for incorporations because it is different from other applications to LAFCO. He adds that since it could be the proponents themselves who will sue LAFCO for making bad decisions, proponents could end up paying for the fees. He notes that proponents have sued LAFCOs on incorporation of Citrus Heights, El Dorado Hills, and Carmel Valley and reiterates his intention not to sign.

Chairperson Alvarado indicates that it would be difficult if the proponents refuse to sign the agreement because this incorporation is a difficult process and while proponents have legitimate and sincere desire to incorporate, many others have entirely different views. Based on experience of other LAFCOs, the Commission has to protect itself from other groups. The Chairperson notes while this agreement burdens proponents, they should be conscientious of the impact on LAFCO.

Commissioner Wilson comments that the Commission has responsibility to the County and the cities contributing to its budget. The agreement does not protect willful negligence; and, the proponents who caused the Commission's action must take the responsibility.

Discussion ensues as to when the lawsuit would most likely happen. Ms. Kretchmer advises that lawsuit could happen after the Commission takes action. If the indemnification agreement is signed, the proponents could either defend the lawsuit or

there would be a default judgment. Discussion ensues on the possible financial scenario for SMNA in case of litigation, along with the prospect of losing the election.

Mr. Van't Rood states that a lawsuit would come after all decisions have been made. He states that one possible lawsuit is when proponents feel no need for an EIR, similar to the case filed against Monterey LAFCO. He notes that LAFCO should be accountable because it directs the proponents every step of the way and the only recourse for the proponents is to sue. Chairperson Alvarado observes that Mr. Van't Rood does not favor the indemnification agreement; neither the fees, nor the EIR. She notes that these are obstacles that prevent the Commission from acting on the incorporation application in a timely fashion, considering the timeline involved.

In response to the inquiry by Commissioner Howe, Ms. Kretchmer proposes to go over the staff report and proposed indemnification agreement with Commissioner Constant. However, she states that Commissioner Constant must be present at the meeting to vote.

The Chairperson calls the question. The motion to defer this item to August 1, 2007 meeting fails on a vote of 2-2-1, with Chairperson Alvarado and Commissioner Wilson opposed, and Commissioner Constant absent.

Chairperson Alvarado moves approval of the staff report and recommendation. Commissioner Wilson seconds the motion. Commissioner Wilson withdraws her second to the motion. The motion dies due to lack of second.

Finally, on the motion of Commissioner Wilson, seconded by Chairperson Alvarado, it is unanimously ordered on 4-0 vote, with Commissioner Constant absent, that this item be continued to the August 1, 2007 meeting.

7.3 REQUEST FOR FEE WAIVER AND/OR PAYMENT OPTIONS BY THE PROPONENTS OF SAN MARTIN INCORPORATION

Chairperson Alvarado requests the staff report. Ms. Palacherla reports that staff received a letter from Mr. Van't Rood, which does not object to consultant fees for CFA and CEQA Initial Study, and lays out four options for payment of fees for LAFCO staff time, including, (1) waiver of some or all fees for LAFCO staff time, (2) waiver of staff fees for environmental review, (3) advance from the County for the incorporation efforts, and

(4) deferral of billing for LAFCO staff time to ensure that there are no delays in the incorporation process and allow time for fundraising. Ms. Palacherla advises that the rationale offered by the proponents for waiving fees (Option 1) is that the project could have a substantial public benefit by having a more accountable government. She advises that there is no precedent for waiving fees and LAFCO tries to recoup the cost of processing applications. However, if the Commission chooses to waive the fees, the cost would be borne by the cities and County since they fund the LAFCO budget. CKH Act requires the Commission to make a finding that payment of fees will be detrimental to the public interest. Ms. Palacherla advises that Options 2 and 3 are not feasible options because LAFCO would have to hire a consultant to conduct the CEQA work and LAFCO does not have the authority to loan funds. She continues that for Option 4, the proponents are planning a major fundraising event in Spring 2008 and if the Commission takes this option, there should be a signed agreement that fees be paid prior to ~~the~~ LAFCO's first public hearing tentatively scheduled for May 2008. Staff would provide monthly invoices for staff time to the proponents and the Commission.

Commissioner Gage moves to accept Option 4, including direction to staff to stop further work if the fees have not been paid, and directing staff to enter into an agreement with the proponents. Chairperson Alvarado seconds the motion.

In response to the inquiry by Commissioner Wilson, Ms. Palacherla indicates that LAFCO budget will not be impacted with deferral of fees to May 2008. However, the succeeding year's budget would be impacted if the fees are not paid by the agreed time.

Chairperson Alvarado clarifies that the motion is deferral of the LAFCO staff cost only, and not the fees for CEQA and CFA consultants, and Commissioner Gage expresses agreement. Commissioner Wilson proposes to amend the motion to specify a due date on the agreement. Chairperson Alvarado and Commissioner Gage express agreement.

In response to the inquiry by Ms. Kretchmer, Commissioners Gage and Wilson clarify that "staff time" includes time of the LAFCO Counsel.

In response to an inquiry by Commissioner Howe, Commissioner Gage states that the Commission would not move forward if fees are not paid at the agreed time. Discussion ensues on the specific due date and a consensus is reached that the staff work

out a specific due date with the proponents, which should be on or as close as possible to May 1, 2008, and to provide the Commission with a report at the next meeting. Mr. Van't Rood expresses agreement. Commissioner Gage recommends that SMNA hold its fundraising at the end of April 2008, at the latest.

The Chairperson calls the question. It is unanimously ordered on a vote of 4-0, with Commissioner Constant absent, that the payment for staff time be deferred to the first week of May 2008, which should be prior to the first public hearing, that further action will be stopped if the fees are not paid on time, and that the LAFCO Executive Officer be delegated authority to enter into an agreement with the proponents, specifying the dates and other details of the payment scheme, and that a report will be provided to the Commission.

8. TAKEN OUT OF ORDER: FINAL LAFCO BUDGET FOR FISCAL YEAR 2007-2008

Ms. Palacherla advises the next Fiscal Year's budget may be impacted if fees for San Martin incorporation are not paid on time. Commissioner Gage indicates that the amount may be covered by the $100,000 in reserve. Chairperson Alvarado and Commissioner Wilson express appreciation to Commissioners Howe and Gage for their work on the Budget Subcommittee.

On motion of Commissioner Wilson, seconded by Chairperson Alvarado, it is unanimously ordered on a vote of 4-0, with Commissioner Constant absent, that the Final LAFCO Budget for FY 2007-08 be adopted, find that the Final FY 08 Budget is expected to be adequate to allow the Commission to fulfill its statutory responsibilities, authorize staff to transmit the final budget adopted by the Commission, including the estimated agency costs, to each of the cities, County and the Cities Association, and direct the County Auditor-Controller to apportion LAFCO costs to the cities and County using the most recent edition of Cities Annual Report published by the Controller, and collect payments pursuant to Government Code §56381.

9. COMMITTEE FOR GREEN FOOTHILLS' LETTER DATED APRIL 25, 2007, REGARDING LAFCO'S ACTION ON MORGAN HILL 2006 USA EXPANSION

Chairperson Alvarado requests the staff report. Dunia Noel, LAFCO Analyst, informs the Commission that staff has received a letter from Paul Carroll, Counsel for Committee for Green Foothills, relating to Commission action on April 4, 2007 for Morgan Hill urban service area (USA) 2006 expansion. Mr. Carroll questions LAFCO's decision and CEQA action, and alleges that LAFCO should have assumed the role of lead agency for EIR or supplemental EIR because of the flawed negative declaration, and should have denied the project because of its inconsistencies with the LAFCO policies. The letter concludes that the Commission should reconsider its decision. In terms of the suggestion to reconsider the item, Ms. Noel advises that the Commission took action after considering the staff report and public testimony, and informs that staff did not receive a request for reconsideration during the 30-day reconsideration period.

To avoid this issue in the future with the CEQA process and analysis, such as the deferral of analysis of impacts to agricultural lands, use of LESA model, and the disregard of CKH Act's definition of prime agricultural land, Ms. Noel requests authorization from the Commission to send a letter to cities and special districts requesting them to include analysis of impacts to agricultural lands and identify feasible mitigation to minimize loss of agricultural land in the environmental documents when LAFCO is identified as responsible agency for the project.

The Chairperson opens the public comment period for this item.

Brian Schmidt, Committee for Green Foothills (CGF), informs that the CGF has seriously considered suing LAFCO for approving the Black Rock project even as LAFCO staff has indicated that the project is inconsistent with LAFCO policies. He proposes that the Commission withdraw approval or require additional documentation. Morgan Hill's lack of consultation gives LAFCO the authority to become the lead agency. He informs that Morgan Hill's staff also opposed the USA expansion but were overruled by their City Council on a split vote. Mr. Schmidt adds that, in addition to the 18 acres, there is a 10-acre farm across the Black Rock property that will soon be lost to sprawl because of this LAFCO decision. He informs that none of the assertions by the Black Rock attorney are

valid and recommends that the Commission reconsider its decision. He likewise expresses concerns over the conversion of over 3,000 acres in Coyote Valley where the mitigation ratio is still undetermined and that the vague and subjective LESA model may also be used.

Chairperson Alvarado comments that the Black Rock project should have been denied and adds that the Commission should be more conscientious with regard to the Coyote Valley.

Commissioner Gage moves for approval of the staff recommendation. Commissioner Howe seconds the motion.

In response to the inquiry by Commissioner Wilson, Ms. Kretchmer advises that Roberts Rules of Order allows a motion for reconsideration at the very same meeting to be made by a member who voted in the majority. The CKH Act allows reconsideration within 30 days when new information is presented that was not known at the time of the hearing and after the reconsideration fee has been paid.

Commissioner Wilson expresses support for the motion for approval, however, she clarifies that she and Chairperson Alvarado did not support the project. Chairperson Alvarado declares she opposes the motion because a letter to cities and special districts will not correct the illegal action. She adds that some cities have failed to recognize that LAFCO policies are real, legitimate, and legal, adding that this is not the first time that LAFCO policies have been completely disregarded.

Chairperson Alvarado calls the question. It is ordered on a vote of 3-1-1, with Chairperson Alvarado opposed and Commissioner Constant absent, that staff report be accepted and staff be authorized to send a letter to cities and special districts requesting that complete analysis of impacts to agricultural lands as defined in LAFCO's policies, and identification of feasible mitigation measures be included in the environmental documents when LAFCO is identified as a responsible agency.

10. CLARIFICATION ON "AGRICULTURAL USE"

On commission consensus, there being no objection, it is ordered that this item be held to August 1, 2007.

11. AGREEMENT BETWEEN LAFCO AND COUNTY OF SANTA CLARA FOR LEGAL SERVICES FOR FISCAL YEAR 2008

Commissioner Gage moves for approval of the staff recommendation. Commissioner Howe seconds the motion with direction to staff to issue a request for proposals for legal services, adding that there are individuals and groups providing legal services to LAFCOs.

Commissioner Howe indicates that the motion includes direction to staff to present options for legal services at the August 1, 2007 meeting, including the issuance of an RFP for legal services in the next Fiscal Year.

In response to the inquiry of the Chairperson, Commissioner Howe clarifies that this direction to staff is made part of the motion. Commissioner Gage expresses agreement. Commissioner Howe informs that the Office of the County Counsel is proposing a transition and LAFCO should do due diligence to obtain legal services outside of the County. In response to Chairperson Alvarado's concern that LAFCO issues are not easily understood, Commissioner Howe informs this is exactly the reason why LAFCO must find legal services with expertise on LAFCO issues outside, because if the County Counsel rotates attorneys, the Commission may not have the quality of representation it needs. In response to the inquiry of the Chairperson, Ms. Kretchmer indicates that as stated in the staff report and agreement, there is a new attorney who will transition to LAFCO and will be taking over the position from her. Commissioner Howe indicates that the Commission should have the correct person for the job, stating that there are attorneys in the private sector specializing on LAFCO issues, and while cost may increase, the quality of representation is more important. Commissioners Alvarado and Gage express agreement.

The Chairperson calls the question. It is unanimously ordered that the Agreement be approved between the County of Santa Clara and LAFCO for legal services for the period of July 1, 2007 to June 30, 2008, and staff be directed to provide the Commission at the August 1, 2007 meeting with options for outside legal services, including the issuance of an RFP for legal services for the next fiscal year.

Chairperson Alvarado leaves at 3:19 p.m. Commissioner Gage presides at the meeting.

12. UPDATE ON COYOTE VALLEY SPECIFIC PLAN

Acting-Chairperson Gage requests the staff report. Dunia Noel, LAFCO Analyst, informs that the City of San Jose has released a draft environmental report (EIR) for the Coyote Valley Specific Plan (CVSP). Staff is reviewing the EIR and will submit comments to the City before the June 29, 2007 deadline. She notes that the CVSP includes unincorporated agricultural lands currently located outside San Jose's USA boundary. LAFCO will have to approve San Jose's USA expansion before these lands could be annexed and CVSP is implemented. Since 2004, LAFCO staff submitted three comment letters to CVSP on issues that LAFCO will consider. This comment letter will relate to the adequacy of the EIR when the USA amendment and annexation proposals come to LAFCO.

Commissioner Wilson recommends that staff include in the letter the issue raised by Brian Schmidt, Committee for Green Foothills, relating to the use of the LESA model.

On motion of Commissioner Howe, seconded by Commissioner Gage, it is unanimously ordered on a vote of 3-0, with Chairperson Alvarado and Commission Constant absent, that the staff report be accepted and that comments on the Draft CVSP EIR would include information that LESA Model is not the model used by LAFCO, and to provide copies of the comment letter to the Commission.

13. EXECUTIVE OFFICER'S REPORT

13.1 CALAFCO ANNUAL CONFERENCE IN SACRAMENTO ON AUGUST 28-31, 2007

On motion of Commissioner Howe, seconded by Commissioner Wilson, it is unanimously ordered on a vote of 3-0, with Commissioners Alvarado and Constant absent, that commissioners and staff be authorized to attend the 2007 CALAFCO Annual Conference and travel expenses be authorized to be funded by the LAFCO budget.

13.2 NOMINATIONS FOR CALAFCO EXECUTIVE BOARD

On motion of Commissioner Howe, seconded by Commissioner Gage, it is unanimously ordered on a vote of 3-0, with Chairperson Alvarado and Commissioner Constant absent, that Commissioner Wilson be nominated to the CALAFCO Board of Directors.

13.3 REPORT ON THE CALAFCO STAFF WORKSHOP HELD IN NEWPORT BEACH IN APRIL 2007

Ms. Palacherla reports that LAFCO staff attended the CALAFCO staff workshop. It included presentations on various topics including multi-county agencies, LAFCOs going independent, LAFCO's interaction with private and mutual water companies, LAFCO ethics, facilitation skills and organization, among others. Emmanuel Abello, LAFCO Clerk, made a presentation on LAFCO website content and management.

14. COMMISSIONER'S REPORTS

There are no Commissioner's reports.

Commissioner Alvarado returns at 3:28 p.m.

15. WRITTEN CORRESPONDENCE

There is no written correspondence.

16. NEWSPAPER ARTICLES

There are no newspaper articles.

17. PENDING APPLICATIONS / UPCOMING PROJECTS

There are no pending applications.

18. ADJOURN

On the order of the Chairperson, there being no objection, the meeting is adjourned at 3:31 p.m.

The next regular LAFCO meeting is scheduled to be held on Wednesday, August 1, 2007 at 1:00 p.m. in the Chambers of the Board of Supervisors, County Government Center, 70 West Hedding Street, San Jose, California.

_____
Blanca Alvarado, Chairperson
Local Agency Formation Commission

ATTEST:

_____
Emmanuel Abello, LAFCO Clerk

LAFCO
Local Agency Formation Commission of Santa Clara County

ITEM NO. 4

Hearing Date: **August 1, 2007**

TO: LAFCO

FROM: Neelima Palacherla, Executive Officer
Dunia Noel, Analyst DN

SUBJECT: **Draft North and West Santa Clara County Service Review and Sphere of Influence Updates Report**

Agenda Item #4

STAFF RECOMMENDATION

Consider the draft report for the North and West Santa Clara County Service Review and Sphere of Influence (SOI) Updates and direct staff to prepare the final report and set a hearing date.

PURPOSE

The purpose of a public hearing on this item is to accept further public comment on the *Draft North and West Santa Clara County Service Review and Sphere of Influence Updates Report* prepared by LSA under the supervision of LAFCO staff.

BACKGROUND

LSA consulting group was retained by LAFCO to conduct the *North and West Santa Clara County Service Review and Sphere of Influence Updates*. Ten cities and nine special districts were covered in this service review and sphere of influence update project. A Technical Advisory Committee (TAC) was established to serve as a liaison between LAFCO and the affected agencies, as well as to provide technical expertise and guidance throughout the service review process. In addition to LAFCO Commissioner, John Howe, and LAFCO staff, the members of TAC for the *Draft North and West Santa Clara County Service Review and Sphere of Influence Updates* include:

Representing the Santa Clara County/Cities Managers' Association
Debra Figone, Town Manager, Town of Los Gatos

Representing the Santa Clara County Municipal Public Works Officers' Association
Glenn Roberts, Public Works Director, City of Palo Alto

Representing the Santa Clara County Special Districts Association
Pete Siemens, Board Member, Midpeninsula Regional Open Space District

Representing the Santa Clara County Planning Officials Association
Steve Piasecki, Community Development Director, City of Cupertino

The consultants have met/consulted with, discussed and collected information from all of the affected agencies in the northern and western parts of Santa Clara County. In addition, periodic updates on the service review process have been provided to the North and West Santa Clara County Service Review TAC, and LAFCO. TAC Members and LAFCO staff have also updated the Santa Clara County/Cities Managers' Association, Santa Clara County Public Works Officials' Association, Santa Clara County Special Districts Association, and the Santa Clara County Planning Officials Association throughout this process.

LAFCO staff released a Technical Draft Service Review and Sphere of Influence Updates Report to participating agencies in June 2007. Several agencies provided comments in writing, by email, and verbally to LAFCO staff and the consultant. The Technical Draft Report was then revised to address each agency's comments. LAFCO staff released a Revised Draft Service Review and Sphere of Influence Updates Report in July 2007 for public review and comment. A Notice of Availability (Attachment A) was sent to all affected agencies, LAFCO Commissioners, and interested parties.

As of the writing of this staff report, LAFCO staff and the consultant have only received comments from the City of Mountain View. LAFCO staff and the consultant have addressed these comments and provided the City with a revised draft. However, the public review and comment period does not end until July 31st. Any comment letters will be provided to LAFCO at its August Meeting. LAFCO staff also expects to receive additional comments at LAFCO's August 1, 2007 public hearing. LAFCO staff and the consultant will then prepare a written response to all comments received at the public hearing and will revise the Draft Report as necessary.

The Final Draft Report, as well as a response to all of the comments received on August 1, 2007, will be released electronically for public review at least 21 days prior to the October 3, 2007 LAFCO hearing. The Final Report will be available on the LAFCO Website (www.santaclara.lafco.ca.gov) for downloading and a hard copy of the Report will also be available in the LAFCO Office for public review. A public hearing notice will be sent to all affected agencies in Santa Clara County and interested parties in order to announce the availability of the Final Report and the date, time and place for the final public hearing on the Final Report.

ITEM NO. 4
ATTACHMENT A

LAFCO
Local Agency Formation Commission of Santa Clara County

NOTICE OF AVAILABILITY OF

LAFCO's Draft North and West Santa Clara County Service Review and Sphere Of Influence Updates, Proposed CEQA Exemption, and Public Hearing Dates

Date: July 10, 2007

To: Special District Managers
City Managers and County Executive
LAFCO Commissioners
City Planning Directors and County Planning Director
City Public Works Directors
Interested Parties

From: Neelima Palacherla, LAFCO Executive Officer NP

Re: **Notice of Availability**

LAFCO's Draft North and West Santa Clara County Service Review and Sphere of Influence Updates Report Released for Public Review and Comment

A PDF version of the Draft Service Review and Sphere of Influence Update Report and Proposed CEQA Exemption have been placed on the LAFCO Website (www.santaclara.lafco.ca.gov) under the heading **"What's New"** in order to allow individuals to review the Report. Due to the length of the Report, we encourage you to review the Draft Report as soon as possible. We would appreciate receiving your written comments by July 31, 2007. Comments received by July 25th will be included in the LAFCO packet that will be provided to the LAFCO Commission in advance of the August 1, 2007 Public Hearing. Comments received by LAFCO staff after July 25th will be provided to the LAFCO Commission at the August 1, 2007 Public Hearing.

