LAFCO
Local Agency Formation Commission of Santa Clara County

LAFCO MEETING
AGENDA
Wednesday, April 21, 2010
1:15 PM

Board Meeting Chambers
70 West Hedding Street, First Floor
San Jose, CA 95110

CHAIRPERSON: Susan Vicklund-Wilson • VICE-CHAIRPERSON: Liz Kniss
COMMISSIONERS: Pete Constant, Don Gage, Margaret Abe-Koga
ALTERNATES: Al Pinheiro, Sam Liccardo, George Shirakawa, Terry Trumbull

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. **Disclosure of Campaign Contributions**

   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, 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. For disclosure forms and additional information see:
   http://www.santaclara.lafco.ca.gov/annexations&Reorg/PartyDisclForm.pdf

2. **Lobbying Disclosure**

   Any person or group lobbying the Commission or the Executive Officer in regard to an application before LAFCO must file a declaration prior to the hearing on the LAFCO application or at the time of the hearing if that is the initial contact. Any lobbyist speaking at the LAFCO hearing must so identify themselves as lobbyists and identify on the record the name of the person or entity making payment to them. For disclosure forms and additional information see:
   http://www.santaclara.lafco.ca.gov/annexations&Reorg/LobbyDisclForm.pdf

3. **Disclosure of Political Expenditures and Contributions Regarding LAFCO Proceedings**

   If the proponents or opponents of a LAFCO proposal spend $1,000 with respect to that proposal, they must report their contributions of $100 or more and all of their expenditures under the rules of the Political Reform Act for local initiative measures to the LAFCO office. For additional information and for disclosure forms see:
   http://www.santaclara.lafco.ca.gov/sclafcopolicies_annex&reorg_home.html

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 FEBRUARY 3, 2010 LAFCO MEETING

PUBLIC HEARINGS

4. PROPOSED REVISION OF LAFCO FEE SCHEDULE

Possible Action: Consider staff report and approve resolution revising the LAFCO Fee Schedule.

5. PROPOSED LAFCO BUDGET FOR FISCAL YEAR 2011

Possible Action:

a. Adopt the Proposed LAFCO Budget for Fiscal Year 2011.

b. Authorize staff to transmit the Proposed Budget adopted by the Commission, as well as the notice for public hearing on the adoption of the Final LAFCO Budget for Fiscal Year 2011, to the County, the Cities Association and each of the cities.

6. ADOPTION OF LAFCO CONFLICT OF INTEREST CODE

A proposal to adopt a Conflict of Interest Code pursuant to Government Code §87306 identifying employees, members, officers and consultants who are subject to LAFCO's Conflict of Interest Code, identifying all positions that must be designated, declaring positions that manage public investments, assigning disclosure categories, and incorporating two California Code of Regulations §18730 as the provisions of the LAFCO Conflict of Interest Code.

Possible Action: Consider staff report and approve resolution adopting Conflict of Interest Code.

ITEMS FOR ACTION / DISCUSSION

7. APPROVAL OF LAFCO'S GENERAL LIABILITY INSURANCE COVERAGE PROVIDER

Possible Action: Consider staff report and approve purchase of general liability insurance coverage from the Special District Risk Management Authority.

8. FIRST AMENDMENT TO AGREEMENT FOR LEGAL SERVICES BETWEEN LAFCO AND BEST BEST & KRIEGER

Possible Action: Consider staff report and approve first amendment to agreement for legal services between LAFCO and Best Best & Krieger.

9. UPDATE ON COUNTYWIDE FIRE SERVICE REVIEW

Possible Action: Accept report and provide direction to staff, as necessary.

10. EXECUTIVE OFFICER'S REPORT

10.1 Update on Implementation of LAFCO's Electronic Document Management System

For Information Only.

10.2 Update on Amendment to the MOU between LAFCO and the County of Santa Clara

For Information Only.

10.3 LAFCO Comment Letters to the City of Morgan Hill on its South East Quadrant Project

For Information Only.

11. COMMISSIONER REPORTS

12. NEWSPAPER ARTICLES / NEWSLETTERS

- CALAFCO Newsletter: The Sphere

13. WRITTEN CORRESPONDENCE

14. PENDING APPLICATIONS / UPCOMING PROJECTS

14.1 Los Gatos Urban Service Area (USA) Amendment 2010 (Lands of Midpeninsula Regional Open Space District)

14.2 Proposal of the Santa Clara County Central Fire Protection District for Annexation of Lands in the Santa Cruz Mountains

15. ADJOURN

Adjourn to regular LAFCO meeting on Wednesday, June 2, 2010, at 1:15 PM in the Board Meeting Chambers, 70 West Hedding Street, First Floor, San Jose, CA 95110.

Any disclosable public records related to an open session item on the agenda and distributed to all or a majority of the Commission less than 72 hours prior to that meeting are available for public inspection at the LAFCO Office at the address listed at the bottom of the first page of the agenda during normal business hours. 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 the message is for the LAFCO Clerk.

LAFCO
Local Agency Formation Commission of Santa Clara County

ITEM NO. 3

LOCAL AGENCY FORMATION COMMISSION OF SANTA CLARA COUNTY
MINUTES
WEDNESDAY, FEBRUARY 3, 2010

CALL TO ORDER

Chairperson Susan Vicklund-Wilson calls the meeting to order at 1:18 p.m.

1. ROLL CALL

The following Commissioners and Alternates are present:

- **Chairperson Susan Vicklund-Wilson**
- **Commissioner Pete Constant**
- **Commissioner Donald F. Gage**
- **Commissioner Margaret Abe-Koga**
- **Alternate Commissioner George Shirakawa** (is attending in place of Commissioner Kniss, who is absent)
- **Alternate Commissioner Al Pinheiro**

The following staff members are present:

- **LAFCO Executive Officer Neelima Palacherla**
- **LAFCO Analyst Dunia Noel**
- **LAFCO Counsel Mala Subramanian**

2. WELCOME NEW LAFCO COMMISSIONER: MARGARET ABE-KOGA

Chairperson Wilson welcomes Margaret Abe-Koga as a new LAFCO commissioner.

Brian Schmidt, Committee for Green Foothills, welcomes Commissioner Abe-Koga.

3. PUBLIC PRESENTATIONS

Brian Schmidt, Legislative Advocate, Committee for Green Foothills, suggests that LAFCO meetings should be streamed on the internet like the County Board of Supervisors' meetings.

4. APPROVE THE MINUTES OF DECEMBER 9, 2009 MEETING

MOTION: Approve the minutes of December 9, 2009 meeting, as submitted. (Don Gage)

SECOND: Pete Constant

MOTION PASSED

AYES: Pete Constant, Don Gage, Margaret Abe-Koga, George Shirakawa and Susan Vicklund-Wilson
NOES: None
ABSTAIN: None
ABSENT: None

5. *CONSENT ITEM* - WEST PARR AVENUE REOGRANIZATION: ANNEXATION TO SANTA CLARA COUNTY FIRE PROTECTION DISTRICT

MOTION: Adopt Resolution No. 2010-01, approving the annexation of a portion of West Parr Avenue to Central Fire Protection District and detachment from County Library Service Area, making the necessary CEQA findings, and waiving further protest proceedings. Said Resolution, by reference hereto, is made part of these minutes. (Pete Constant)

SECOND: Don Gage

MOTION PASSED

AYES: Pete Constant, Don Gage, Margaret Abe-Koga, George Shirakawa and Susan Vicklund-Wilson
NOES: None
ABSTAIN: None
ABSENT: None

6. UPDATE ON AMENDMENT TO THE MEMORANDUM OF UNDERSTANDING BETWEEN LAFCO AND THE COUNTY OF SANTA CLARA AND ON OBTAINING STAND ALONE GENERAL LIABILITY INSURANCE COVERAGE FOR LAFCO

Ms. Palacherla reports that in the course of updating the memorandum of understanding (MOU) between LAFCO and the County, the County has notified LAFCO to obtain its own stand alone insurance as the County is self insured for the first $2 million and does not want to be liable for LAFCO. She informs that staff is looking into obtaining bids from outside insurance providers and will work with LAFCO counsel and the Budget Subcommittee to bring back a recommendation to the full Commission in April 2010.