LAFCO Public Hearing on the Draft Report: August 1, 2007

On August 1, 2007, LAFCO will hold a Public Hearing on LAFCO's Draft North and West Santa Clara County Service Review and Sphere of Influence Updates Report. At this meeting, the Draft Report will be presented and discussed with the Commission and additional public comments on the Draft Report will be accepted by LAFCO. However, no final action on the Draft Report will be taken at this hearing.

Public Hearing Date:	August 1, 2007
Location:	Chambers of the Board of Supervisors County Government Center 70 West Hedding Street, San Jose, California
Time:	1:00 P.M. or soon thereafter

Following this Public Hearing, LAFCO will revise the Draft Report in order to address any comments received and will place the Final Draft Report on the LAFCO website. LAFCO is scheduled to consider and adopt the Final North and West Santa Clara County Service Review and Sphere of Influence Updates at a Second Public Hearing that will be held on October 3, 2007. Please feel free to contact me at (408) 299-5127 or Dunia Noel, LAFCO Analyst, at (408) 299-5148 if you have any further questions or concerns about the Draft Report.

NOTICE OF EXEMPTION

To: ☐ Office of Planning and Research
For U.S. Mail: P.O. Box 3044 Sacramento, CA 95812-3044
Street Address: 1400 Tenth Street Sacramento, CA 95814

From: Public Agency: LAFCO of Santa Clara County
Address: 70 West Hedding Street, 11th Floor
San Jose, CA 95110

■ County Clerk
County of: Santa Clara
Address: 70 West Hedding Street, East Wing
First Floor
San Jose, CA 95110

Project Title: Service Review and Sphere of Influence (SOI) Updates for the North and West Valley Santa Clara County Areas

Project Location: North and West Valley Santa Clara County Service Review Areas. The north and west portions of Santa Clara County, as shown on the attached map.

Project Location - County: Santa Clara

Project Location – Specific: The North and West Valley Santa Clara County Areas are located in the north and west portions of Santa Clara County, north of Santa Cruz County, west and south of San Mateo County, and west of the South Central Sub-Region Area of Santa Clara County. The Service Review area includes the Cities of Campbell, Cupertino, Los Altos, Los Altos Hills, Los Gatos, Monte Sereno, Mountain View, Palo Alto, Saratoga, and Sunnyvale, as well as the following agencies: Cupertino Sanitary District, El Camino Hospital District, Midpeninsula Regional Open Space District, Rancho Rinconada Recreation and Park District, Santa Clara Valley Transportation Authority, Saratoga Cemetery District, West Bay Sanitary District, and West Valley Sanitation District.

Description of Project: The Cortese/Knox/Hertzberg Act requires LAFCO to update the SOIs for all applicable jurisdictions in the County by January 1, 2008. The Act further requires that a Service Review be conducted prior to or concurrent with the update of a SOI. This project includes an Service Review and SOI Updates for the following agencies: Cities of Campbell, Cupertino, Los Altos, Los Altos Hills, Los Gatos, Monte Sereno, Mountain View, Palo Alto, Saratoga, and Sunnyvale, as well as, Cupertino Sanitary District, El Camino Hospital District, Midpeninsula Regional Open Space District, Rancho Rinconada Recreation and Park District, Santa Clara Valley Transportation Authority, Saratoga Cemetery District, West Bay Sanitary District, and West Valley Sanitation District. All of the agencies SOIs will be re-affirmed with the exception of the following: City of Palo Alto, City of Los Altos Hills, El Camino Hospital District, and West Valley Sanitation District. The City of Palo Alto's SOI currently includes two small unincorporated residential areas located west of the Town of Los Altos Hills and off Page Mill Road. The Update proposes moving these areas from Palo Alto's SOI to the Town of Los Altos Hills' SOI. The proposed SOI update recognizes that current services are being provided by Los Altos Hills' service providers and existing access to the areas is through Los Altos Hills. This SOI update will not result in any physical changes to the environment or changes to the manner in which services are provided to the areas. The West Valley Sanitation District currently serves two small areas that are beyond its existing SOI. Similarly, the El Camino Hospital District currently serves areas within the Cities of Sunnyvale and Cupertino that are beyond its existing SOI. The Update will expand both Districts' SOIs to be coterminous with their existing service areas. These changes would have no effect on services that are currently being provided. Any future annexations will be considered and assessed on a case by case basis.

Name of Public Agency Approving Project: LAFCO of Santa Clara County

Name of Person or Agency Carrying Out Project: LAFCO of Santa Clara County

Exempt Status: *(check one)*

☐ Ministerial (Sec. 21080(b)(1); 15268);

☐ Declared Emergency (Sec 21080(b)(3); 15269(a));

☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));

■ Categorical Exemption. State type and section number: Class 6, Section 15306; Section 15378 (a) and (b)(5); and Section 15061 (b)(3); Class 20, Section 15320

☐ Statutory Exemptions. State code number: _____

Reasons why project is exempt:

CEQA Guideline Section 15306: Approval of the Service Review qualifies for a Class 6 categorical exemption because the Service Review is a planning study. CEQA Guidelines 15306 states that projects that consist of basic data collection and research that are strictly for information-gathering purposes or as part of a study leading to an action that a public agency has not yet approved, adopted, or funded is categorically exempt.

CEQA Guideline Section 15061 (b)(3): The activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The Service Review and SOI Updates would not have a significant effect on the environment and are exempt.

CEQA Guideline Section 15320: Class 20 consists of changes in the organization or reorganization of local governmental agencies where the changes do not change the geographical area in which previously existing powers are exercised. The SOI Updates includes such changes. (1) The City of Palo Alto's SOI currently includes two unincorporated residential areas located west of the Town of Los Altos Hills off Page Mill Road. The Update proposes moving these areas from Palo Alto's SOI to the Town of Los Altos Hills' SOI. This would provide for more appropriate future planning. (2) The El Camino Hospital District is currently providing services to residents within the Cities of Sunnyvale and Cupertino. For this reason, it is recommended that the SOI be expanded to these entire cities, which would more accurately delineate the District's service area. (3) The West Valley Sanitation District is currently serving two small areas that are currently located beyond the District's SOI. It is recommended that the District's SOI be expanded to include these two small areas that are currently receiving District services. This change would more accurately delineate the District's service area. These changes would have no effect on services that are currently being provided. Therefore, these changes qualify for Class 20 categorical exemptions.

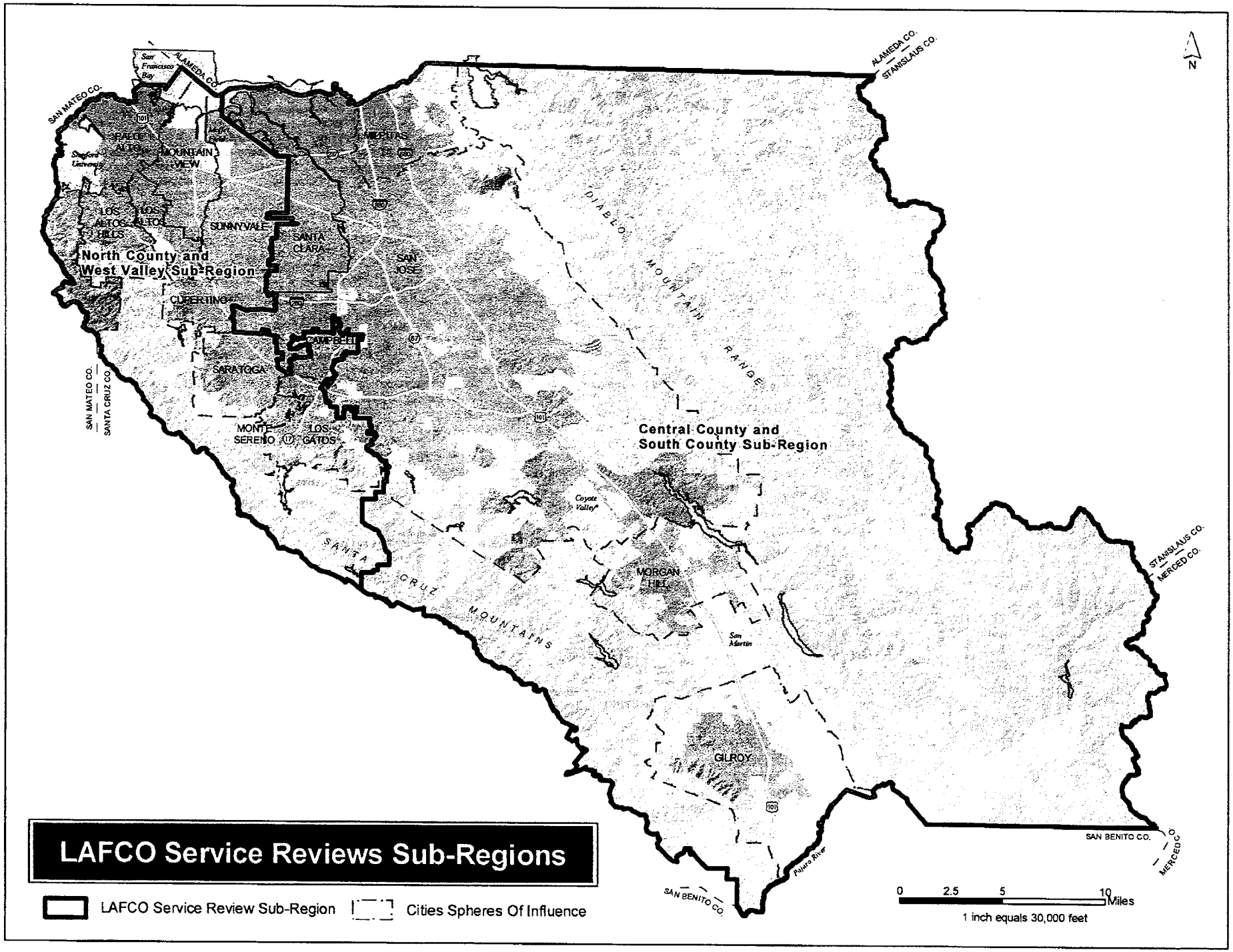
Lead Agency

Contact Person: Neelima Palacherla, Executive Officer, LAFCO of Santa Clara County Telephone: 408-299-5127

Signature: N Palacherla Date: 7/11/7 Title: Executive Officer

☑ Signed by Lead Agency

Date received for filing at OPR: _____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LAFCO Service Review Sub-Region
Cities Spheres Of Influence
North County and West Valley Sub-Region
Central County and South County Sub-Region
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ALAMEDA CO.
STANISLAUS CO.
SANTA CRUZ CO.
MERCED CO.
SAN BENITO CO.
PALO ALTO
MOUNTAIN VIEW
LOS ALTOS
LOS ALTOS HILLS
SUNNYVALE
SANTA CLARA
SAN JOSE
MILPITAS
CUPERTINO
CAMPBELL
SARATOGA
MONTE SERENO
LOS GATOS
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LAFCO of Santa Clara County

Service Reviews and Sphere of Influence Recommendations for the North and West Santa Clara County Areas

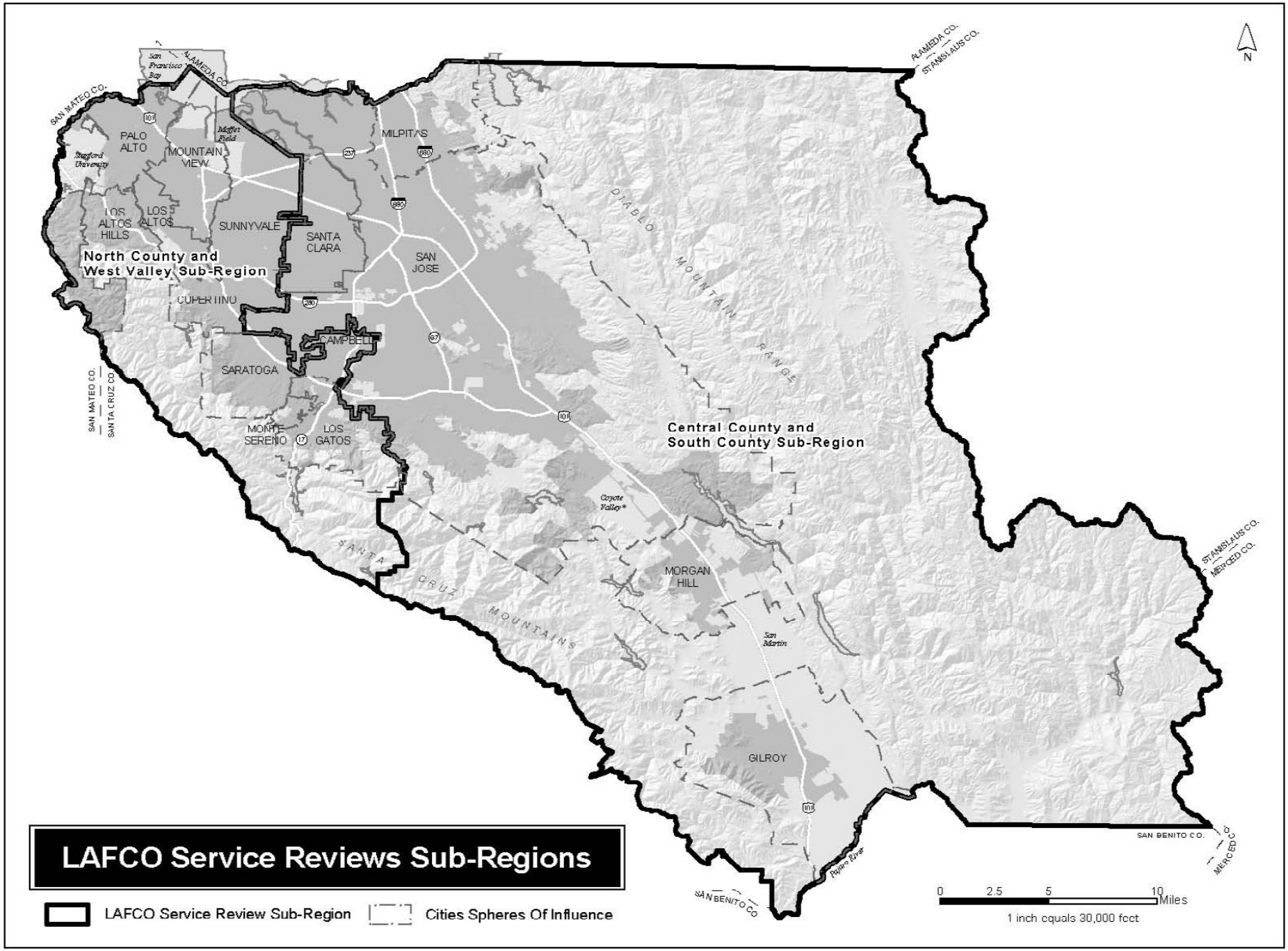
Cortese-Knox-Hertzberg Act

- LAFCO must update all Spheres of Influence (SOI) by January 1, 2008.
- A Service Review must be conducted prior to or in conjunction with each SOI update.

Santa Clara Service Reviews

- LAFCO has previously completed Service Reviews for Countywide Fire and Water Services and for all agencies within the South and Central County areas

- This is the last Service Review including all agencies within the North and West County Areas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SANTA CLARA
MILPITAS
SAN JOSE
CUPERTINO
CAMPBELL
SARATOGA
MONTE SERENO
LOS GATOS
MORGAN HILL
GILROY
DIABLO MOUNTAIN RANGE
SANTA CRUZ MOUNTAINS
Moffet Field
Stanford University
Coyote Valley*
San Martin
Pajaro River