In response to an inquiry by **Commissioner Gage**, Ms. Palacherla informs that the cost estimate is not available at this time. **Chairperson Wilson** comments that this is a step in the right direction because LAFCOs have become independent of counties. In response to an inquiry by **Chairperson Wilson**, Ms. Palacherla informs that several LAFCOs contract with the Special District Risk Management Authority (SDRMA) and Alliant, and that staff is requesting quotes from them. **Alternate Commissioner Pinheiro** suggests that the California Association of LAFCOs (CALAFCO) should consider a group insurance coverage. **Chairperson Wilson** states that she will convey this suggestion to the CALAFCO Board.

MOTION: Accept the report. (Don Gage)

SECOND: Pete Constant

MOTION PASSED

AYES: Pete Constant, Don Gage, Margaret Abe-Koga, George Shirakawa and Susan Vicklund-Wilson
NOES: None
ABSTAIN: None
ABSENT: None

7. EXECUTIVE OFFICER'S REPORT

7.1 BUDGET SUBCOMMITTEE

Ms. Palacherla recommends that the Commission form a Budget Subcommittee composed of two commissioners to develop the Fiscal Year 2010-11 budget for full Commission approval.

Chairperson Wilson informs that Commissioners Gage and Constant have expressed interest to serve on the subcommittee, and inquires if other members are interested. **Commissioner Shirakawa** proposes that Commissioner Abe-Koga serve as alternate subcommittee member. Ms. Subramanian advises that Brown Act requires public notice if three members serve on the subcommittee.

MOTION: Establish a Budget Subcommittee composed of commissioners Constant and Gage. (George Shirakawa)

SECOND: Margaret Abe-Koga

MOTION PASSED

AYES:	Pete Constant, Don Gage, Margaret Abe-Koga, George Shirakawa and Susan Vicklund-Wilson
NOES:	None
ABSTAIN:	None
ABSENT:	None

7.2 UPDATE ON THE IMPLEMENTATION OF LAFCO'S ELECTRONIC DOCUMENT MANAGEMENT SYSTEM

Ms. Palacherla informs that staff is reviewing the first two batches of digitized LAFCO files delivered by Peelle Technologies, Inc. She adds that after the review, staff will prepare the next batch of files for digital scanning.

7.3 UPDATE ON COUNTYWIDE FIRE SERVICE REVIEWS

Ms. Palacherla reports that staff released a request for proposals in December 2009 for a consultant for the Countywide Fire Service Review. Members of the Fire Service Review Technical Advisory Committee interviewed all seven firms and will be selecting a firm.

7.4 CALAFCO STAFF WORKSHOP IN SANTA ROSA: APRIL 14-16

MOTION: Authorize staff to attend the 2010 CALAFCO Staff Workshop and authorize travel expenses funded by the LAFCO budget. (Pete Constant)

SECOND: Don Gage

MOTION PASSED

AYES:	Pete Constant, Don Gage, Margaret Abe-Koga, George Shirakawa and Susan Vicklund-Wilson
NOES:	None
ABSTAIN:	None
ABSENT:	None

In response to an inquiry by **Commissioner Gage**, **Chairperson Wilson** informs that only staff attends the staff workshop.

8. PROPOSED REVISIONS TO THE 2010 SCHEDULE OF LAFCO MEETINGS

Ms. Palacherla recommends the adoption of the revised 2010 schedule of LAFCO meeting.

MOTION: Adopt the revised 2010 schedule of LAFCO meetings and application filing deadlines. (Pete Constant)

SECOND: Don Gage

MOTION PASSED

AYES: Pete Constant, Don Gage, Margaret Abe-Koga, George Shirakawa and Susan Vicklund-Wilson
NOES: None
ABSTAIN: None

9. COMMISSIONERS' REPORTS

There is no report.

10. NEWSPAPER ARTICLES / NEWSLETTERS

There are none.

11. WRITTEN CORRESPONDENCE

There are none.

12. PENDING APPLICATIONS / UPCOMING PROJECTS

12.1 POTENTIAL LOS GATOS URBAN SERVICE AREA (USA) AMENDMENT 2010 - LANDS OF MIDPENINSULA REGIONAL OPEN SPACE DISTRICT (MROSD)

Ms. Palacherla reports that staff is expecting an application for an USA amendment from the Town of Los Gatos to exclude lands owned by MROSD.