Cities

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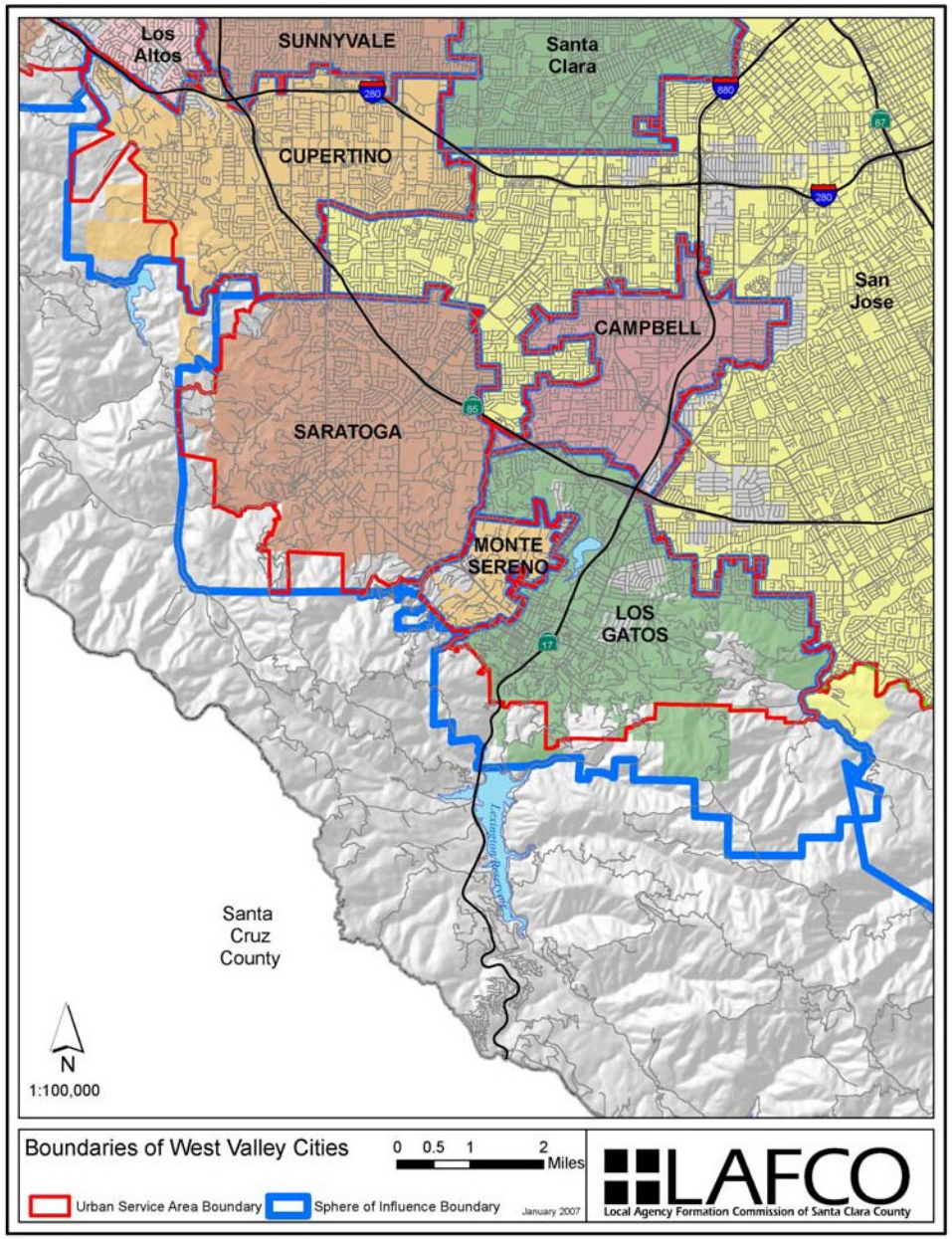
- Saratoga
- Sunnyvale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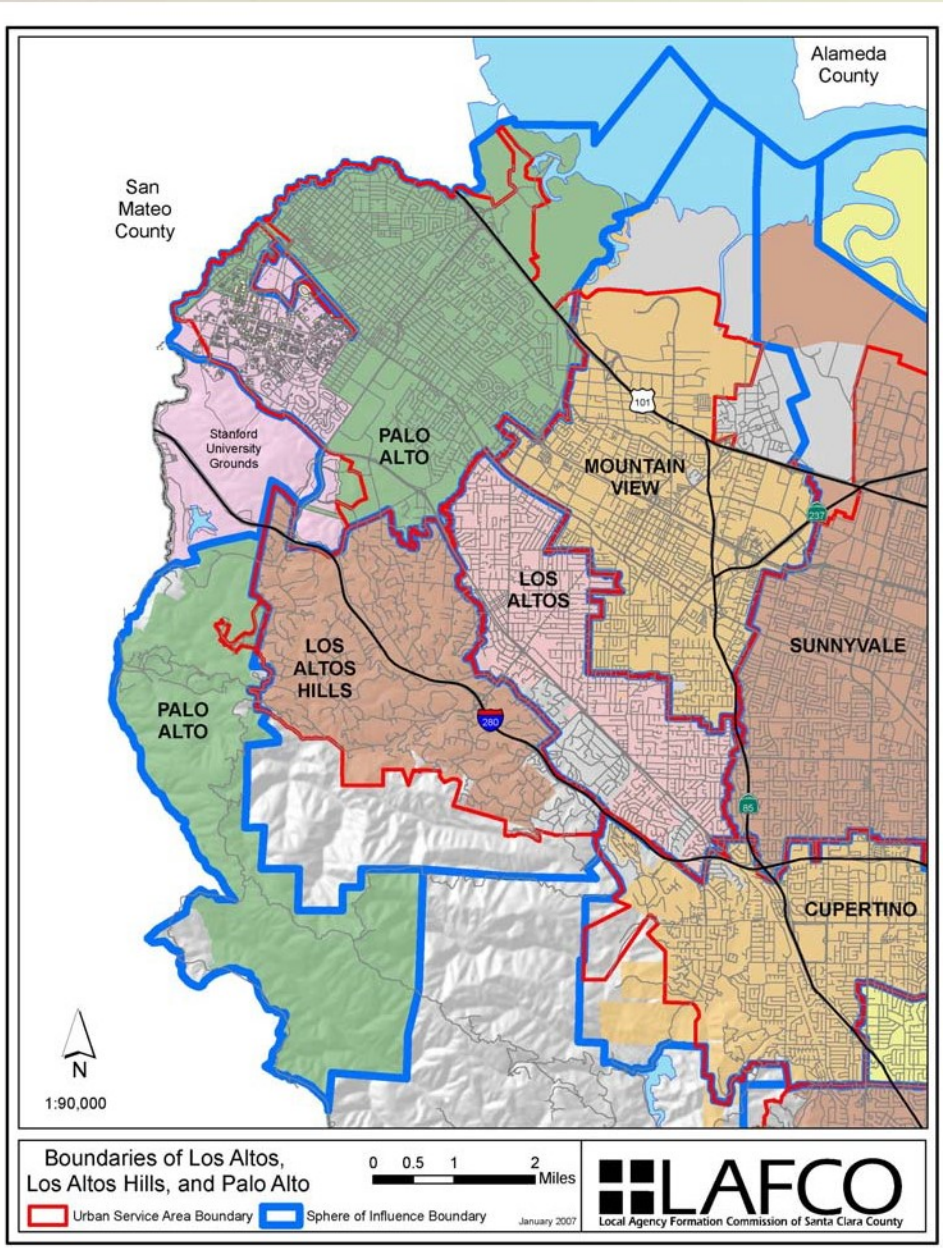
January 2007
LAFCO
Local Agency Formation Commission of Santa Clara County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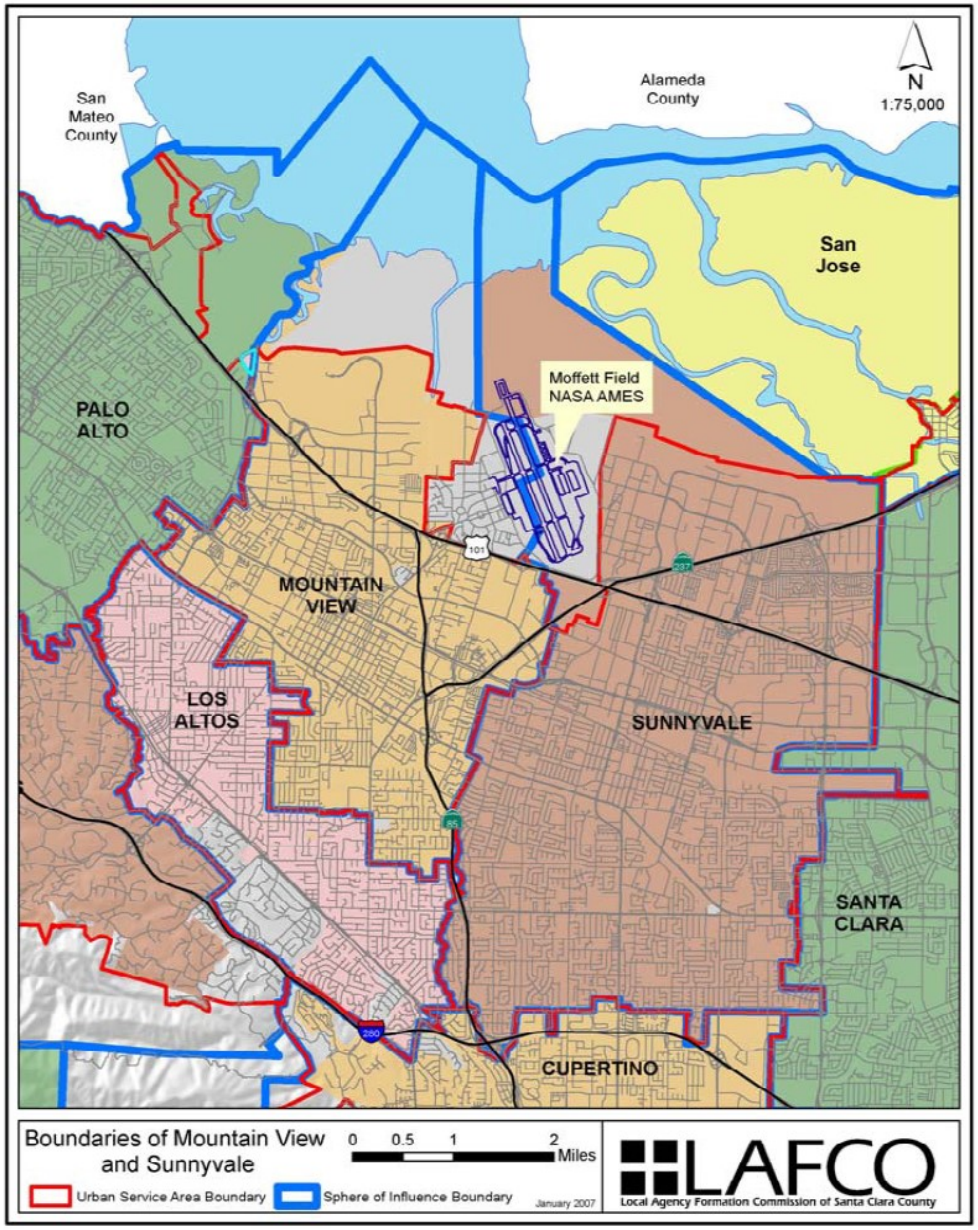
Sphere of Influence Boundary
January 2007
LAFCO
Local Agency Formation Commission of Santa Clara County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Boundaries of Mountain View and Sunnyvale
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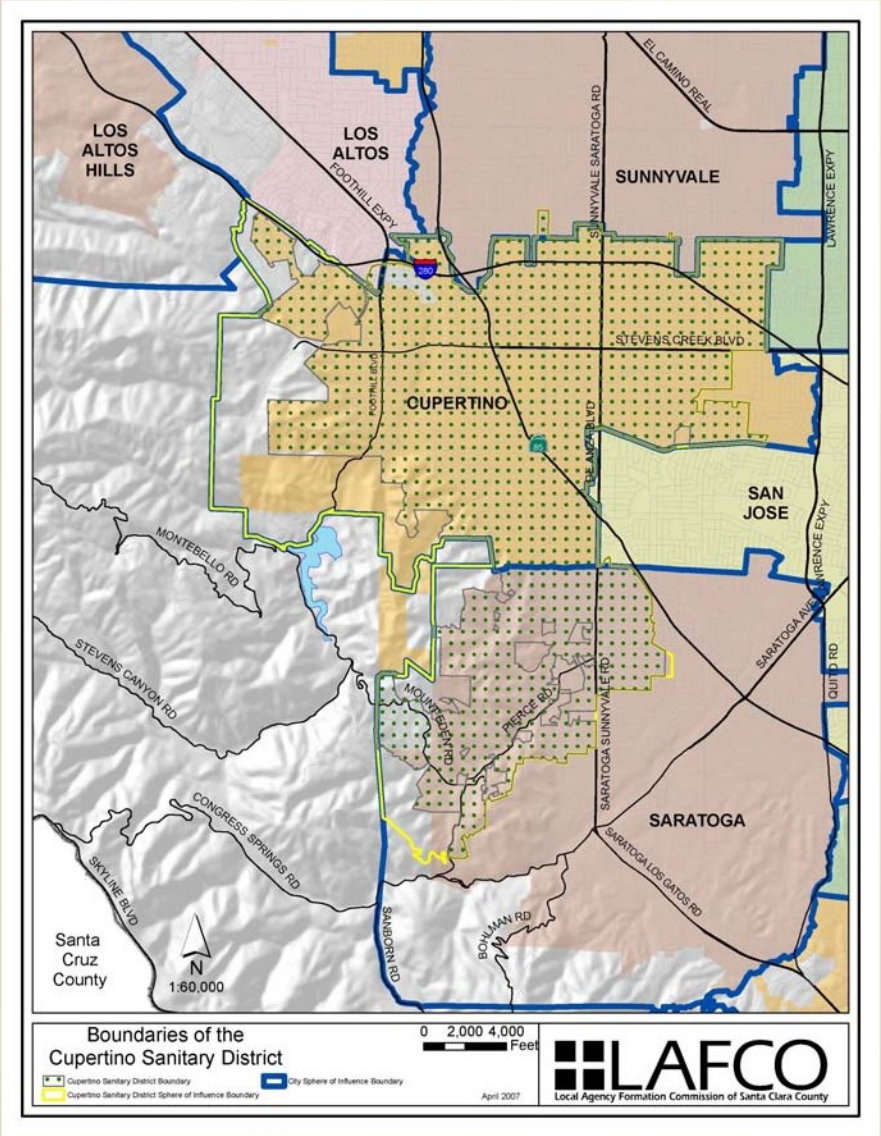
Urban Service Area Boundary
Sphere of Influence Boundary
January 2007
LAFCO
Local Agency Formation Commission of Santa Clara County

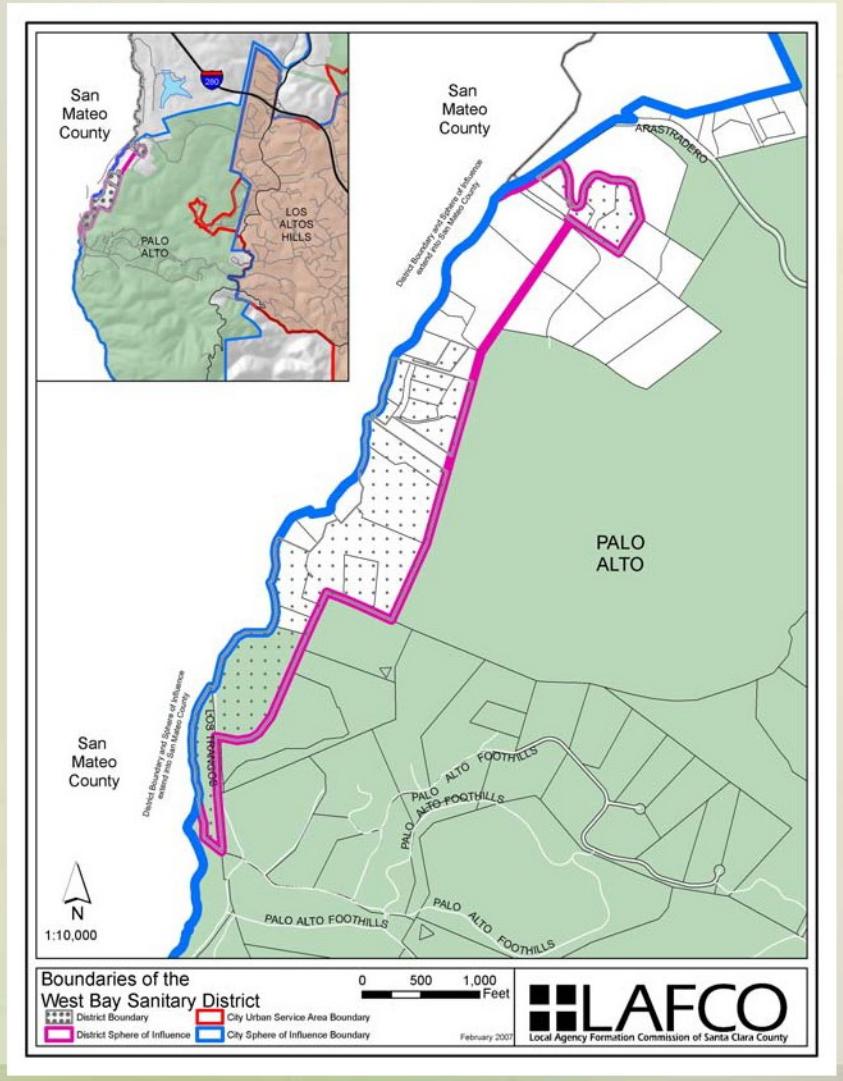
Districts

- Cupertino Sanitary District
- West Bay Sanitary District
- West Valley Sanitation District
- Lake Canyon CSD (wastewater)
- El Camino Hospital District
- Midpeninsula Regional Open Space District
- Rancho Rinconada Recreation and Park District
- Santa Clara Valley Transportation Authority
- Saratoga Cemetery District