13. ADJOURN

The meeting is adjourned at 1:31 p.m.

Approved:

_____
Susan Vicklund-Wilson, Chairperson
Local Agency Formation Commission of Santa Clara County

By: _____
Emmanuel Abello, LAFCO Clerk

LAFCO
Local Agency Formation Commission of Santa Clara County

LAFCO Meeting: April 21, 2010

TO: LAFCO

FROM: Neelima Palacherla, Executive Officer
Dunia Noel, Analyst

SUBJECT: Proposed LAFCO 2010 Fee Schedule Revision
Agenda Item # 4

STAFF RECOMMENDATION

Adopt resolution revising LAFCO fee schedule, to be effective April 22, 2010. Please see Attachment A and B for fee schedule and resolution.

BACKGROUND

State law authorizes LAFCO to charge fees for filing and processing of proposals provided that these fees "... shall not exceed the estimated reasonable cost of providing the service for which the fee is charged..."(Government Code §56383).

LAFCO fees were last revised in June 2008. At that time, fees were revised to reflect the actual staff time spent on applications and the increases in staff hourly rates.

The budget subcommittee, at its meeting on March 10, recommended that staff review and propose revisions to the LAFCO fee schedule, as necessary, to ensure cost recovery. The proposed fees reflect changes to staff rates, changes in procedures for processing applications including efficiencies gained through streamlined processes and any new steps added such as digital archiving of LAFCO records or mapping of changes to jurisdictional boundaries.

Public Hearing and Notice of Hearing

In addition to following standard noticing requirements for public hearings, a notice regarding this item was mailed out to the County, and all cities and special districts in the county. A copy of this staff report has been posted on the LAFCO web site and was so indicated on all the notices.

REVISED LAFCO STAFF RATES

There is no proposed change in the rates for the LAFCO Executive Officer or for the LAFCO Analyst. LAFCO Clerk's rates are revised to reflect the current salary and benefits of the position. The projected hourly rates for the Executive Officer, the LAFCO Analyst and the LAFCO Clerk are calculated to include the salaries & benefits, productive hours, and the administrative overhead costs taking into consideration the indirect costs based on the projected FY 2011 budget. The LAFCO Counsel rates are

established by contract and the rate for the Surveyor is established by the Surveyor's Office on an annual basis.

LAFCO STAFF	CURRENT HOURLY RATES	PROPOSED HOURLY RATES
Executive Officer	$182	$182
Analyst	$164	$164
LAFCO Counsel	$212	$219*
LAFCO Clerk	$106	$116
Surveyor	$125	$125

* Each fiscal year, legal counsel rates automatically increase by CPI for the previous calendar year. The rate for fiscal year 2011 is $221 starting in July 1, 2010 (based on a 0.7% CPI increase in calendar year 2009). Per contract, hourly rate for special counsel legal services for environmental and natural resources work is $250.

CITY CONDUCTED ANNEXATION APPLICATIONS

Proposed Revision

Increase the processing fee for city-conducted annexation from $1,103 to $1,154.

Discussion

Annexations within a city's urban service area are heard and approved by the city council. The approved annexations are then forwarded to LAFCO staff for finalization and recordation. Currently, LAFCO charges a fee of $1,103 for processing city-conducted annexations. The proposed fee increase for processing and staff finalization of city-conducted annexations is based upon the following costs:

Staff Involved in Processing	Time Spent	Staff Costs
LAFCO Executive Officer	1 hr.	$182
LAFCO Analyst	1 hr.	$164
LAFCO Clerk	6.97 hrs.	$808
Total Cost:		**$1,154**

City conducted annexations typically involve detachment of territory from two/three special districts along with annexation of the territory to the city. As one of the final steps to the processing of these annexations, LAFCO staff ensures that the boundaries of special districts and cities in GIS are accurately updated to reflect the approved

annexation. This task is critical to having accurate and up to date information available in the GIS for use by LAFCO, the County, the cities, special districts as well as the public and others. Additionally, we have recently started implementing our electronic document management system to digitally archive all of LAFCO records and applications for easy search and retrieval.