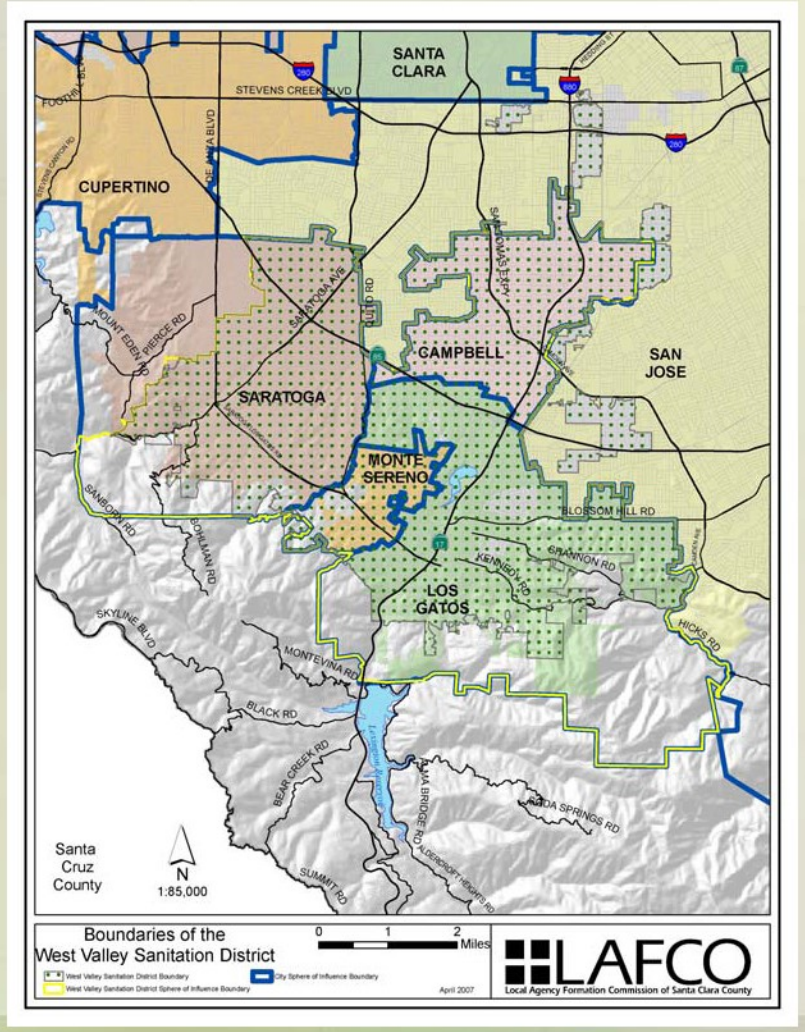
Cupertino Sanitary District



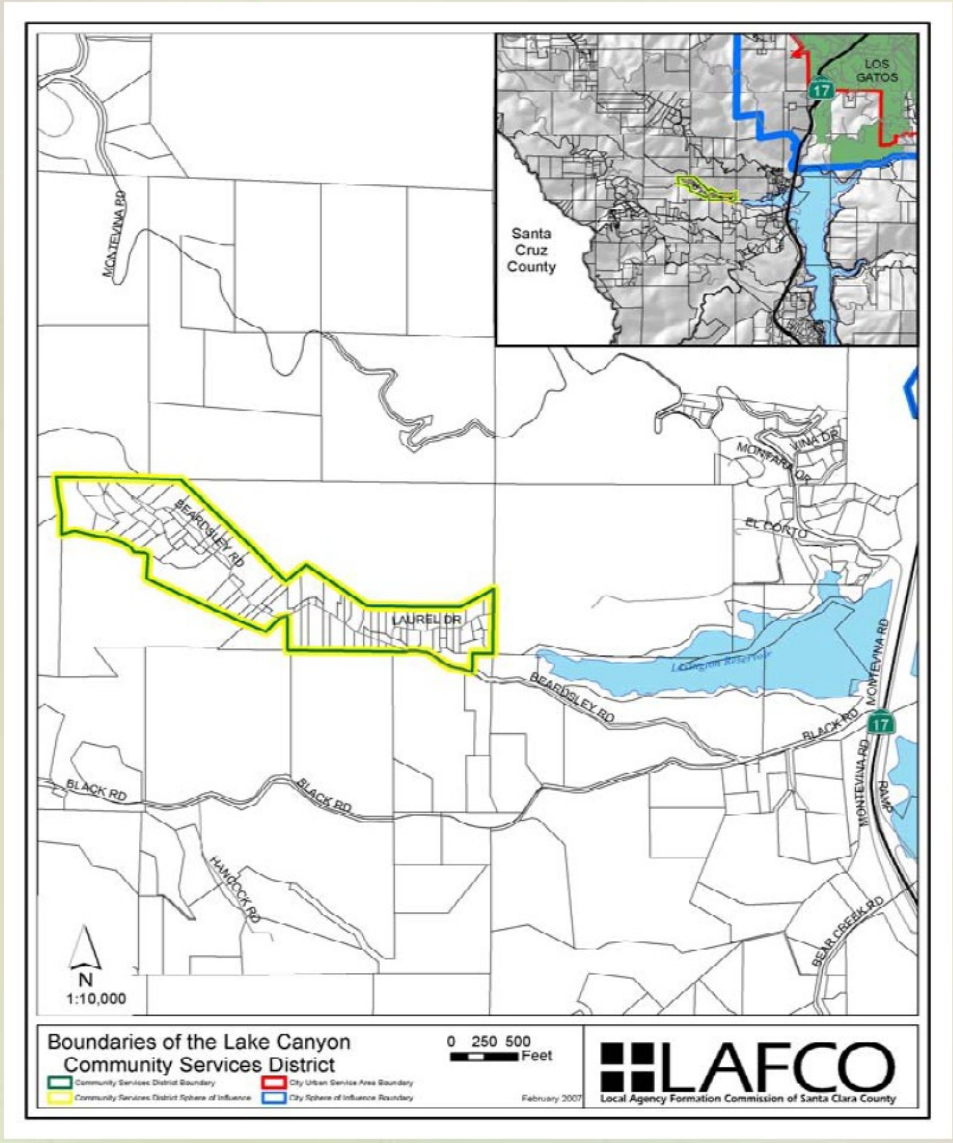
West Bay Sanitary District



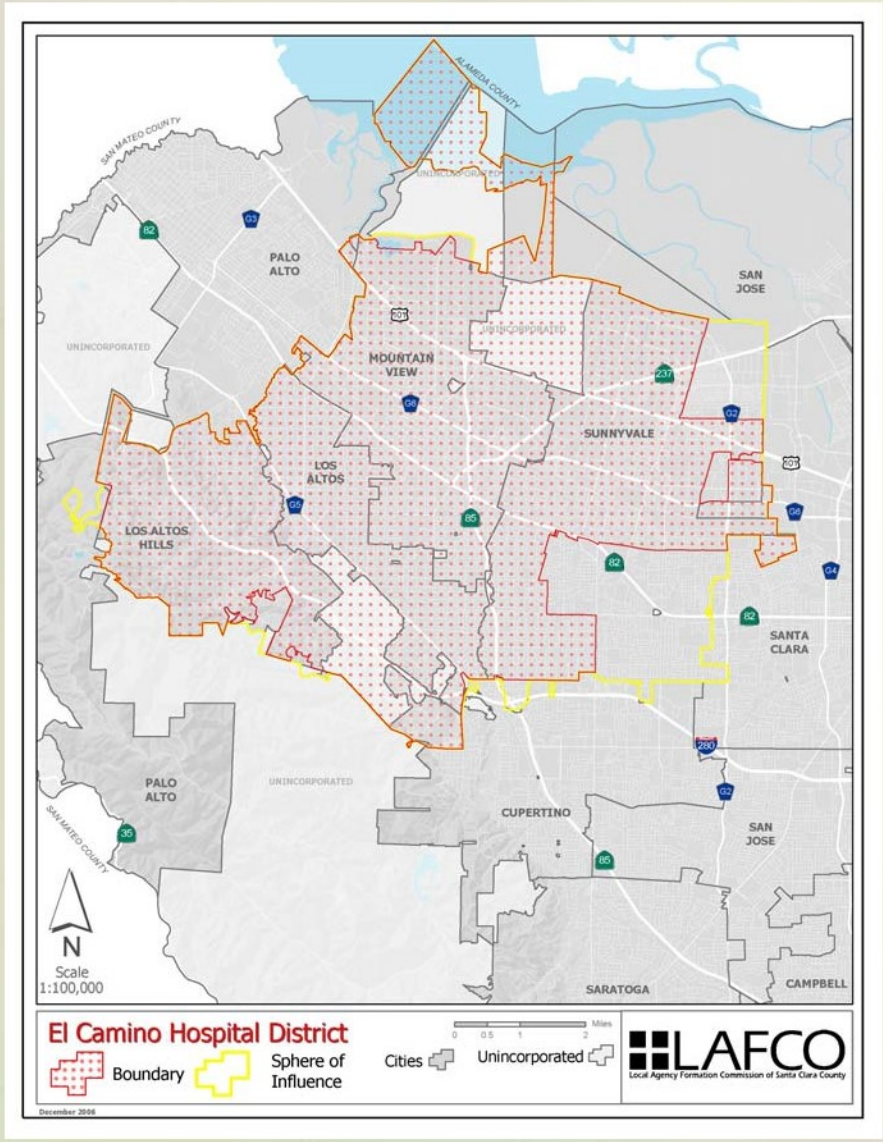
West Valley Sanitation District



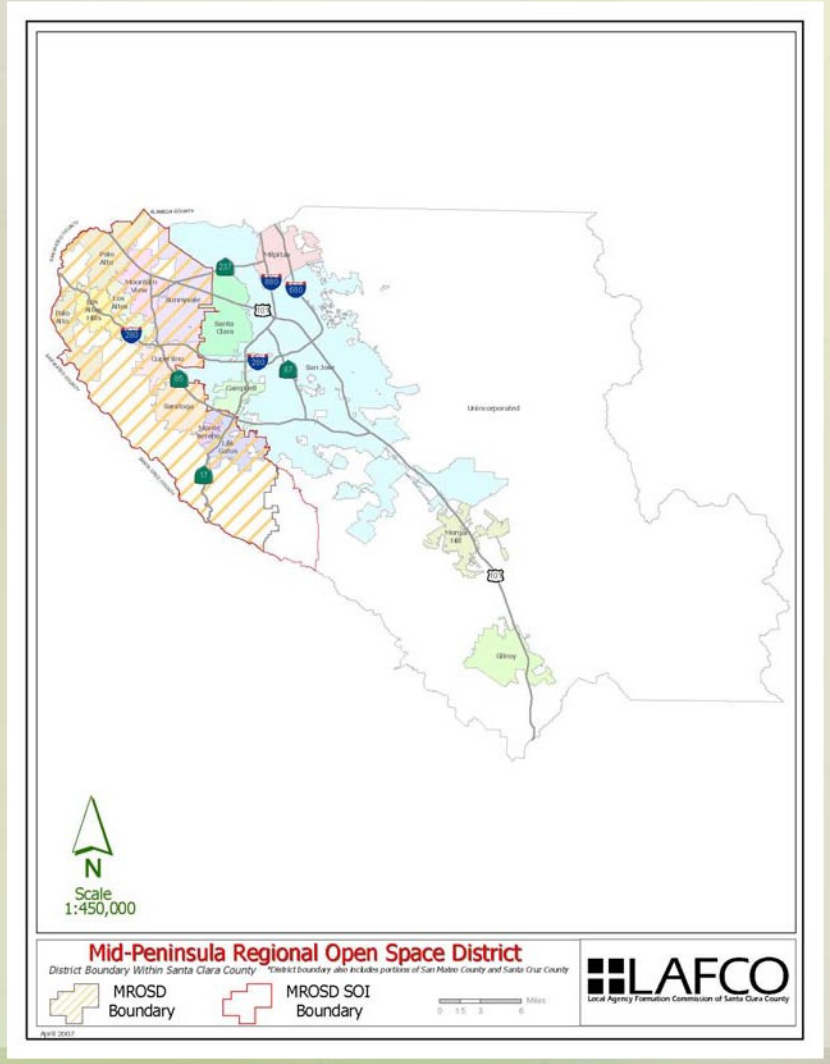
Lake Canyon CSD



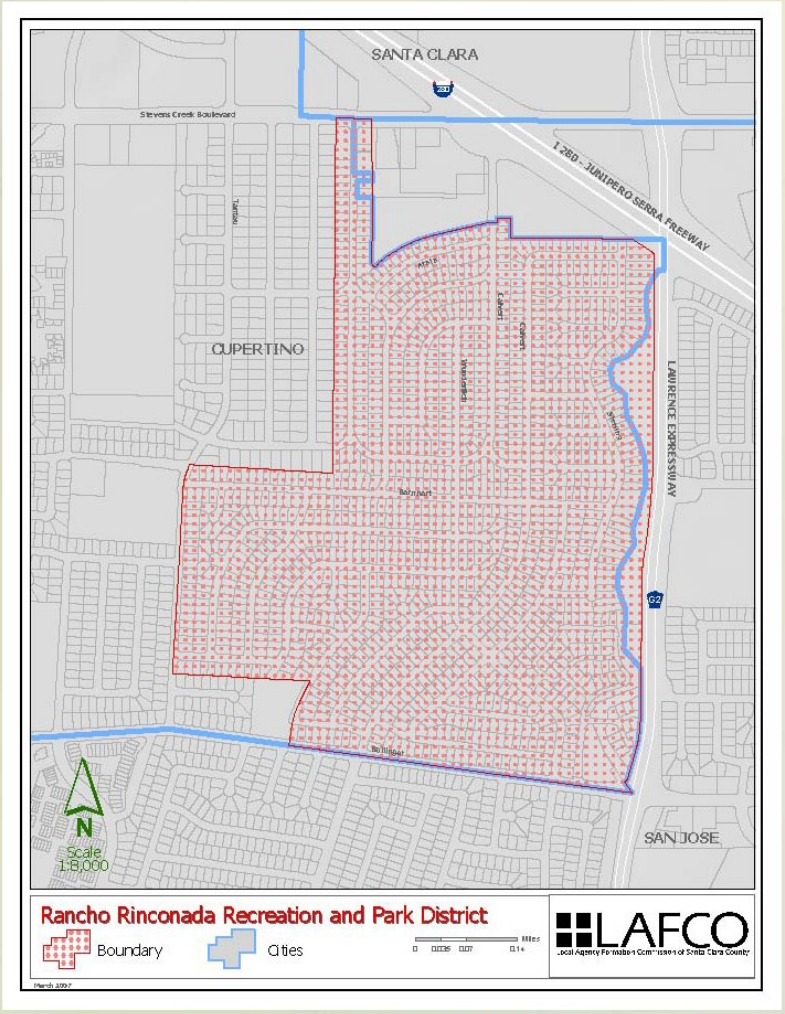
El Camino Hospital District



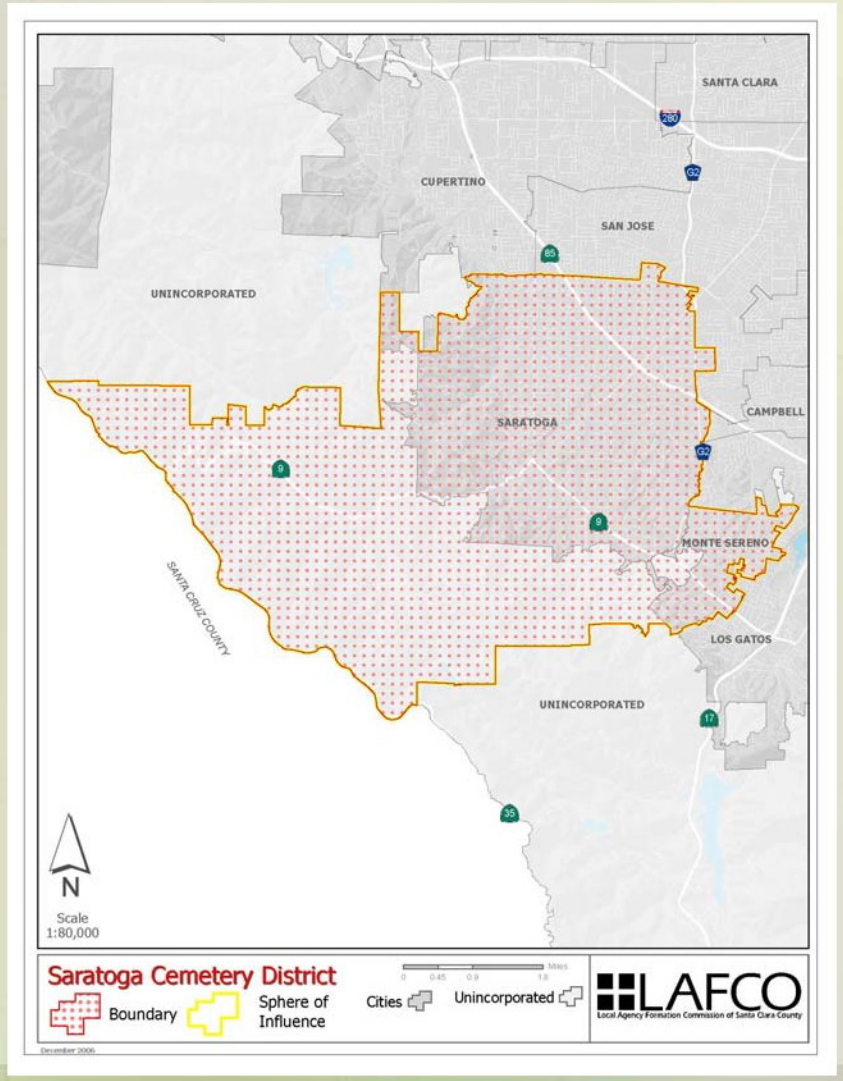
Midpeninsula Regional Open Space District



Rancho Rinconada Recreation and Park District



Saratoga Cemetery District



Nine Required Service Review Determinations

- Infrastructure needs and deficiencies.
- Growth and population projections for the affected area.
- Financing constraints and opportunities.
- Cost-avoidance opportunities.
- Opportunities for rate restructuring.
- Opportunities for shared facilities.
- Government structure options, including advantages and disadvantages of consolidation or reorganization of service providers.
- Evaluation of management efficiencies.
- Local accountability and governance.

Four Required Sphere of Influence Determinations, Government Code Section 56425

- Present and planned land uses in the area, including agricultural and open-space lands.
- 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.
- Existence of any social or economic communities of interest in the area, if LAFCO determines that they are relevant to the agency.

Key Service Review Determinations for the Cities

- Storm drain deficiencies exist in Cupertino, Los Altos Hills, Los Gatos, Monte Sereno, Mountain View, and Palo Alto.
  - Improvements have been or are being identified by each City.
- Sewer capacity issues exist in Mountain View, Palo Alto, and Los Altos.
  - Improvements have been or are being identified by each City.
- For Los Altos Hills to meet wastewater demands at build out, the Town needs 0.408 mgd additional capacity at the Regional Water Quality Control Plant and to be conveyed through the City of Los Altos. The City has tentatively been allocated an additional 0.126 mgd of capacity.

- The Los Altos sewer system needs some infrastructure improvements, which have been identified by the City.
- The Sunnyvale wastewater treatment plant needs rehabilitation. Several infrastructure projects have been budgeted and/or are under construction
- Campbell and Cupertino are providing park facilities at ratios below their adopted standards.

- Library facilities in Campbell, Los Gatos, Mountain view, and Sunnyvale are inadequate to meet the existing needs.
  - Cities are exploring options to resolve the issue
- Police facilities in Los Altos, Los Gatos, Mountain View, Palo Alto, and Sunnyvale are in need of expansion and/or upgrades.
  - Remedies are being planned or considered

- The areas within this Service Review are generally built out and have limited vacant land. Due to this, a large majority of growth would involve redevelopment or intensification of previously developed areas.
- 7 of the Cities are facing fiscal challenges (Campbell, Cupertino, Los Gatos, Mountain View, Palo Alto, Saratoga, Sunnyvale).
  - Fiscal challenges have effected or will effect services and infrastructure.

Cities should pursue annexation of unincorporated pocket areas and take advantage of the streamlined process.

- Campbell: annexed three unincorporated pockets in 2006. Residents of Cambrian Pocket No. 36, an unincorporated island adjacent to Campbell but in San Jose's SOI, has requested a SOI change and annexation to Campbell. Campbell supports this effort.
- Cupertino: has several unincorporated pockets. The City has recently annexed some pockets.
- Los Altos: There is one remaining unincorporated pocket that is approximately 624 acres.

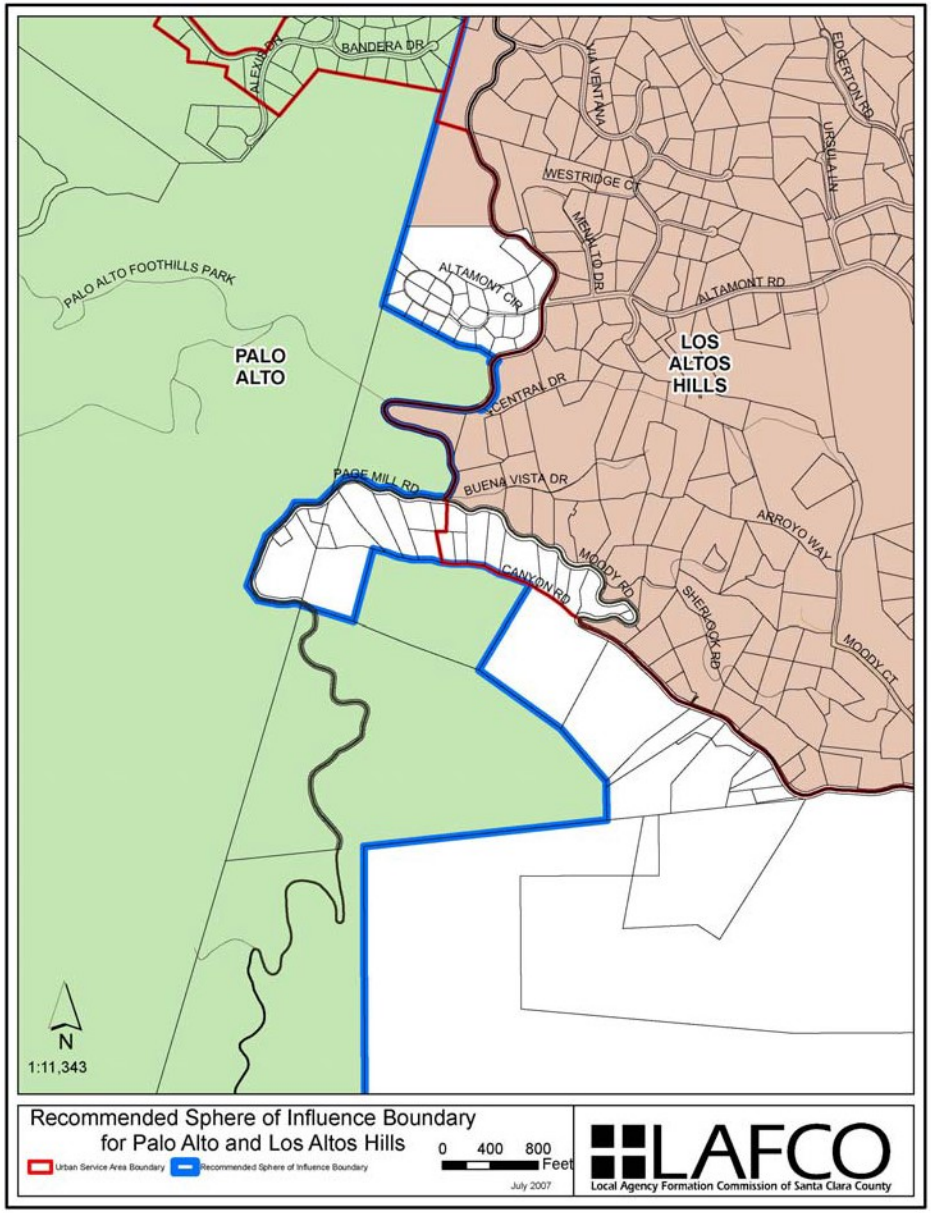
- Los Altos Hills: has several pocket areas that are less than 150 acres.
- Los Gatos: has several unincorporated pockets.
- Monte Sereno: has three unincorporated pockets.
- Mountain View: has several unincorporated pockets. In September 2006, the City annexed three unincorporated pockets. There are two other properties that have been identified by the City as significant and expected to be annexed when development plans are approved.

- Palo Alto: has no unincorporated pockets.
- Saratoga: Two pockets were annexed in 2006. Of the 4 remaining pockets, two are less than 150 acres and two are more than 150 acres.
- Sunnyvale: has two unincorporated pockets. The City has stated that it anticipates annexing the parcels when they are proposed for development.

City Sphere of Influence Recommendations

Reaffirm all City SOIs, except for small changes to Los Altos Hills and Palo Alto.

- Amend Los Altos' SOI to include two small low density residential areas located adjacent to the Town's SOI and USA.
- Remove the same areas from Palo Alto's SOI.
  - Current services are provided by Los Altos Hills' service providers and access to these areas is through Los Altos Hills.


BANDERA DR
ALEXIA DR
VIA VENTANA
EDGERTON RD
URSULA LN
WESTRIDGE CT
MENALTO DR
ALTAMONT CIR
ALTAMONT RD
PALO ALTO FOOTHILLS PARK
PALO ALTO
LOS ALTOS HILLS
CENTRAL DR
PAGE MILL RD
BUENA VISTA DR
ARROYO WAY
MOODY RD
CANYON RD
SHERLOCK RD
MOODY CT
N
1:11,343
Recommended Sphere of Influence Boundary for Palo Alto and Los Altos Hills
Urban Service Area Boundary
Recommended Sphere of Influence Boundary
0 400 800 Feet
July 2007
LAFCO
Local Agency Formation Commission of Santa Clara County

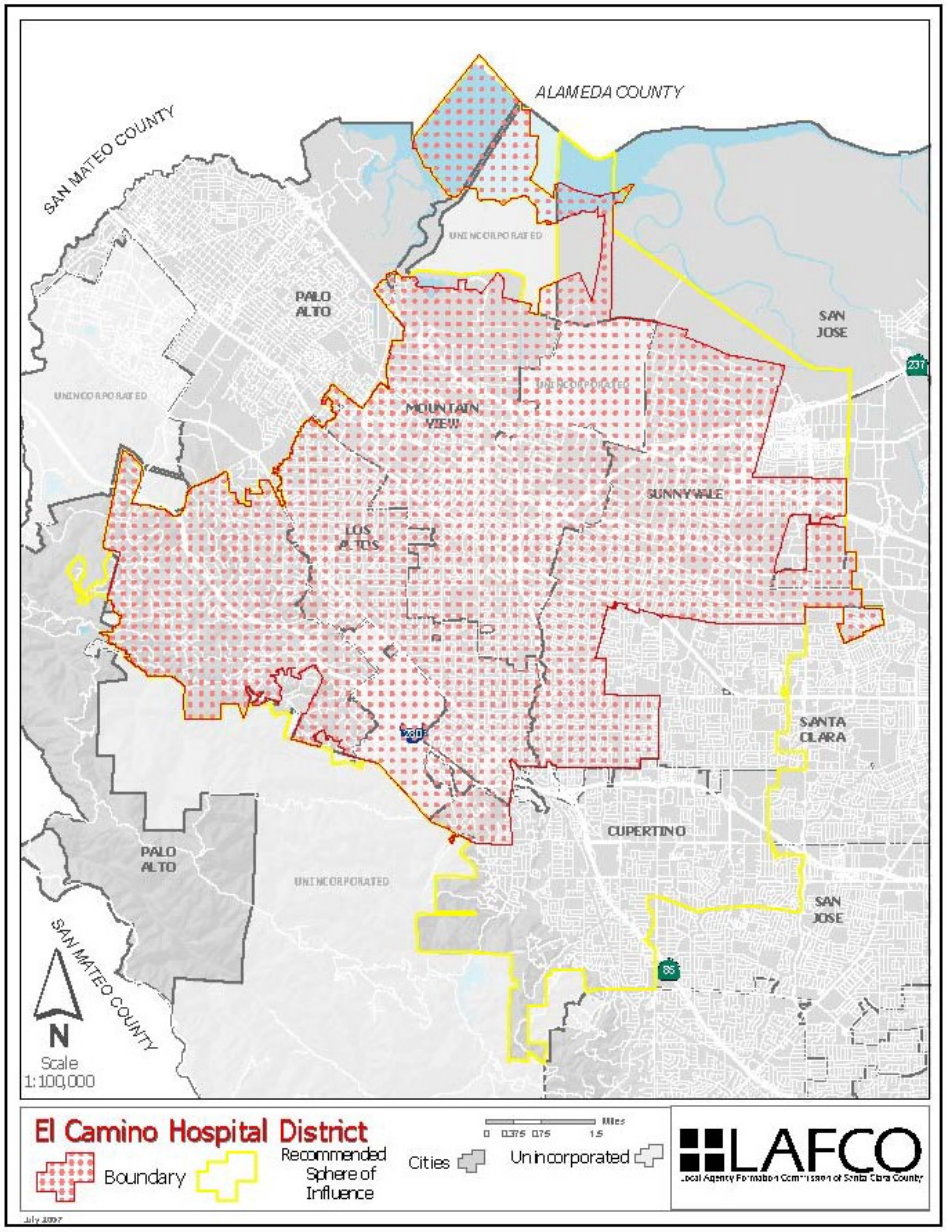
Key District Issues Identified

- The El Camino Hospital District provides services to residents of Sunnyvale and Cupertino. Expansion of the District's boundaries to include these Cities has been identified as a government structure option.
- The Rancho Rinconada Rec and Park District is within the City of Cupertino, which also provides pools and recreation programs. Hence, an overlapping of service provision exists. Dissolution of the District and consolidation with the Cupertino Parks and Recreation Department has been identified as a government structure option.