NOTE: For city conducted annexations, the County Surveyor's Office charges a fee of $2,000 directly to the city for checking the map and legal descriptions and providing the Surveyor's Report. And the County Assessor's Office charges a fee directly to the city for providing the Assessor's Report. These fees are not adopted or collected by LAFCO and are not credited to the LAFCO account.

100% CONSENT LAFCO HEARD CHANGE OF ORGANIZATION APPLICATIONS

Proposed Revision

Increase the LAFCO processing fee from $5,049 plus appropriate environmental review fee to a total of $5,914. No additional environmental review fee is proposed with the change.

Discussion

The current fees for changes of organization are set in a two-tier system. Proposals that have 100% consent of all affected landowners are charged a lower fee because they generally do not require a public hearing and are less time consuming ($5,049+ environmental review fees based on the type and extent of analysis required).

The majority of reorganization proposals submitted to LAFCO fall under this category. These proposals are generally on the Commission's consent calendar. That is, these proposals do not generally require a public hearing, noticing or a protest hearing. Based on our experience, these applications generally qualify for a categorical exemption from CEQA. Therefore, the proposed fee increase for a 100% consent change of organization proposal incorporates the cost of environmental review:

Staff Involved in Processing	Time Spent	Staff Costs
LAFCO Executive Officer	4.5 hrs.	$819
LAFCO Analyst	5.25 hrs.	$861
LAFCO Clerk	15.75 hrs.	$1,827
LAFCO Counsel	1 hr.	$219
LAFCO Surveyor	17.5 hrs.	$2,188
Total Cost:		**$5,914**

ENVIRONMENTAL REVIEW FEES

Proposed Revision

Eliminate separate fees for environmental review and incorporate the cost into the overall application processing fees.

Discussion

Currently, separate fees are required for environmental review based on whether a categorical exemption, negative declaration or environmental impact report is required. Since the environmental evaluation of the application is one aspect of the application processing, any costs associated with this review are included in the application processing costs.

NON-100% CONSENT LAFCO HEARD CHANGE OF ORGANIZATION PROPOSALS: DEPOSIT FEES

Proposed Revision

Increase the initial deposit to $11,868, the total fee to be based on the actual cost of processing each individual application.

Discussion

The non-100% consent proposals are currently charged a deposit fee of 11,408 + environmental review fee

LAFCO generally does not receive many proposals of this type. However, in the last two years we have received a number of such proposals which has allowed us to prepare better time estimates for such applications. These types of proposals are time consuming because they require public hearings, public noticing, protest proceeding, and often draw controversy. Depending on the size and complexity of the proposal, staff time required will vary significantly. The proposed fee structure for a non-100% consent change of organization proposal is based on the following staffing costs:

Staff Involved in Processing	Time Spent	Staff Costs
LAFCO Executive Officer	21.8 hrs.	$3,967
LAFCO Analyst	12.25 hrs.	$2,009
LAFCO Clerk	24.38 hrs.	$2,828
LAFCO Counsel	4 hrs.	$876
LAFCO Surveyor	17.5 hrs.	$2,188
Total Cost:		**$11,868 Deposit**

As with all deposit fees, if actual costs are less than the deposit, LAFCO will refund the difference and if the costs exceed this amount, an additional invoice will be sent to the applicant. Costs other than staffing costs such as the cost of publishing notices in a newspaper, cost of printing/copying, and mailing notices etc. would also be billed to the applicant. Often, these types of applications require extensive staff assistance prior to receipt of an application. Staff time spent on such review and meetings will be counted against the deposit.

URBAN SERVICE AREA (USA) AND SPHERE OF INFLUENCE (SOI) AMENDMENT PROPOSALS: DEPOSIT FEES

Proposed Revision

Increase the initial deposit to $11,574 for USA or SOI amendment proposals; the total fee to be based on the actual cost of processing each individual application.

Discussion

Currently, LAFCO charges an upfront deposit of $11,481 for proposals involving USA amendments and SOI amendments. As was previously mentioned, staff has implemented a document management system to digitally archive all LAFCO records and applications, including USA and SOI amendments. The proposed fee revision includes the cost for this new task. However, the proposed revision is not significantly higher than the current fee because of certain new efficiencies in processing these applications such as distribution of notices, agenda and application packets by email instead of making hardcopies and mailing. The proposed fee increase for USA / SOI proposals is based on experience with processing such applications and the current streamlined procedures:

Staff Involved in Processing	Time Spent	Staff Costs
LAFCO Executive Officer	23 hrs.	$4,186
LAFCO Analyst	18.4 hrs.	$3,018
LAFCO Clerk	18 hrs.	$2,088
LAFCO Counsel	3 hrs.	$657
LAFCO Surveyor	13 hrs.	$1,625
Total Cost:		**$11,574 Deposit**

As with all deposit fees, if actual costs are less than the deposit, LAFCO will refund the difference and if the costs exceed this amount, an additional invoice will be sent to the applicant. Costs other than staffing costs such as the cost of publishing notices in a newspaper, cost of printing/copying, and mailing notices etc would also be billed to the applicant. Often, these types of applications require extensive staff assistance prior to

receipt of an application. Staff time spent on such review and meetings will be counted against the deposit.

OUT OF AGENCY CONTRACT FOR SERVICE (OACS) PROPOSALS: DEPOSIT FEES

Proposed Revision

Increase the initial deposit from $9,487 to $9,670 for OACS proposals; the total fee would be based on the actual cost of processing each individual application.

Discussion

As was previously mentioned, staff has implemented a document management system to digitally archive all LAFCO records and applications, including USA and SOI amendments. The proposed fee revision includes the cost for this new task. However, the proposed revision is not significantly higher than the current fee because of certain efficiencies in processing such applications such as distribution of notices, agenda and application packets by email instead of making hardcopies and mailing.

The proposed fee increase for OACS proposals is based on experience with processing such applications and streamlined procedures:

Staff Involved in Processing	Time Spent	Staff Costs
LAFCO Executive Officer	23 hrs.	$4,186
LAFCO Analyst	13.5 hrs.	$2,214
LAFCO Clerk	12.83 hrs.	$1,488
LAFCO Counsel	3 hrs.	$657
LAFCO Surveyor	9 hrs.	$1,125
Total Cost:		**$9,670 Deposit**

As with all deposit fees, if actual costs are less than the deposit, LAFCO will refund the difference and if the costs exceed this amount, an additional invoice will be sent to the applicant. Costs other than staffing costs such as the cost of publishing notices in a newspaper, cost of printing/copying, and mailing notices etc would also be billed to the applicant. Often, these types of applications require extensive staff assistance prior to receipt of an application. Staff time spent on such review and meetings will be counted against the deposit.

CITY INCORPORATIONS, DISINCORPORATION, DISTRICT FORMATIONS, CONSIDERATIONS, DISSOLUTIONS: DEPOSIT FEES

Proposed Revision

Staff is proposing no change in the initial deposit amount of $11,481 for applications involving city incorporations or disincorporations; special district formations or dissolutions, and consolidations. The cost of the proceedings will be much higher than the initial deposit. The total fee is based on the actual cost of processing each individual application. LAFCO staff will provide the applicant/proponents an initial estimate of the costs of the incorporation proceedings. The terms of payment will be stated in an agreement to be executed between LAFCO and the applicant/proponents.

Discussion

In August 2007, LAFCO adopted revised Incorporation Policies which include policies that clarify LAFCO's fee structure for processing an incorporation proposal. Per these Policies, the actual costs for processing the incorporation application are the proponent's responsibility. Application costs include consultant costs for preparing the comprehensive fiscal analysis and the environmental review documents, LAFCO staff time, legal counsel costs and other related expenses incurred by LAFCO in the incorporation proceedings.

Incorporation proposals are charged on an actual cost basis with a deposit required when the proposal is initiated. The cost of the proceedings will be much higher than the initial deposit. The deposit allows staff to open a file and initiate the determination of petition sufficiency and begin meetings with the proponents to develop a time frame and cost estimates.

Consultants will be hired for the preparation of the comprehensive fiscal analysis and CEQA analysis / documents. Each consultant's total cost will be divided into costs for each sub task. Prior to commencement of each sub task, the proponents must make a deposit in the amount of the estimated cost for that sub task. LAFCO will not authorize the consultant to commence work on the sub task until the funds are received. At the end of each sub task a final accounting will be done. Any amounts due must be paid within 30 days. Any refunds will be applied to the subsequent sub task or refunded. The actual amounts of the deposits will be determined after the consultant contracts are negotiated. These policies regarding fees will apply to district formations / consolidation applications.