District Sphere of Influence Recommendations

Reaffirm all District SOIs, except for:

- El Camino Hospital District
  - It is recommended that LAFCO expand the District's SOI to include the entire Cities of Sunnyvale and Cupertino and be coterminous with the Cities' boundaries.


ALAMEDA COUNTY
SAN MATEO COUNTY
PALO ALTO
UNINCORPORATED
SAN JOSE
MOUNTAIN VIEW
SUNNYVALE
LOS ALTOS
SANTA CLARA
CUPERTINO
PALO ALTO
UNINCORPORATED
SAN JOSE
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N
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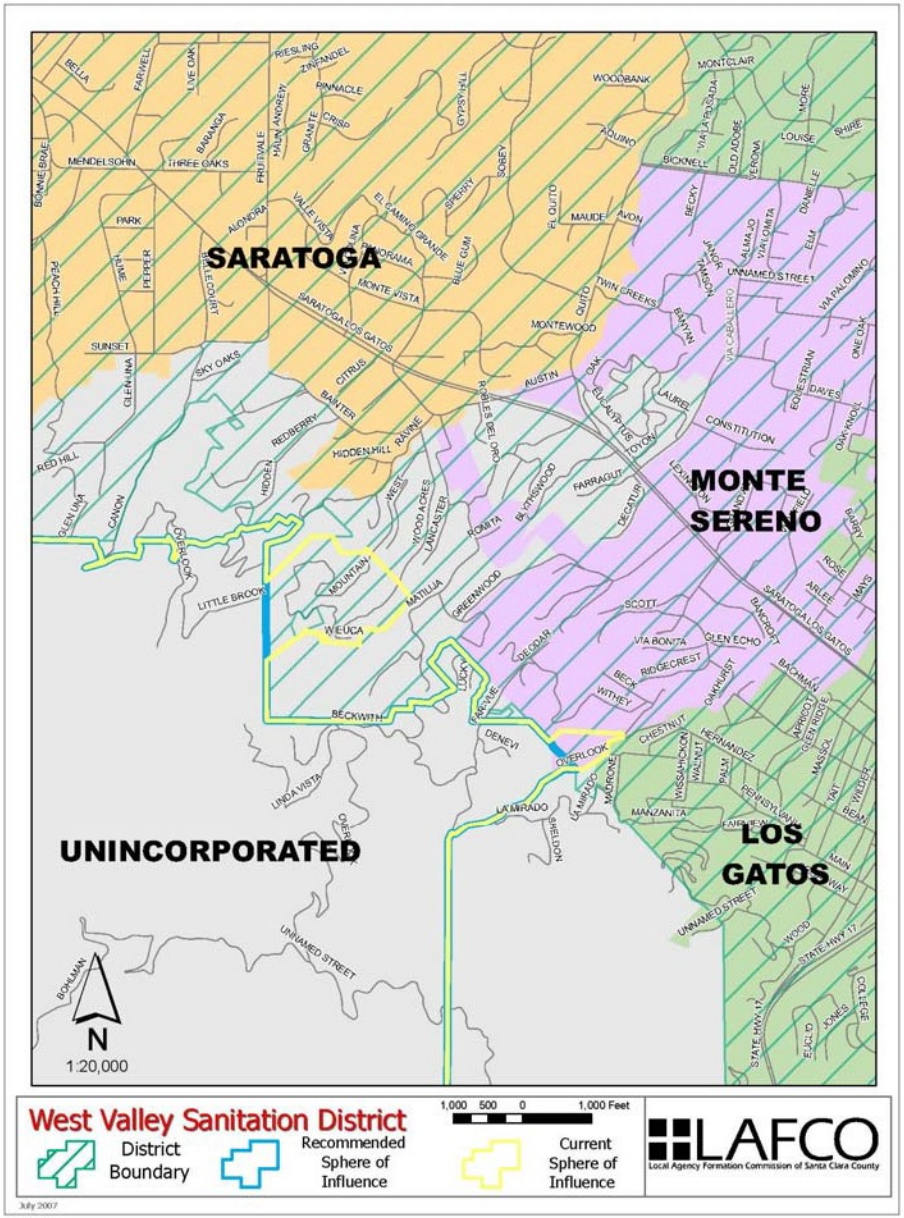
El Camino Hospital District
Boundary
Recommended Sphere of Influence
Cities
Unincorporated
Miles
0 0.375 0.75 1.5
LAFCO
Local Agency Formation Commission of Santa Clara County
July 2007

District Sphere of Influence Recommendations (cont'd)

- West Valley Sanitation District
  - It is recommended that the SOI be expanded to include the two small areas that the District is currently serving.


SARATOGA
MONTE SERENO
LOS GATOS
UNINCORPORATED
N
1:20,000
West Valley Sanitation District
District Boundary
Recommended Sphere of Influence
Current Sphere of Influence
1,000 500 0 1,000 Feet
LAFCO
Local Agency Formation Commission of Santa Clara County
July 2007

LETTER FROM THE PUBLIC

SW's Comments/Suggested Changes to: LSA ASSOCIATES, INC. SERVICE REVIEW JULY 2007
LOCAL AGENCY FORMATION COMMISSION OF SANTA CLARA COUNTY

18.0 RANCHO RINCONADA RECREATION AND PARK DISTRICT

18.0 RANCHO RINCONADA RECREATION AND PARK DISTRICT

Rancho Rinconada Recreation and Park District (District) is a California Special District that was organized in 1955 and reorganized in 1958 in conformity with Government Code Section 25842.5. The District currently provides the following Recreational and Community services: public swimming, swim lessons, a youth swim team, facilities for public community and private events, picnic and barbeque rentals, supervised children's recreational crafts, movie and game activities, and Election polling. User fees are charged for private events and swimming (which includes a non-profit snack bar), but not charged for Community events.

The District was annexed to Cupertino in 1999 along with adjacent previously unincorporated residential neighborhoods. The District's Property Tax Assessmant District includes the former Rancho Rinconada and Barrington Bridge Housing Tracts, is generally bounded on the north by Loree Avenue, Arata Way, Stevens Creek Boulevard and Barnhart Avenue, its southern boundary is primarily Bollinger Road, Lawrence Expressway forms the eastern boundary, and is generally bounded on the west by Tantau and Stern Avenues. The District serves residents of Cupertino, San Jose, Santa Clara, Sunnyvale, Campbell, Saratoga, Los Gatos, Los Altos and Los Altos Hills; however users living within the District's Property Tax Assessmant District are charged slightly lower user fees, as their taxes support the District.

Comment : The District understands the 50+ year evolution of its recreational offerings, and wide differences between its fixed tax base and its constantly varying user community can be confusing, and they continue evolving. The District has always maintained its neighborhood identity, focus and governance, serving as the community meeting and recreation facility and polling place for Rancho Rinconada residents, while always equally serving any and all users without regard to their residence. Please note that describing the District's Property Tax Assessment District is somewhat imprecise because residences on both sides of some boundary streets are assessed while residences on only one side of other boundary streets are assessed, and some street names have changed since the district was created.

18.1 GOVERNANCE

The District is governed by a five-member elected Board of Directors. Directors are either elected by District residents for four year term, appointed by the Board to fill any vacancy between elections, or may be re-appointed by the Santa Clara County Board of Supervisors if no one files a declaration of candidacy for any expiring term. Currently, all five Board seats are occupied by continuing Board members re-appointed by the County Board of Supervisors. Most recently three Directors were re-appointmened in December of 2006, the other two are expected to serve until their current terms expire in November 2008.

The Board of Directors meets the first Tuesday of each month at 7:15 p.m. at the District facility. Agendas are usually posted at least 3 weeks prior to a meeting on the District's bulletin board outside its main
entrance. The first item of business for every meeting agenda is public input, to ensure community concerns are always promptly handled. Besides posting its agendas and all meeting minutes, the District produces a monthly flyer and calendar of events that is posted online and on the main office's outside bulletin board.

The District has no full time employees. The District currently employs approximately 35 part-time employees in summer and 12 year-round, supervised by the District Manager, a part-time employee.

Comment: All Board members are elected officials; elections and vacancies are infrequest, most Directors are appointed after soliciting and interviewing all interested District residents. Usually about once a year a board meeting is held on the 2nd or 3rd Tuesday of the month, usually because a holiday conflict.s and a quorum is not possible. The District always exceeds the Brown Act's 72 hour minimum for meeting notification. Additional "Special" board meetings are very rare: only agenda Item(s) posted 72 Hrs in advance may be discussed. The first item on every agenda is public input to encourage and ensure any and all public issues are presented and handled as promptly as possible.
Most District employees work for the district multiple years and live nearby. Both employee and board continuity foster community involvement, volunteering and 'ownership'.

18.2 FINANCE
The following table presents the District's revenues and expenses for fiscal years (FY) 2004 and 2005, as shown in the District's audited financial statements. Approximately two thirds of the District's revenue is funded through property tax assessments collected by the County of Santa Clara. Most of the remaining revenue is generated from user fees for services. As shown, revenues have exceeded expenses for these two fiscal years.

Comment: Page 2: RRR&PD Tax Assesment District Map -- is mostly correct, excepting some commercial parcels on Stern Avenue

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Table 18.A: Revenues and Expenses for FY 2004 and 2005

	2005	2004
General Revenue		
Property Taxes	$199,259	$197,053
Interest Income	$2,879	$1,447
Miscellaneous	$109,700	$98,321
Grants	$270,000	$0
Total Revenue	$581,838	$296,821
Expenses		
Payroll	$164,973	$146,583
Payroll Taxes	$12,509	$11,153
Operating Expenses	$101,107	$91,825
Depreciation	$17,552	$16,164
Total Expenses	$296,141	$265,725
Changes in net assets	$285,697	$31,096

Source: Rancho Rinconada Recreation and Park District Audited Financial Statements, June 30, 2005.

Total revenue in 2005 increased by $285,017, and total expenses increased by $32,545. The majority of this increase in revenue was from receipt of two grants totaling $270,000 from the California State Parks and Recreation Department: some was used to replenish the District's capital reserve expended to replace the district's 1950's pool with a 30% larger replacement, new pool decking and equipment in Spring 2005, a one time expenditure of over $600,000 mostly funded by slightly raised user fees over several prior years to generate budget surpluses. The remainder of the grants covered the final payment for pool construction and code upgrades required, including an additional Disabled Parking space required.

The Directors generated surplus revenues over ten years from minor increases in fees to save up for the pool replacement. Expecting a larger pool may cost more to operate, these minor increases will remain until the District has several years data to decide whether adjust fees up or down. Although total expenses increased by $32,545, or 12.2 percent, this initially appears due to increases in total salaries plus new pool start-up and operation expenses, and natural gas prices, but more time will tell.

The District reviews fees for services at least yearly during the budget process. Fee adjustments are based on several previous years' expenditures, income and usage patterns to forecast the next year's

projected expenditures. The District often raise fees when its budget forecasts increasing costs. The District's aim has historically been to keep its public swim fees as low as possible, so swimming is affordable for county residents on fixed and/or limited incomes.

All district recreation programs and facilities are open to anyone, including those living outside the District's Tax Assessment District, who pay slightly higher fees than Residents of the Assessment District. Fee differences vary from $0.50 to $25 per use fee, depending on the service provided.

Investments
The District participates in the County investment pool, which is subject to State legal restrictions and additional restrictions prescribed by the County.

Reserves
The District has established a reserve fund. The District's policy is to maintain a minimum reserve level equivalent to 30 percent of the current annual operating budget. The District's reserve balance as of February 2007 was $174,194.

Comments: The District experienced a large surplus the year the District received two state bond fund grants. The grants were used to re-fund its reserves after funding a very large (more than twice the annual budget) one time capital expenditure for a new pool. The Disrtict's reserve levels are consistent with sound fiscal planning and have proven adequate for its needs, even during two recent years when the State appropriated 10% of district tax revenues, allowing the district to continue providing its recreation services at normal levels and fees.

18.3 INFRASTRUCTURE
The District is one two-acre parcel with parking lot, a main structure and swimming pool at 18000 Chelmsford Drive, North of Bollinger Road and West of Saratoga Creek, annexed to the Cupertino in 1999 with adjacent Rancho Rinconada and Barrington Bridge Housing areas, after a vote of area homeowners.

Most District facilities are contained in a one story building with enclosed entryway, a general meeting hall on its North side with a snack bar room opening to the swimming area to the East, and an open kitchen in the Northwest corner. The South side houses Mens and Womens restrooms, each with two sinks, three toilets and four showers plus dressing areas, plus the District office, lifeguard, pool equipment, mechanical and storage rooms. The 120,000 gallon swimming pool includes a 25-yard, five lane lap/meet area, and a slightly smaller shallow area designed for children's swimming instruction and play, with concrete pool decking and adjacent lawn areas. The District includes 26 parking spaces (two H/C), a fenced picnic/BBQ area, fenced child play area, basketball hoop/half court and lawn areas.

After replacing the swimming pool and equipment in 2005, the District's infrastructure meets all current codes and routinely passes all Health, Safety, Fire and building inspections. The district anticipates re-roofing within ten years, and is evaluating upgrading and expanding its child play area and equipment, along with revisions/upgrades to parking flow, fencing/other changes to improve safety and recreation.

The District identifies and utilizes cost-savings opportunities, including grant funding and the use of volunteers over its history. The District encourages community organizations such as scouting, sports teams, neighborhood and homeowners groups, the City of Cupertino and others to use its facilities at cost or no cost, usually to hold meetings, a polling place for every election since opening. Red Cross Lifeguard, First Aid, CPR training classes also use District facilities, including the pool, at no cost.

18.4 SERVICE REVIEW DETERMINATIONS FOR RANCHO RINCONADA RECREATION AND PARK DISTRICT
The service review guidelines prepared by the State Office of Planning and Research recommend that issues relevant to the jurisdiction be addressed through written determinations called for in the

Cortese-Knox-Hertzberg Local Government Reorganization Act of 1985 (CKH Act). Based on the above information, following are the written determinations for the District.

Infrastructure Needs and Deficiencies

1. There are currently no major infrastructure deficiencies. The District has stated it anticipates re-roofing its main building within the next ten years, and is evaluating upgrading/expanding its child play area and equipment, along with revisions/upgrades to parking and fencing/other changes to improve safety and recreation. The District has identified reserves for all future planned improvements.

2. The District's infrastructure meets or exceeds all applicable current code requirements for public facilities and routinely passes all Health, Safety, Fire and building inspections. All upgrades required to meet the latest applicable ADA requirements were completed as part of replacing its 1950's swimming pool and related equipment in 2005. The rest of the District's infrastructure was 100% replaced and rebuilt in 1991, and the bathrooms were remodeled in 1993. No infrastructure requires upgrading currently.

Comments: Any onsite visit will show the District maintains and upgrades its infrastucture in order to continue providing its recreational services in safe and clean facilities.. Because the 2005 pool remodeling exceeded $300,000, inspectors required several ADA and Safety upgrades, including adding a closer H/C parking space, which were completed.There were some bathroom and plumbing changes /upgrades identified after the 1991 infrastructure replacemsnt, all were corrected as part of the 1993 bathroom remodeling.

Growth and Population

1. The District's Residential Tax District includes specific Rancho Rinconada Housing Tracts built in the 1950s, to which the Barrington Bridge Housing Tract was added in 1990. Although no additional vacant parcels in the Tax District exist to be developed, constant replacement of existing older, smaller homes slowly increases home sizes, tax revenues and population density in residential areas served by the District.

The total area served by the District has never been limited to its Tax District boundaries or its residents. The District serves primarily residents of Cupertino, plus San Jose, Santa Clara, Sunnyvale, Campbell, Saratoga, Los Gatos, Los Altos and Los Altos Hills, and other areas. Although users living in the District's Tax District are charged lower fees because their taxes support the District operations, the majority of current users of District services may reside outside the District's Tax Area. As an example, only 29 of 306 Summer 2007 Swimming Lesson students reside within the District's Tax Assessment Base.

Comments: Surrounding neighborhood homes continue to grow: the $600-800K 1950s Rancho Rincoanada homes of 800-1200 sq ft, especially are being replaced by 2500-3500+ Sq ft homes. Larger replacement homes often house at least one more generation than the old dwellings accomodated, also, mainly families replace most ageing original owners. Nearby nieghborhoods areas are 100% built, but their populations continue to grow, due to these demographic changes, perhaps slowly but steadily.

Financing Constraints and Opportunities

1. The District has made its revenues exceed expenditures for several years to fund a $600,000+ pool replacement in 2005, and then to restore an adequate reserve fund balance and for expected operational cost increases. No financing constraints have been identified. The District's outside independent auditors consistently issue unqualified audits.

Cost-Avoidance Opportunities

1. The District continues to identify and practice cost-savings opportunities, which include grant funding, operating with only part time employees, mainly contracting facility maintenance, continuing volunteer help from community residents, including professionals.

Especially during the leanest years of the District's funding, recreation operations and maintenance were

largely accomplished by volunteer efforts of neighborhood residents. Continuing this District's 51 year history of neighborhood community involvement and ownership, neighborhood volunteers continue donating their increasingly professional skills and time to the District.

Comments: Board members, employees and volunteers mostly live in surrounding neighborhood homes.The Rancho Rinconada community's long time neighborhood 'ownership' of the District is why nearby residents have always volunteered their time, energy and skills to the district. Any transfer of Distrct management, operation and 'ownership' to the geographically much larger City of Cupertino will result in added costs to the District to replace the many volunteer hours 'lost' from loss of neighborhood 'ownership.'
Vandalism and 'tagging' also appear to occur less often to District property than other nearby public property, which would save cleanuo costs, but this s harder to quantify or prove.

Opportunities for Rate Restructuring
1. User service rates are reviewed at least annually along with preparation of the budget. The District increased rates slightly for several years to accumulate funding for a planned pool replacement. User fees mainly increase when operating costs increase, rarely for parity with other providers. The District has chosen historically not to raise rates whenever possible, especially seeking to keep recreational swimming affordable for county residents on fixed and/or limited incomes.

Opportunities for Shared Facilities
1. Opportunities for shared facilities, equipment, or staff may occur if the District were consolidated with the City of Cupertino.
However it is not clear any cost savings would result from consolidation.

Facility Operating costs should not change, providing the same services at the same levels currently provided, whether of not the District is consolidated with the City of Cupertino. The same staffing levels should be required to provide the same levels and types of services for the same number of users; Labor types, skills and training currently required should not change: the District and City have always and will continue hiring from the same labor pools, have always and should continue paying equally for equal positions. The City would probably utilize similar part-time facility management, maintenance and supervision as the District currently does, and also need to provide or pay comparable contract services as the District for accounting, payroll, maintenance and other services. Supplies and resources consumed, including water, gas, electricity, other utilities and equipment required should not differ, providing the same recreational services for the same number of users.

Previously the District has provided its facilities at no charge to the City for community development meetings, most recently for community design meetings for a new park nearby, similar to other community gatherings in the past, also at no charge. The City and District cooperate, and should continue to.

Comments: No detailed cost analyses and comparisons of consoldidated City operation and provision of current District recreational offerings, versus continued District operation has been done, but should be a minimum prerequisite to any consideration of consolidation, to determine if any change to current District operation would result in any cost savings .
The City and Disrtict managemant and government all appear to understand and generally agree Rancho Rinconada area residents' long standing neighborhood 'ownership' and continued involvement in governing and operating the Recreation District are worthwhile and important Neighborhood Community assets worth keeping and should not be lost by transfer of Distrct governance and operation to the City of Cupertino, unless such transfer would provide more and better service to current and future users at significant enough lower cost to convince a majority of the affected neighborhoods they would be compensated for any loss of neighborhood contol and 'ownership'..

Government Structure Options
1. The Recreation and Park District, created in 1956, was annexed within Cupertino in 1999 with adjacent residential areas. Both the City and District provide aquatic and other recreation programs for

City and other area residents. Hence, some overlapping of service provision exists. The following two government structure options have been identified.

A. Dissolution of the District and consolidation with the City of Cupertino Parks and Recreation Department: The services being provided by the District would be provided by the City's Parks and Recreation Department.

Advantages: The existing overlap of service provision by two different agencies would be eliminated; however, services would continue to be provided. The services currently being provided by the District would be provided by the City. Property tax funds used to partially fund the District could be redistributed to other agencies, including the City. The cost of operating a separate public agency to provide services would be eliminated.

Disadvantages: A specific share of the property tax funds would not be specifically allocated to the recreational facility located on Chelmsford Drive. Residents of the areas adjacent to the recreational facility would no longer be governing the use of the facility and the services being offered at the facility; some sense of neignborhood community ownership would be lost. The cost of operating a separate public agency to provide services would be eliminated, which could be less costly than consolidating with the city while providing the same level of services.

B. No change to the existing government structure: The District would continue to operate one recreational facility within the City of Cupertino and continue providing a variety of recreational and community services, and continue to receive a share of the property taxes to partially fund its services.

Advantages: Elected residents of the areas adjacent to the recreational facility would continue to govern the district, evaluating its utilization and plan the services provided now and in the future. Continued specific allocation of property tax funds provided to the District would help ensure services and service levels currently being provided by the District would receive funding; the level and/or types of services could increase: as district tax revenues have increased over time, district services have grwon.

Disadvantages: Any overlap of service(s) provided by two different agencies could remain. Property tax funds used to fund the District would not be redistributed. The cost of a separate public agency to govern and operate one neighborhood recreational facility and provide its associated services would continue, but whether District costs would be more or less than the City providing the same levels of services is unknown.

Evaluation of Management Efficiencies
1. Without more study, it is unknown if the overall management of services provided would be more or less efficient if the District were consolidated with the City of Cupertino and the District were dissolved. Because of continuing levels of community volunteer efforts in management of services, management of services may cost less to provide under continued District management than under City management.

Local Accountability and Governance
1. The District has an elected Board of five Directors, historically, most directors serve multiple four year terms and reside within the District's neighborhood. The Board of Directors meets the first Tuesday of each month at 7:15 p.m. at the District facility. Most agendas are posted at least 3 weeks prior to any meeting on the District's bulletin board outside its main office. The first item of business for every meeting agenda is public input, to ensure community inputs are always promptly heard and handled.

18.5 SOI RECOMMENDATION FOR RANCHO RINCONADA RECREATION AND PARK DISTRICT

Current SOI Boundary
The Rancho Rinconada Recreation and Park District encompasses the Rinconada Housing Tract and the Barrington Bridge Housing that are within the City of Cupertino and within Cupertino's urban service area (USA). LAFCO adopted the existing zero SOI for the District in 1982 to recognize that the area

should ultimately be served by the City of Cupertino rather than the District.

Response/Comment: Perhaps LAFCO in 1982 incorrectly determined and adopted a zero SOI for the District. Not having been involved when that determination was made from perhaps incorrect or insufficient data in 1982,today it appears in 1982 LAFCO somehow assumed or concluded the District's SOI boundaries were the same as its Tax Assesssment District Boundaries.

The District believes this was an incorrect assumption or conclusion in 1982 and continues to be incorrect today, IF SOI is meant to designate the areas of residents primarily served by a government entity, in this case the District. The customary service area of the District has never been limited solely to its Tax Assessment District boundaries or only those residents.

The District currently serves residents of Cupertino, San Jose, Santa Clara, Sunnyvale, Campbell, Saratoga, Los Gatos, Los Altos and Los Altos Hills, and residents of other areas. Those involved with daily District operations, including Volunteers, Board Members and Employees know although users living in the District's Tax District are charged lower fees because a portion of their property taxes support District operations, perhaps a majority of current users of the District's services reside outside the District's Tax Assessment Area. That only 29 of the 306 Summer 2007 students receiving Swimming Instruction reside within the District's Tax Assessment Base is not unusual. Those involved with District operations even before 1982 know that many District users have always lived outside the District's Tax Assessment Area, perhaps a majority were, but useful District data records and data become less complete the further back one looks.

Based more on the most current (unaudited) user population distribution of District's users served, the District thiks its Sphere of Influence should reflect the majority of its user base, and extend beyond the City of Cupertino borders. Therefore the District requests the 1982 LAFCO SOI determination be updated and revised accordingly to reflect the true extent of the District's impact on the surrounding communities.

18.6 SOI BOUNDARY RECOMMENDATION

As LAFCO and County policies regarding service provision have remained the same since adoption of the existing SOI, it is recommended that LAFCO reaffirm the existing zero SOI for the District.

Response/Comment:

Again, the District believes LAFCO in 1982 incorrectly adopted a zero SOI for the District when LAFCO concluded the District's SOI boundaries were the same as its Tax Assesssment District Boundaries. For the reasons cited above in the response to 18.5, based on a more current population distribution of District's users served, the District believes its actual Sphere of Influence should reflect the majority of its user base and extend beyond the City of Cupertino borders. The District recommends and requests the 1982 LAFCO SOI determination be updated and revised to closer reflect the extent of the District's impact on surrounding communities.

18.7 SOI DETERMINATIONS FOR RANCHO RINCONADA RECREATION AND PARK DISTRICT

As detailed in Section 1.1, Government Code Section 56425 requires written determinations with respect to the following four factors to update an agency's SOI. Based on the information above, the following determinations are provided to update the District's existing SOI.

1. The Present and Planned Land Uses in the Area, including Agricultural and Open-Space Lands

Finding: The District is surrounded by fully developed housing tracts. There are no agricultural areas and any open space lands within the District's SOI are being developed into parks by other entities. As the area is nearly fully developed except for parcels being developed as parks, planned land uses in the area are consistent with the existing uses.

Comments: These minor wording changes are consistent with the proposed corrections to the District's SOI.

2. Present and Probable Need for Public Facilities and Services in the Area

The District was formed and its facilities were originally built and later re-built to better serve primarily surrounding residential neighborhoods. Although surrounding areas are fully developed, residential redevelopment may require some District services to change with demographic changes.

Finding: No new development is anticipated in the District, mainly residenmtial redevelopment. Any need for changes to services provided by the District may evolve, but slowly.

3. Present Capacity of Public Facilities and Adequacy of Public Services that the Agency Provides or is Authorized to Provide Finding: The present level of services provided by the District appears to be adequate.

4. Existence of Any Social or Economic Communities of Interest in the Area if the Commission Determines that they are Relevant to the Agency
The District's traditional user population/service area extends far beyond the District's Residential Tax Base, including residents of Cupertino, San Jose, Santa Clara, Sunnyvale, Campbell, Saratoga, Los Gatos, Los Altos and Los Altos Hills, and other areas. Although the District has been governed by Rancho Rinconada residents since its beginning, and Rancho Rinconada and the district were annexed to Cupertino in 1999, the District currently serves many users residing outside Rancho Rinconada.

Finding: Although the District is now within the City of Cupertino, it's social and economic impacts on its users and employees, include many from San Jose, Santa Clara, Sunnyvale, Campbell, Saratoga, Los Gatos, Los Altos and Los Altos Hills, and other areas.

FEE AGREEMENT FOR THE
SAN MARTIN INCORPORATION PROPOSAL

This fee agreement is entered into this ___ day of June, 2007, by and between the Proponents of the San Martin Incorporation Proposal (Proponents) and the Local Agency Formation Commission of Santa Clara County (LAFCO).

RECITALS

WHEREAS, the Proponents have submitted a petition and an application to LAFCO for the incorporation of San Martin; and

WHEREAS, the LAFCO Fee Schedule effective June 1, 2006 requires an initial deposit of $9,986 for an incorporation plus the payment of State Board of Equalization fees plus payment for actual costs of processing the incorporation; and

WHEREAS, LAFCO on May 30, 2007 directed staff to enter into a fee agreement with the Proponents to establish a specific timeline for payment of fees, with Proponents to pay consultants in advance of each task to be performed by consultant and allowing the payment of staff costs to be delayed until further in the incorporation process; and

WHEREAS, the Proponents understand and agree that the Proponents noncompliance with terms and conditions of this agreement may result in suspension of the work on the incorporation proposal by LAFCO and by the consultants;

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the Parties agree as follows:

1. Incorporation. The above Recitals are hereby incorporated herein and made a part hereof.

2. Definition of Proponents. The term "Proponent" means the San Martin Neighborhood Alliance (SMNA). The SMNA filed the notice of intent to circulate the petition and as defined in Government Code Section 56068 are the Proponents for this application.

3. Term. This Agreement is effective upon execution by both Parties. It shall remain in effect until all LAFCO duties and obligations in regard to the application are complete and all fees owed to LAFCO are paid in full.

4. Payment of Fees in General. The proponents are responsible for all costs and expenses of processing and reviewing the proposal for the incorporation of San Martin beginning with the filing of the notice of intent. Costs include staff and legal counsel time, consultant charges, State Board of Equalization (SBE) fees, costs of preparation of the final map and legal description, and the expenses of noticing and other costs incurred in

processing the incorporation. The costs and expenses are payable regardless of whether the application is withdrawn, denied or otherwise terminated prior to completion.

5. LAFCO Staff Costs. LAFCO staff costs include work by the Executive Officer, Analyst, Clerk and Legal Counsel. Additional consultants may also be hired to assist staff. LAFCO staff costs do not include staff/consultant time spent in developing the general policies for processing incorporations. LAFCO staff costs also do not include staff/consultant time spent preparing for and conducting the May 17, 2007 incorporation workshop held in San Martin, and the May 30, 2007 workshop held at the LAFCO meeting.

a. Deposit towards Staff Time. Proponents have made an initial deposit to LAFCO of $9,986 toward LAFCO staff time. This deposit will be held by LAFCO and applied towards LAFCO staff costs.

b. Estimate of Staff Costs. LAFCO estimates that staff costs will be approximately $100,000.00. This is an estimate only, and Proponents are responsible for the entire cost of staff time and all expenses incurred in the event it exceeds this amount. LAFCO will provide monthly accountings of LAFCO staff costs and related expenses.

c. Payment for Staff Costs. LAFCO will provide a first invoice to Proponents for staff costs and expenses 30 days prior to the date set for the first public hearing. LAFCO must receive payment in full on the invoice prior to the public hearing. Subsequent invoices for staff costs and expenses will be sent to Proponents on a monthly basis and must be paid in full 30 days from the date of the invoice. Non-receipt of any payment due on a timely basis will result in suspension of the process. All invoices must be paid in full prior to the recordation of the Certificate of Completion.

6. LAFCO Consultants' Costs. LAFCO will hire consultants for the preparation of the Comprehensive Fiscal Analysis and for CEQA analysis/preparation of the necessary CEQA documents. The contract for each consultant will divide the consultant's total costs into costs for each task. Prior to commencement of each task, the Proponents must make a deposit to LAFCO in the amount of the estimated cost for that task. LAFCO will not authorize the consultant to commence work on the task until the funds are received. At the end of each task a final accounting will be done and an invoice issued by LAFCO. Any amounts due must be paid within 30 days of the date of the invoice. Any refunds will be applied to the subsequent task or refunded at the end of the consultant's contract.

7. No Liability. LAFCO will not incur any liability whatsoever for suspension of processing or acting on the application for the incorporation of San Martin, or for suspension of the consultants' work, due to the late or nonpayment of fees by Proponents.

8. Notices. All notices and invoices hereunder shall be in writing and shall be given by hand delivery, sent by electronic mail or sent by first class US mail to the Parties at the following addresses, or at such other address as the Parties may designate by written notice.

Proponents: San Martin Neighborhood Alliance
PO Box 886
San Martin, CA 95046
Email: sylviaLRS@hotmail.com

LAFCO: LAFCO Executive Officer
LAFCO of Santa Clara County
70 West Hedding Street, 11th Floor East Wing
San Jose, CA 95110
Email: Neelima.palacherla@ceo.sccgov.org

The communications may also be given by facsimile transmission, provided the communications is concurrently given by one of the methods above. Notices shall be deemed effective upon receipt, or upon attempted delivery thereof if delivery is refused by the intended recipient or if delivery is impossible because the intended recipient has failed to provide a reasonable means for accomplishing delivery.

9. Miscellaneous. This agreement may be modified or amended only by a writing duly executed by both Parties. This Agreement shall be construed according to and governed by the laws of the State of California. If any part of this Agreement is for any reason found to be unenforceable, all other parts nevertheless remain enforceable. Proponents agree that LAFCO's waiver of any breach or violation of any provision of this Agreement shall not be deemed to be a waiver of any other provision or a waiver of any subsequent breach or violation of the same or any other provision.

IN WITNESS WHEREOF, the Parties have entered into this Agreement by the authorized representatives of the Parties as of the dates shown below.

LAFCO

Blanca Alvarado
Chair, LAFCO of Santa Clara County

Date:

PROPONENTS

7-11-07

By:
Title: Sylvia Hamilton
SMNA President

Date: 7/25/07

ATTEST:

Emmanuel Abello, LAFCO Clerk

APPROVED AS TO FORM AND LEGALITY

Kathy Kretchmer, LAFCO Counsel 6-5-07

LAFCO
Local Agency Formation Commission of Santa Clara County

ITEM NO. 5.2

LAFCO Meeting: **August 1, 2007**

TO: LAFCO

FROM: Neelima Palacherla, Executive Officer
Dunia Noel, Analyst

SUBJECT: **Update on Comprehensive Fiscal Analysis for the Proposed San Martin Incorporation**

Agenda Item # 5.2

For Information Only

In late May, LAFCO selected Economic Planning Systems (EPS) to prepare the Comprehensive Fiscal Analysis (CFA) for the Proposed San Martin Incorporation. The cost is not to exceed $88,810 unless there are delays in the timeline. Richard Berkson of EPS is the Project Manager for the CFA. LAFCO staff, Mr. Berkson, and the proponents met in mid-June in order to review the CFA process and timeline, to discuss and select comparable cities, and to discuss alternative boundaries for the proposed incorporation.

In late June, LAFCO staff and Mr. Berkson held a meeting on the Comprehensive Fiscal Analysis for representatives from affected agencies, and departments. At the meeting LAFCO staff and the consultant provided an overview of incorporation process and timeline, and an overview of the CFA Process, discussed the upcoming CFA data requests and also alternative boundaries for the proposed incorporation. The meeting was well attended by County staff and participants had an opportunity to have their questions answered by LAFCO staff and the consultant. Following this larger meeting, representatives from the key County departments (i.e. Controllers, Sheriff, Planning, Roads, and others interested) then met to discuss the specific data request and some departments arranged to have a follow-up meeting with the consultant concerning specific questions.

The CFA data requests were sent to the following departments and agencies in late June:

COUNTY

- Agriculture & Environmental Management (Animal Control, Waste & Environmental Management)
- Office Of The Assessor
- Budget And Analysis Office (Revenues)
- Clerk-Recorder (Transfer Tax)
- Controller-Treasurer (Auditor's Ratio, Cap, TAF'S)
- County Planning & Development (Development Services)
- Planning & Development - Development Services (Planning, Bldg. Inspection, Code Enforcement, NPDES)
- County Library
- County Roads And Airports Department

- Registrar Of Voters
- Sheriff
- Parks And Recreation

OTHER AGENCIES

- California Highway Patrol
- Santa Clara County Open Space Authority
- Lions Gate Community Services District
- Loma Prieta Resource Conservation District
- South Santa Clara County Fire District

Data requests are due to LAFCO staff and the consultant on July 26th. The consultant will review the data and request additional data if necessary. The consultant will then prepare an Administrative Draft CFA by late October for LAFCO staff to review. LAFCO staff will review the Administrative Draft and may request that the County review selected sections. EPS will revise the Draft in response to comments received from LAFCO. It is expected that Public Review Draft will be released in late November and EPS will respond to any comments received. Revenue Neutrality negotiations between the County, the proponents and any other affected agencies will occur from December 2007 through February 2008. LAFCO may hold a workshop on the Public Review Draft prior to the release of the Draft. This workshop could occur in February 2008. In March 2008, the Public Hearing Report would be produced and then released for public review and comment in late March or early April of 2008 with LAFCO Public Hearings occurring in May and June of 2008.

The project is on schedule and LAFCO staff will continue to provide LAFCO with updates on the CFA as it progresses.

LAFCO
Local Agency Formation Commission of Santa Clara County

ITEM NO. 5.3

LAFCO Meeting: **August 1, 2007**

TO: LAFCO

FROM: Neelima Palacherla, Executive Officer
Dunia Noel, Analyst

SUBJECT: **Update on CEQA Process for Proposed San Martin Incorporation**

Agenda Item #5.3

For Information Only

In mid July, LAFCO selected Michael Brandman Associates (MBA) to prepare the CEQA Initial Study and environmental recommendation for the Proposed San Martin Incorporation. The service contract is for $20,845. The Scope of Work in based on the Initial Study supporting the preparation of a Mitigated Negative Declaration. If the Initial Study supports the preparation of an environmental impact report, the service agreement will be terminated or amended as determined by LAFCO. Mr. Stephen Jenkins of MBA is the Project Director.

LAFCO staff, Mr. Jenkins, the proponents, and County Planning staff met in mid-July in order to review the CEQA process and to finalize the project description and objectives, and to discuss alternative boundaries for the proposed incorporation and relevant LAFCO policies.

LAFCO staff and the consultant also met with County Planning staff in order to assess what types of environmental, land use, development, and planning data and information are readily available for conducting the environmental analysis. The County Planning Office has a wealth of environmental data within the Office's Geographical Information System which will greatly assist the consultant in completing the CEQA Initial Study.

LAFCO staff also recently met with representatives from some of the environmental groups (i.e. Committee for Green Foothills, Greenbelt Alliance, and the Sierra Club) in order to provide an overview of the incorporation proposal and process. Some of the general concerns expressed at the meeting were whether the incorporation would be growth inducing and result in the provision of new urban services, and whether the incorporation would negatively impact habitat, wildlife, agricultural resources, and potentially global warming. These issues will be addressed in the environmental review process.

This project is on schedule and the consultant will provide an Administrative Draft Initial Study/environmental determination to LAFCO staff in late August and then LAFCO will release the Public Draft in early September. A LAFCO Public Hearing on the Initial Study/environmental determination will be held in October in order to receive comments. Following the hearing, the consultant will prepare responses to comments for LAFCO staff's review and then will submit final responses to comments to LAFCO in mid November.

LAFCO
Local Agency Formation Commission of Santa Clara County

ITEM NO. 5.4

LAFCO Meeting Date: August 1, 2007

TO: LAFCO

FROM: Neelima Palacherla, Executive Officer
Kathy Kretchmer, LAFCO Counsel

SUBJECT: **Indemnification Agreement for San Martin Incorporation Proposal**
Agenda Item # 5.4

STAFF RECOMMENDATION

1. Accept staff report and provide staff with direction.

BACKGROUND

At the May 30th LAFCO meeting, staff proposed to require the proponents of the San Martin Incorporation proposal to defend and indemnify LAFCO from any claim which challenges LAFCO's action on the proposed incorporation or the environmental documents. The Commission continued the item to this meeting. The proponents and LAFCO staff have had several discussions on the indemnification issues since that meeting with the intent of reaching agreement on the issue.

The proponents are only willing to consider a very limited indemnification, one which excludes any action taken by LAFCO to which the proponents object and which also excludes any actions brought by the proponents against LAFCO. This limited indemnification is not practical. It will encourage the proponents to object to LAFCO actions. Furthermore, any lawsuit brought against LAFCO will likely consist of multiple claims and it is not clear how the limited indemnification would apply in such a circumstance.

Given the problems with limiting the indemnification requirements, LAFCO Counsel advises that it is better to have no indemnification agreement in place. If an action LAFCO takes regarding the incorporation is challenged, LAFCO can at that time decide how it wants to proceed. Options that LAFCO will have include deciding not to proceed with the defense of the lawsuit or offering the defense of the lawsuit to the proponents as the real party in interest.

PROPOSED INCORPORATION OF THE TOWN OF SAN MARTIN

STATEMENT OF LAFCO STAFF COSTS

Statement Period: December 2006 to May 2007

Beginning Balance	AMOUNT
CREDIT FOR DEPOSIT PAID ON FEBRUARY 7, 2007	9,968.00

Staff Time up to May 2007					
	LAFCO Staff	Hours	Hourly Rate	Cost	
	LAFCO Clerk	16.75	$ 93.00	$ 1,557.75	$ 4,087.95
	LAFCO Analyst	1.00	$ 139.00	$ 139.00	
	LAFCO Counsel	0.40	$ 183.00	$ 73.20	
	LAFCO Executive Officer	15.25	$ 152.00	$ 2,318.00	
Expenses					
	Notice of Intent Postage ($0.42 x 93)			$ 39.06	$ 78.96
	Certificate of Sufficiency Postage ($0.42 x 95)			$ 39.90	
TOTAL DUE FOR THE CURRENT STATEMENT					$ 4,166.91

BALANCE OF DEPOSIT TO DATE	$ 5,801.09

NOTE: Pursuant to the Fee Agreement for the San Martin Incorporation Proposal, the payment for LAFCO staff costs is due prior to the first LAFCO public hearing, which is expected to occur in May 2008. An invoice will be provided thirty days prior to the first hearing.

DRAFT

PROPOSED INCORPORATION OF THE TOWN OF SAN MARTIN

STATEMENT OF LAFCO STAFF COSTS

Statement Period: June 2007

Beginning Balance	AMOUNT
CREDIT FROM THE PREVIOUS STATEMENT	$ 5,801.09

Staff Time for June 2007					
	LAFCO Staff	Hours	Hourly Rate	Cost	
	LAFCO Clerk	11.25	$ 93.00	$ 1,046.25	
	LAFCO Analyst	16.00	$ 139.00	$ 2,224.00	$ 8,949.69
	LAFCO Counsel	1.20	$ 183.00	$ 219.60	
	LAFCO Executive Officer	35.92	$ 152.00	$ 5,459.84	
Expenses					
	None				
					$ -
TOTAL DUE FOR THE CURRENT STATEMENT					$ 8,949.69

BALANCE DUE TO DATE	$ 3,148.60

NOTE: Pursuant to the Fee Agreement for the San Martin Incorporation Proposal, the payment for LAFCO staff costs is due prior to the first LAFCO public hearing, which is expected to occur in May 2008. An invoice will be provided thirty days prior to the first hearing.

DRAFT

PROPOSED INCORPORATION OF THE TOWN OF SAN MARTIN

STATEMENT OF LAFCO STAFF COSTS

Statement Period: July 2007

Beginning Balance	AMOUNT
BALANCE FROM THE PREVIOUS STATEMENT	**$ 3,148.60**

Staff Time for July 2007					
	LAFCO Staff	Hours	Hourly Rate	Cost	
	LAFCO Clerk	2.25	$ 93.00	$ 209.25	$ 3,973.85
	LAFCO Analyst	1.00	$ 139.00	$ 139.00	
	LAFCO Counsel	3.20	$ 183.00	$ 585.60	
	LAFCO Executive Officer	20.00	$ 152.00	$ 3,040.00	
Expenses					
	None				$ -
TOTAL DUE FOR THE CURRENT STATEMENT					**$ 3,973.85**

BALANCE DUE TO DATE	**$ 7,122.45**

NOTE: Pursuant to the Fee Agreement for the San Martin Incorporation Proposal, the payment for LAFCO staff costs is due prior to the first LAFCO public hearing, which is expected to occur in May 2008. An invoice will be provided thirty days prior to the first hearing.

ITEM NO. 6

CLARIFICATION OF "AGRICULTURAL USE"

COMMISSIONER WILSON HAS REQUESTED
THAT THIS ITEM BE CONTINUED TO OCTOBER 3, 2007.

LAFCO
Local Agency Formation Commission of Santa Clara County

ITEM NO. 7

LAFCO Meeting Date: August 1, 2007

TO: LAFCO

FROM: Neelima Palacherla, Executive Officer

SUBJECT: **Options for LAFCO Legal Counsel.**

Agenda Item #7

STAFF RECOMMENDATION

Accept report and provide staff with direction.

DISCUSSION

At the August 2007 LAFCO meeting, the Commission approved the agreement between LAFCO and the County Counsel's Office for legal services for the fiscal year 2008. The Commission directed staff to explore other options for legal service outside of the County Counsel's Office.

Several options are available for obtaining legal services as there are firms that specialize in providing legal services to LAFCOs. A quick survey shows that nearly half of the LAFCOs across the state contract with a private firm for their legal services.

Prior to renewing the current legal services agreement, staff will present a selection process for provision of legal services to LAFCO.

70 West Hedding Street ▪ 11th Floor, East Wing ▪ San Jose, CA 95110 ▪ (408) 299-5127 ▪ (408) 295-1613 Fax ▪ www.santaclara.lafco.ca.gov

LAFCO
Local Agency Formation Commission of Santa Clara County

ITEM NO. 8

LAFCO Meeting: **August 1, 2007**

TO: LAFCO

FROM: Neelima Palacherla, Executive Officer
Dunia Noel, Analyst

SUBJECT: **LAFCO's Comments on the Coyote Valley Specific Plan Draft Environmental Impact Report**

Agenda Item # 8

For Information Only

Attached for your information is LAFCO staff's comment letter to the City of San Jose regarding the Coyote Valley Specific Plan Draft Environmental Impact Report CVSP DEIR). This letter was provided to the City of San Jose on June 29, 2007. LAFCO staff's comments are briefly summarized below:

LAFCO is a Responsible Agency for the Coyote Valley Specific Plan and LAFCO complies with CEQA by considering the EIR prepared by the City of San Jose and by reaching its own conclusion on whether and how to approve the project involved. In order for LAFCO to meet its CEQA requirement, LAFCO must have an adequate environmental document. Of primary concern to LAFCO is that the City's Environmental Impact Report is adequate for LAFCO's consideration of any future Urban Service Area amendment and annexation requests.

LAFCO staff has reviewed the CVSP DEIR and has found that the DEIR is inadequate in its discussion of the project's consistency with various relevant LAFCO Policies (i.e. Urban Service Area Policies, Island Annexation Policies, and Agricultural Mitigation Policies). It is also incomplete and inadequate in its discussion of impacts to agricultural resources and lacks consideration and analysis of associated performance standards and mitigation measures that could be used to address those impacts. Information on specific agricultural mitigation programs and approaches must be included in the EIR in order to inform the public, the City, and other public agencies, and is necessary for LAFCO's evaluation of an Urban Service Area expansion request. Furthermore, the DEIR's discussion of water supply is inadequate for LAFCO's purposes, some of the DEIR's environmental conclusions are unsupported by the information in the document, and LAFCO's USA Policies regarding water supply must be analyzed in the DEIR. Therefore the DEIR, as it is now, is not adequate for LAFCO's use as a Responsible Agency.

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COMMISSIONERS Blanca Alvarado, Don Gage, John Howe, Linda J. LeZotte, Susan Vicklund Wilson
ALTERNATE COMMISSIONERS Pete McHugh, Chuck Reed, Terry Trumbull, Roland Velasco
EXECUTIVE OFFICER Neelima Palacherla

LAFCO staff has requested that the City revise the document in order to correct these shortcomings and upon revision of the document, that LAFCO be provided adequate time to review the revised document and provide further comments if necessary.

LAFCO staff also commented to the City that the Coyote Valley Specific Plan is not consistent with the long-standing Joint Urban Growth and Development Policies adopted by the County, LAFCO, and the 15 Cities. These Policies, which have guided urban growth and development decisions in the County since 1973, favor urban infill and redevelopment over further significant expansion of the urbanized area, particularly where expansion would result in the loss of agricultural and open space resources. Given the amount of vacant and underutilized land currently within the City of San Jose and the fact that the Specific Plan Area consists almost entirely of agricultural lands, the Specific Plan is not consistent with these Joint Policies.

Under CEQA, the City is legally obligated to respond in writing to comments submitted by the close of the public comment period (i.e. 5 PM, July 29th). The response must be made at least 10 days prior to certifying an environmental impact report. According to the City, their staff and consultants are currently reviewing all comments and will assess the need for any additional technical analysis and determine what the appropriate next steps are.

ATTACHMENT

A. LAFCO's Comment Letter to the City of San Jose Re: Coyote Valley Specific Plan DEIR dated June 29, 2007

LAFCO
Local Agency Formation Commission of Santa Clara County

ITEM NO. 8
ATTACHMENT A
RECEIVED

JUN 29 2007

CITY OF SAN JOSE
DEVELOPMENT SERVICES

June 29, 2007

Darryl Boyd, Principal Planner
Department of Planning, Building, and Code Enforcement
City of San Jose
200 East Santa Clara Street, Tower, 3rd Floor
San Jose, CA 95113-1905

Re: Comments on the Coyote Valley Specific Plan DEIR

Dear Mr. Boyd:

Thank you for giving the Local Agency Formation Commission (LAFCO) of Santa Clara County the opportunity to comment on the City of San Jose's Draft Environmental Impact Report for the Coyote Valley Specific Plan (CVSP). The following comments are provided on behalf of the LAFCO in anticipation of receiving an Urban Service Area expansion request from the City of San Jose for the Coyote Valley Urban Reserve:

LAFCO IS A RESPONSIBLE AGENCY FOR THE CVSP

Page 10 of the Draft Environmental Impact Report (DEIR) identifies LAFCO as a responsible agency for approval of the Urban Service Area (USA) expansion, and annexation of the Coyote Valley Urban Reserve.

Page 9 of the DEIR indicates that the City and various responsible government agencies will use the EIR in conjunction with their role in reviewing, approving, and/or permitting various components of the CVSP. The extension of the Urban Service Area Boundary to Palm Avenue is listed as a component of the Coyote Valley Specific Plan and is a component that will require LAFCO's approval.

As a Responsible Agency, LAFCO complies with CEQA by considering the EIR prepared by the City of San Jose as Lead Agency and by reaching its own conclusion on

whether and how to approve the project involved. In order for LAFCO to meet its CEQA requirement in consideration of the proposed USA expansion and annexation, the EIR must be adequate for use by LAFCO. The DEIR is not adequate for LAFCO purposes as explained herein.

DEIR IS INADEQUATE FOR LAFCO's USE AS A RESPONSIBLE AGENCY

In general, the DEIR is incomplete and inadequate in terms of its discussion of the project's consistency with various relevant LAFCO Policies. It is also incomplete and inadequate in its discussion of impacts to agricultural resources and lacks consideration and analysis of associated performance standards and mitigation measures that could be used to address those impacts. Information on specific agricultural mitigation programs and approaches must be included in the EIR in order to inform the public, the City, and other public agencies, and is necessary for LAFCO's evaluation of an USA expansion request. Due to lack of this essential information in the current Draft, LAFCO requests that upon revision of the document, LAFCO be provided adequate time to review the Revised DEIR and to provide further comments if necessary.

CVSP IS NOT CONSISTENT WITH THE LONG-STANDING JOINT URBAN GROWTH AND DEVELOPMENT POLICIES

The Joint Urban Growth and Development Policies adopted by the County, LAFCO, and the 15 Cities favor urban infill and redevelopment over further significant expansion of the urbanized area, particularly where expansion would result in the loss of agricultural and open space resources. Since 1973, these Policies have guided the urban growth and development decisions of the County, LAFCO and the Cities within Santa Clara County. Given the amount of vacant and underutilized land currently within the City of San Jose and the fact that the CVSP Area consists almost entirely of agricultural lands, the CVSP is not consistent with these Joint Policies.

COMMENTS CONCERNING LAFCO POLICIES AND THE DEIR

LAFCO's Urban Service Area Boundary Policies Must Be Analyzed in the DEIR

The DEIR should include a detailed analysis of whether and how the project is consistent with LAFCO's Urban Service Area Amendment Policies (see Attachment A). To date, LAFCO has provided the City of San Jose with three letters (see Attachment B) requesting that the City address these specific Policies and other policies in the environmental document and yet the DEIR fails to address these Policies. The cursory

discussion of the project's consistency with LAFCO's Annexation/Reorganization Policies, beginning on page 100 of the DEIR, must be expanded to address the project's consistency with LAFCO's USA Amendment Policies which are much more relevant to LAFCO's anticipated role in the project (i.e. considering an Urban Service Area expansion). Unless and until the City analyzes the correct set of LAFCO Policies, it is inappropriate for the DEIR to state that the CVSP would be consistent with existing LAFCO policies and conclude that the impact is less than significant (page 117, Impact LU-9).

LAFCO's Island Annexation Policies Must Be Analyzed in the DEIR

In February 2005, LAFCO adopted a set of Island Annexation Policies indicating that cities should annex urban unincorporated islands existing within their current USAs (urban service areas), before seeking to add new lands to their USAs (see Attachment C, specifically Policies #5 and #6). LAFCO is particularly concerned about the City's ability to annex and serve all of the unincorporated islands while potentially being simultaneously responsible for serving the CVSP Area. The City must address LAFCO's Island Annexation Policies as part of the DEIR.

LAFCO's Agricultural Mitigation Policies Must Be Analyzed in the DEIR

On April 4, 2007, LAFCO adopted Agricultural Mitigation Policies (see Attachment D), including Government Code Section 56064's definition of "prime agricultural lands." The purpose of these policies is to "provide guidance to property owners, potential applicants and cities on how to address agricultural mitigation for LAFCO proposals and to provide a framework for LAFCO to evaluate and process in a consistent manner, LAFCO proposals that involve or impact agricultural lands." The proposed CVSP involves the conversion of 2,270 acres of prime agricultural lands and impacts adjacent agricultural lands in the Greenbelt area. Therefore, the DEIR must include an analysis of the project's consistency with LAFCO's recently adopted Agricultural Mitigation Policies.

The DEIR states that the Agricultural Mitigation Policies are "advisory only" (page 101, first paragraph). This statement is misleading. The policies provide guidance to applicants on how agricultural mitigation should be provided. LAFCO, at its May 30, 2007 public hearing clarified that LAFCO will consider the impact to agricultural lands along with all other LAFCO policies when it reviews a proposal. For example, LAFCO's existing USA Amendment Policies discourage premature conversion of agricultural

lands, guide development away from agricultural lands, and require the development of vacant lands within the city limits before agricultural lands are converted. In approving or denying a project, LAFCO will weigh and balance these multiple considerations, and make its decision on the totality of all the factors. LAFCO has the ability to deny a proposal if the application will not result in orderly growth and development based on LAFCO's policies. So LAFCO must have adequate information in the EIR to evaluate the compliance with LAFCO policies and state law and to make an informed decision. Please include this clarification within the DEIR in order to accurately inform the public, local agencies, and the City Council.

The DEIR does not adequately consider how the project will impact surrounding unincorporated lands planned or envisioned for agriculture (as required by CEQA, LAFCO's Urban Service Area Policies, and LAFCO's Agricultural Mitigation Policies), nor does it include any mitigations for this impact. The project as proposed would create a situation where urban development interfaces with agricultural and rural lands located within the "Greenbelt," thus setting up a potential conflict. Mitigations to be considered for reducing this conflict include feathering densities, selecting land uses that will have the least likely potential to create a conflict, implementing design guidelines, and requiring effective buffers within the Specific Plan Area. Furthermore, the City should consider adopting a City Right to Farm Ordinance (e.g. City of Davis' Right to Farm Ordinance) rather than rely on the County's Right to Farm Ordinance. This will ensure that potential landowners are fully informed of the rights of those in the vicinity to lawfully conduct agricultural operations. LAFCO, as part of the USA Amendment review process, needs information on how the City will protect adjoining agricultural lands in order to prevent their premature conversion to other uses and to minimize potential conflicts between the proposed urban development and adjacent agricultural uses.

Impacts to Agricultural Lands and Planned Mitigations Must Be Analyzed in this DEIR

As indicated by Darryl Boyd, **Principal Planner for the City of San Jose,** via a June 7, 2007 email sent to LAFCO staff, the DEIR is a "hybrid" of program and project EIR depending on the circumstances and particular project being considered. Mr. Boyd also indicated that a determination on the need for further environmental review would be made on a case by case basis and that the City staff's expectation at this point in time is

that the CVSP EIR would be the document submitted to LAFCO with the USA/Annexation application.

Implementation of the CVSP will result in the loss of over 2,270 acres of prime farmland. This magnitude of loss due to a single project is unprecedented in Santa Clara County and unprecedented for LAFCO of Santa Clara County. LAFCO has strong policies aimed at discouraging the premature conversion of agricultural lands and encouraging the preservation of prime agricultural lands. It appears that the City is deferring the formulation of specific mitigation strategies until some future point in time. This deferral is problematic for LAFCO because LAFCO will be unable to properly consider the City's Urban Service Area/Annexation request without a firm understanding of how the City will mitigate for this loss of agricultural resources. Since the City does not at this time anticipate any additional CEQA documentation for the USA expansion, it must formulate and commit to specific mitigation measures within the DEIR.

CEQA Requires that EIRs Include Specific Mitigation Measures and/or Performance Standards/Standards of Significance

In general, an agency (the City, LAFCO, or other agencies) should not rely on a mitigation measure of unknown efficacy. Although CEQA allows for some deferral, it is only permissible where the adopted mitigation measure both:

- Commits the agency to a realistic performance standard/standards of significance or criteria that will ensure the mitigation of the significant effect; and
- Disallows the occurrence of physical change to the environment unless the performance standard is or will be satisfied.

The DEIR does not clearly specify what performance standard the City will use in order to ensure the mitigation of significant impacts to agricultural resources and what measure(s) the City will use in order to make further approvals contingent on satisfying that performance standard.

During the process of developing its agricultural mitigation policies, LAFCO identified several concerns with using the California Land Evaluation Site Assessment (LESA) Model for evaluating impacts to agricultural lands. In analyzing the USA expansion

request, LAFCO will require consideration of project impacts on agricultural lands and prime farmland as specified in Government Code Section 56064 and LAFCO Policies.

Additionally, the DEIR (page 106) also states that the proposed project would be required to comply with future CVSP Design Guidelines and that implementation of these future CVSP Design Guidelines would reduce the likelihood that significant land use compatibility impacts would occur and therefore concludes that development in accordance with future CVSP would reduce these impacts to a less than significant level (page 107). LAFCO fails to see how the DEIR can conclude based on non-existent CVSP design guidelines that the impacts will be less than significant. Furthermore, if the City's existing design guidelines do not address the specific type of conflicts (i.e. agricultural/high density urban edge conflicts) that are likely to occur as a result of this project, then these guidelines are not an adequate CEQA performance threshold for this project.

Water Supply Discussion is Inadequate for LAFCO's Purposes, Some Environmental Conclusions Lack Foundation and LAFCO's USA Policies Regarding Water Supply Must be Analyzed in the DEIR

The DEIR's discussion of water supply for the CVSP indicates that the proposed methods of water supply are uncertain, particularly long-term. The feasibility of many of the proposed options also appears to be questionable. One of the preferred options identified in the DEIR is the installation of groundwater recharge basins in the Greenbelt area of the South Coyote Valley. However, the DEIR does not identify a specific location within the Greenbelt for these recharge basins. Therefore, the DEIR's conclusion that the impacts associated with the option will be at a less than significant level is premature without further detailed environmental analysis.

Furthermore, LAFCO's Urban Service Area Amendment Policies include several policies (see Attachment A: Policies #10a -10f) directly related to water supply. The DEIR should identify and address these policies. LAFCO requires evidence that an adequate water supply is available to the amendment area and that water proposed to be provided to the new area does not include supplies that are needed for unserved properties already within the city, the city's Urban Service Area or other properties already charged for city water services. In determining water availability, LAFCO will evaluate, review and consider:

- The city's plan for water service to the area and statement of existing water supply in terms of number of service units available; service units currently

allocated; number of service units within city (and current USA) boundaries that are anticipating future service and service units needed for amendment area

- Whether the city is able to provide adequate water supply to the amendment area in the next 5 years, including drought years, while reserving capacity for areas within the city and Urban Service Area that have not yet developed
- Whether the city is capable of providing adequate services when needed to areas already in the city, in the City's Urban Service Area that have not yet developed
- If capacity is not reserved for unserved property within the city and its Urban Service Area boundary, the current estimates of potential unserved properties and related water supply needs
- Whether additional infrastructure and or new water supplies are necessary to accommodate future development or increases in service demand. If so, whether plans, permits and financing plans are in place to ensure that infrastructure and supply are available when necessary including compliance with required administrative and legislated processes, such as CEQA review, CEQA mitigation monitoring plans, or State Water Resources Board allocation permits. If permits are not current or in process, or allocations approved, whether approval is expected.
- Whether facilities or services comply with environmental and safety standards so as to permit acquisition, treatment, and distribution of necessary water.

Furthermore, the DEIR does not adequately evaluate long-term water sources necessary to serve the project under build-out conditions. The DEIR should:

- Address the full build-out of the project, including impacts associated with providing infrastructure and services necessary to serve the project at build-out;
- Describe other projects that may be competing for long-term water supply;
- Acknowledge level of uncertainty and if there is uncertainty, the DEIR should discuss other sources and impacts associated with those sources and impacts associated with ceasing development prior to build out;
- Identify all significant impacts associated with using that water supply and impacts associated with using other potential sources;
- Discuss mitigation measures for all significant impacts; and
- Make findings for each alternative water supply.

Revised EIR Should Be Re-circulated For Further Review and Comment, Particularly to Responsible Agencies

As a Responsible Agency, LAFCO complies with CEQA by considering the EIR prepared by the City of San Jose and by reaching its own conclusion on whether and how to approve the project involved. In order for LAFCO to meet its CEQA requirement, LAFCO must have an adequate environmental document. To reiterate, the DEIR is inadequate in its discussion of the project's consistency with various relevant LAFCO Policies and is inadequate in its discussion of impacts to agricultural resources and in providing the associated performance standards and mitigation measures that the City will employ in order to address those impacts. Therefore the DEIR, as it is now, is not adequate for LAFCO's use as a Responsible Agency. LAFCO requests that the document be revised to correct these shortcomings and upon revision of the document, and that LAFCO be provided adequate time to review the revised document and provide further comments if necessary. If you have any questions regarding these comments, you can reach me at (408) 299-5127 or may contact Dunia Noel, LAFCO Analyst, at (408) 299-5148. Thank you for your time and attention.

Sincerely,

N Palacherla /RN

Neelima Palacherla, Executive Officer
LAFCO of Santa Clara County

cc: LAFCO Members
California Department of Conservation

Attachments

A. LAFCO's Urban Service Area Amendment Policies
B. Previous Letters from LAFCO Regarding CVSP Project and NOP
C. LAFCO's Island Annexation Policies
D. LAFCO's Agricultural Mitigation Policies

LAFCO
Local Agency Formation Commission of Santa Clara County

ITEM NO. 9

LAFCO Meeting: August 1, 2007

TO: LAFCO

FROM: Neelima Palacherla, Executive Officer

SUBJECT: **2006-2007 LAFCO Annual Report**
Agenda Item # 9

RECOMMENDATION

Accept the 2006-2007 Annual Report. (July 1, 2006 to June 30, 2007)

ANNEXATION & REORGANIZATION ACTIVITY

The total number of LAFCO-conducted reorganization proposals was five, all of them being annexations to sanitary districts. Last year, LAFCO approved 2 reorganization proposals.

The number of city-conducted annexations that LAFCO staff processed this year totaled 14 proposals in four jurisdictions, as compared to 22 proposals in 5 cities the year before. The acreage annexed was 27.65 acres in Gilroy, 2.35 acres in Los Gatos, 11.81 acres in San Jose and 2.49 acres in Saratoga.

ISLAND ANNEXATIONS

The Cities of Campbell, Cupertino, Los Altos, Milpitas, Morgan Hill, Mountain View, San Jose and Saratoga completed a combined total of 40 unincorporated island annexations, consisting of approximately 530 acres and including a population of over 2,600 people within the cities. In doing so, the cities of Campbell, and Los Altos have annexed all of their unincorporated islands that are less than or equal to 150 acres in size and eligible for annexation under the streamlined island annexation law. During the previous fiscal year, the City of Morgan Hill annexed 14 islands with a total population of about 200 people and including a land area of 370 acres.

Working with the cities and the County, LAFCO staff helped coordinate the overall island annexation program. LAFCO staff assisted and advised cities on their public outreach process, coordinated the preparation of maps and reports by the County Surveyor and Assessors' Offices, attended island annexation community meetings and hearings, provided technical assistance on the island annexation process and

law, and worked with and completed all necessary paperwork as required by the State Board of Equalization.

URBAN SERVICE AREA AMENDMENTS

LAFCO heard and approved an urban service area amendment for Milpitas that included the retraction of the City's USA to remove approximately 1,475 acres of land from the City's USA and make the City's USA boundary coterminous with the City's Urban Growth Boundary as mandated by Measure Z approved by the voters of Milpitas.

LAFCO also approved an USA amendment for the City of Morgan Hill to include 18 acres of land.

OUT-OF-AGENCY CONTRACT FOR SERVICE REQUEST

LAFCO approved a request by the City of Milpitas to extend water service to a single-family residence located at 2404 Uridias Ranch Road outside Milpitas city limits.

COMMISSION AND STAFF CHANGES

In January 2007, the City of San Jose appointed Council Member Pete Constant as its representative on LAFCO, replacing Commissioner Linda Lezotte, (whose term on the City Council expired in December 2006) and Council Member Sam Liccardo as the alternate replacing alternate member Chuck Reed.

LAFCO public member, Susan Wilson's and alternate public member, Terry Trumbull's terms expired in May 2007. The Commission unanimously reappointed Susan Wilson to a fourth four-year term as public member starting in May 2007 and Terry Trumbull to a second four-year term as alternate public member.

The LAFCO Executive Officer position continues to remain part time but was increased to a 0.75 position from a 0.6 position. There were no other changes in LAFCO staffing during this period. The LAFCO Analyst and the LAFCO Clerk positions are staffed at a full time level. Other staff include the LAFCO Surveyor staffed from the County Surveyor's Office and the LAFCO Counsel from the County Counsel's Office available on contract to work on LAFCO issues on an as needed basis.

OTHER PROJECTS / STUDIES

Adoption of LAFCO's Agricultural Mitigation Policies

The development and adoption of LAFCO's Agricultural Mitigation Policies included a year long intensive public process involving many meetings, community workshops, discussions with stakeholder groups and numerous revisions to draft policies to reflect stakeholder input.

In April of 2006, the Commission directed staff to develop Agricultural Mitigation Policies for LAFCO proposals that would result in the conversion of or impact to agricultural lands in order to ensure that LAFCO's agricultural mitigation expectations and requirements are clear to applicants, cities, special districts and affected property owners.

After initial discussion and research into existing policies and practices at other LAFCOs and jurisdictions, LAFCO staff circulated a draft set of policies in August 2006. After over six months, during which time, several changes were made to the proposed draft policies, the commission adopted the LAFCO policies at a public hearing in April 2007. Between August 2006 and April 2007, LAFCO held four workshops/ presentations on the policies (2 of them in South County), discussed the policies and provided updates at three LAFCO public meetings and went through at least four different revisions of the draft policies. In addition, LAFCO formed a Subcommittee consisting of Commissioners Don Gage and Susan Vicklund-Wilson to work out the issues and make recommendations on the policies to the full Commission. Two subcommittee meetings were held in South County to discuss the policies with the stakeholders. The process drew participation from various stakeholder groups and affected parties including the cities of Gilroy, Morgan Hill and San Jose, the County of Santa Clara, the Farm Bureau, Santa Clara Valley Water District, the cities' Chambers of Commerce, the Coyote Housing Group, the Home Builders Association of Northern California, Silicon Valley Land Conservancy, Santa Clara County Open Space Authority, Midpeninsula Open Space District, Friends of Coyote Valley Greenbelt, Greenbelt Alliance, Sierra Club, Committee for Green Foothills, property owners, developers, concerned citizens etc.

The adopted policies, presentations and information associated with the process of developing the policies are available on the LAFCO web site at www.santacalra.lafco.ca.gov.

Adopting the Agricultural Mitigation Policies is a significant step in protecting and preserving the remaining agricultural lands in Santa Clara County. This process has drawn the attention of and increased the interest among the open

space agencies, organizations and cities in preserving agricultural lands and many are now developing their own agricultural mitigation policies.

South and Central County Sub-Regional Service Review

LAFCO adopted the South and Central County service review and updated the spheres of influence for the involved agencies in August 2006. The Service Review included the five cities of Gilroy, Milpitas, Morgan Hill, San Jose and Santa Clara and nine special districts including Burbank Sanitary District, County Sanitation District 2-3, Lions Gate Community Services District, Santa Clara County Library Service Area, Santa Clara Country Lighting Service Area, Santa Clara County Open Space Authority, Santa Clara County Vector Control District, South Santa Clara County Valley Memorial District and Sunol Sanitary District.

A technical Advisory Committee (TAC) was formed to serve as a liaison between the agencies and the LAFCO service review process. In addition to LAFCO Commissioner Don Gage and LAFCO staff, the members of the TAC for this service review included:

Representing the Santa Clara County/Cities Managers' Association
J. Edward Tewes, City Manager, City of Morgan Hill

Representing the Santa Clara County Municipal Public Works Officers' Association
Richard Smelser, Public Works Director, City of Gilroy

Representing the Santa Clara County Special Districts Association
Jim Foran, Director, Santa Clara County Open Space Authority

Representing the Santa Clara County Planning Officials Association
Laurel Prevetti, Deputy Planning Director, City of San Jose

The final report provides an overview on each of the cities and special districts and includes the required service review determinations and SOI recommendations and findings required by state law. A copy of this report is available on the LAFCO web site at www.santaclara.lafco.ca.gov.

North County and West Valley Sub-Regional Service Review

LAFCO is currently in the process of conducting the north and west valley sub regional service review which includes ten cities including Campbell, Cupertino, Los Altos, Los Altos Hills, Los Gatos, Monte Sereno, Mountain View, Palo Alto, Saratoga, Sunnyvale and nine special districts including Cupertino Sanitary district, El Camino Hospital District, Midpeninsula Regional Open Space District, Rancho Rinconada Recreation and Park District, Santa Clara Valley

Transportation Authority, Saratoga Cemetery District, West Bay Sanitary District and West Valley Sanitation District are covered in this service review and sphere of influence update project. The

A Technical Advisory Committee (TAC) was established to serve as a liaison between LAFCO and the affected agencies, as well as to provide technical expertise and guidance throughout the service review process. In addition to LAFCO Commissioner John Howe, and LAFCO staff, the members of TAC include:

Representing the Santa Clara County/Cities Managers' Association
Debra Figone, Town Manager, Town of Los Gatos

Representing the Santa Clara County Municipal Public Works Officers' Association
Glenn Roberts, Public Works Director, City of Palo Alto

Representing the Santa Clara County Special Districts Association
Pete Siemens, Board Member, Midpeninsula Regional Open Space District

Representing the Santa Clara County Planning Officials Association
Steve Piasecki, Community Development Director, City of Cupertino

The Draft Service Review report along with the SOI recommendations for the involved agencies is available for public review on the LAFCO website.

San Martin Incorporation

LAFCO received a petition and application for the incorporation of the Town of San Martin in February 2007. The petition was certified as sufficient by the Registrar of Voters and LAFCO has started processing the application.

In order to ensure that all the involved parties have correct and up to date information on the process, LAFCO held two workshops, one in the community of San Martin and one at the May 2007 LAFCO meeting to provide information on the incorporation process.

LAFCO also adopted written policies and procedures for processing incorporation proposals, which in addition to the CKH Act and the OPR Incorporation Guidelines will serve as a guide to LAFCO in processing the incorporation.

LAFCO has retained consultants to conduct the Comprehensive Fiscal Analysis and the CEQA Analysis for the incorporation proposal and is currently working on gathering information for the analysis.

The timeline for this incorporation is dictated by the proponents' desire to have the incorporation effective by the June 30, 2009, after which time the VLF benefits allowed in State law for new incorporations will expire. The cities that incorporate after that date will not receive the special VLF allocations. In order to meet that deadline, a timeline has been established so that the incorporation election would occur in November 2008.

Participation in CALAFCO Activities

CALAFCO Executive Board Member

Commissioner Susan Vicklund Wilson, public member, is serving her second term on the CALAFCO Executive Board and is currently the Board Secretary. Commissioner Wilson also participates on the CALAFCO's Legislative Committee.

CALAFCO Annual Conference (September 2006)

LAFCO staff and Commissioner Wilson attended the conference.

CALAFCO Staff Workshop (April 2007)

LAFCO staff attended the workshop. Emmanuel Abello, LAFCO Clerk presented a session on LAFCO website management.

CALAFCO Incorporation Workshop (February 2007)

LAFCO staff attended the training / workshop conducted by CALAFCO on incorporations in preparation for the San Martin Incorporation proposal.

CALAFCO Workshop on Government Code Section 56133

In January 2007, LAFCO staff attended the CALAFCO Workshop on Out of Agency Contract for Services to provide case studies and insights into supporting the use of Government Code Section 56133 as it is currently written.

CALAFCO Coordination with PUC on Private Water Companies

In the Fall of 2006, Commissioner Wilson and LAFCO staff participated in a discussion held between PUC staff and CALAFCO, including representatives of various LAFCOs concerning how LAFCOs could have better communication with the PUC and private water service providers and also how to ensure that LAFCO policies and local land use policies are considered when the PUC reviews private water company service extension requests. As an outcome of that effort, PUC recently adopted a resolution calling for

improved coordination between LAFCO and private water and wastewater utilities in the LAFCO's Municipal Service Review and Sphere of Influence Update process. Specifically, the PUC is requesting that these private utilities cooperate with data and information requests from LAFCO. The resolution also directs these private utility agencies/companies to notify LAFCO of any application of authority to sell, transfer or assign property to another entity.

Other Miscellaneous Projects

Coyote Valley Specific Plan

LAFCO staff has been attending the Coyote Valley Specific Plan community workshops and participating on the CVSP Technical Advisory Committee in order to stay informed about the development of the specific plan and to provide input where appropriate and in anticipation of the City's plans to apply to LAFCO for an Urban Service Area expansion and annexation of Central Coyote Valley. LAFCO provided comments to the CVSP EIR that was recently issued.

Boundary and SOI maps for Special Districts

As part of LAFCO's ongoing effort to update and maintain digital maps in Geographic Information Systems (GIS) for special districts, staff in collaboration with County ISD developed and LAFCO adopted boundary and SOI maps for El Camino Hospital District, Rancho Rinconada Recreation District and Saratoga Cemetery District in December 2006.

Attachment A: LAFCO Application Processing Activity

ITEM NO. 9
ATTACHMENT A

APPLICATIONS TO LAFCO
JULY 1, 2006 THROUGH JUNE 30, 2007

CITY CONDUCTED ANNEXATIONS

City	Proposal Name	Date Recorded	Acreage
Gilroy	Luchessa Avenue Reorganization 06-01	05/11/07	27.65
			27.65
Los Gatos	Robie Lane No. 4	06/26/07	1.72
	Topping Way No. 1	11/09/06	0.63
			2.35
San Jose	Bascom No. 38	07/07/06	0.24
	Evergreen No. 191	11/09/06	2.40
	Evergreen No. 199	03/16/07	0.40
	McKee No. 131	09/13/06	2.10
	McKee No. 133	04/10/07	0.81
	Story No. 55	09/13/06	0.96
	Story No. 57	09/25/06	3.18
	Sunol No. 72	11/22/06	0.89
	Sunol No. 73	02/05/07	0.41
	Winchester No. 40	06/21/07	0.43
			11.81
Saratoga	19930 Sunset Drive	12/20/06	2.49
			2.49
		TOTAL REORGANIZATIONS	**44.30**

COMPLETED ISLAND ANNEXATIONS

Campbell	Campbell Pocket #1: North Pocket	11/22/06	31.49
	Campbell Pocket #2: South Pocket	11/22/06	54.45
	Campbell Pocket #3: Southwest Pocket	11/22/06	1.04
			86.98
Cupertino	Cupertino Pocket #3: McClellan Road	11/07/06	0.57
	Cupertino Pocket #4: Stevens Canyon Road	11/07/06	6.93
	Cupertino Pocket #5: Rainbow Drive	11/07/06	0.44
	Cupertino Pocket #6: S. Stelling Road	11/07/06	0.37
	Cupertino Pocket #7: Rainbow Drive	11/07/06	0.37
	Cupertino Pocket #9: Upland Way	11/07/06	0.95
	Cupertino Pocket #10: Upland Way	11/07/06	6.71
	Cupertino Pocket #11: Seven Springs Parkway	11/07/06	1.04
			17.38

APPLICATIONS TO LAFCO
JULY 1, 2006 THROUGH JUNE 30, 2007

COMPLETED ISLAND ANNEXATIONS (Continued)

City	Proposal Name	Date Recorded	Acreage
Los Altos	Los Altos Pocket #1: Blue Oak Lane	6/19/2007*	12.49
	Los Altos Pocket #2: Woodland Acres	6/19/2007*	79.20
			91.69
Milpitas	Milpitas 1990-03	11/20/06	5.03
			5.03
Morgan Hill**	Morgan Hill Pocket #16: Diana and Jasmine	07/11/06	19.04
			19.04
Mountain View	Mountain View Pocket #1: Eunice Avenue	11/20/06	0.78
	Mountain View Pocket #2: Highway 85	11/20/06	21.90
	Mountain View Pocket #3: Stevens Creek	11/20/06	2.52
			25.20
San Jose	San Jose Pocket #1: Cypress No. 30	11/29/06	3.43
	San Jose Pocket #2: Penitencia No. 73	11/29/06	7.11
	San Jose Pocket #3: Piedmont No. 52	04/19/07	1.14
	San Jose Pocket #4: Penitencia No. 74	04/19/07	7.11
	San Jose Pocket #5: Piedmont No. 51	11/29/06	2.30
	San Jose Pocket #6: Story Road No. 59	11/29/06	3.58
	San Jose Pocket #7: McKee No. 132	04/19/07	10.89
	San Jose Pocket #8: Sunol No. 74	11/29/06	1.71
	San Jose Pocket #9: Sunol No. 75	11/29/06	3.63
	San Jose Pocket #10: Sunol No. 76	11/29/06	1.89
	San Jose Pocket #11: Monterey Park No. 108	04/19/07	8.58
	San Jose Pocket #13: Evergreen No. 196	04/19/07	1.13
	San Jose Pocket #14: Cambrian No. 35	04/19/07	2.41
	San Jose Pocket #15: Monterey Park No. 110	04/19/07	42.60
	San Jose Pocket #16: Oak Grove No. 70	04/19/07	14.66
	San Jose Pocket #17: Orchard No. 148	04/19/07	37.90
	San Jose Pocket #19: Story No. 63	04/19/07	4.30
	San Jose Pocket #20: Story No. 60	04/19/07	3.40
	San Jose Pocket #22: Story No. 62	04/19/07	0.82
	San Jose Pocket #24: Evergreen No. 197	04/19/07	1.33
			159.92

*Effective date is July 1, 2006.

**Morgan Hill annexed 14 pockets with combined area of approximately 370.9 acres in June 2006.

APPLICATIONS TO LAFCO
JULY 1, 2006 THROUGH JUNE 30, 2007

COMPLETED ISLAND ANNEXATIONS *(Continued)*

City	Proposal Name	Date Recorded	Acreage
Saratoga	Saratoga Pocket #1: Hidden Hill Rd 2006-01	10/17/06	19.83
	Saratoga Pocket #2: Prospect Road	10/17/06	105.08
			124.91
		TOTAL ISLAND ANNEXATIONS	**530.15**

SPECIAL DISTRICT ANNEXATIONS

Cupertino Sanitary District	Pike Road No. 3	11/09/06	2.19
	Prospect Road No. 6	07/03/07	1.14
			3.33
West Valley Sanitation District	WVSD 2006-01 Mireval Road	08/16/06	15.4
	WVSD 2006-02 Paseo Carmelo	08/16/06	1.3
	WVSD 2006-03 Shannon Heights Road	07/20/06	13.4
			30.1
		TOTAL SPECIAL DISTRICT REORGANIZATION	**33.43**

URBAN SERVICE AREA AMENDMENT

Milpitas	Milpitas USA Retraction 2006	05/08/07	1,475.88
Morgan Hill	Morgan Hill USA Expansion 2006		18.00

OUT OF AGENCY CONTRACT FOR SERVICES

		Action Taken	Acreage
Milpitas	2404 Uridias Ranch Road	Approved	5.20