MANDATORY PRE-APPLICATION MEETING: DEPOSIT FEES

Proposed Revision

Increase the fee for mandatory pre-application meetings from $1,374 to $1,562 to reflect proposed FY 2011 hourly rates for LAFCO staff. A mandatory pre-application meeting is required with LAFCO staff (preferably prior to seeking signatures on petition) for applications involving formation of districts or for city incorporations.

RECONSIDERATION REQUESTS: DEPOSIT FEES

Proposed Revision

Increase the initial deposit for reconsideration requests from $2,350 to $2,619; the total fee to be based on the actual cost of processing application.

Discussion

The fee for reconsideration requests is a deposit plus any additional expenses. Government Code Section 56383 allows charging a cost recovery fee for reconsideration requests. The proposed fee increase is based on increased staff and application processing costs.

RESEARCH FEE

Proposed Revision

Staff is proposing no change in the hourly fee of $173 to be charged for staff research.

Discussion

This fee is for staff time spent in consultation or on research of a specific issue. The fee is based on average costs for LAFCO staff analytical work.

ISLAND ANNEXATION FEES

Recommendation

Continue to provide a LAFCO fee waiver for island annexations until January 1, 2014.

Discussion

In February 2001, the Commission authorized a LAFCO fee waiver for cities processing entire island annexations. This waiver was to be reviewed annually by the Commission based on the LAFCO budget. The state law allowing streamlined annexations without protest or an election has been extended to January 1, 2014. Over the years (fiscal year 2006, 2007, 2008, 2009, and the current year) LAFCO has waived over $85,000 in island annexation fees. Per LAFCO's Island Annexation Policies, the fee waiver for annexations that result in the elimination of entire unincorporated islands will remain effective until rescinded by the commission.

EFFECTIVE DATE FOR THE NEW FEE SCHEDULE

Staff is proposing that the revised fee schedule become effective April 22, 2010.

REVENUE COMPARISON

The following table compares the revenues generated under the current fee system with the potential revenues that would be realized if the proposed fee schedule were in place. This estimation is based on average level of application activity over the last five years (not including the current year activity). As seen in the table below there is a 3.4% increase in the revenues under the new proposed fee schedule. However, it should be noted that application activity for the current year is lower than the 5-year average and therefore revenues for the current year are lower than those indicated in this table.

Potential Revenue Generation

Type of Applications	Average # of Applications in last 5 FYs	Current Fees	Average Revenue (estimated)	Proposed Fees	Potential Revenue (estimated)
City Conducted	15	$1,103	$16,545	$1,154	$17,310
100% Consent +Cat Exempt.	4	$5,655	$22,620	$5,914	$23,656
Non-100% Consent	1	$11,408	$11,408	$11,868	$11,868
USA / SOI	1	$11,481	$11,481	$11,574	$11,574
Out of Agency Contracts	1	$9,487	$9,487	$9,670	$9,670
Total	**22**		**$71,541**		**$74,078**

Island Annexations	Total # Processed (in FY 2006, 2007, 2008, 2009 and current year)	Amount of LAFCO Fees Waived
	78	**$86,034**

NEXT STEPS

After Commission adoption of the resolution establishing the Revised Fee Schedule:

- The Revised LAFCO Fee Schedule will be mailed to the County, cities and special districts in the county.
- The revised LAFCO Fee schedule will be posted on the LAFCO web site.

ATTACHMENTS

Attachment A: Proposed LAFCO Fee Schedule

Attachment B: Resolution Adopting Revised Fee Schedule

Attachment A: Proposed Revision to LAFCO FEE SCHEDULE

April 2010

	Type of Proposal	Fee
1.	City Conducted Annexations *	$1,154 + SBE Fees
2.	100% Consent Proposals LAFCO Heard Change of Organization Proposals	$5,914 + SBE Fees
3.	Deposit Fees ***	
	Non-100% Consent LAFCO Heard Change of Organization Proposals***	$11,868 deposit + Actual Costs + SBE
	Urban Service Area (USA)/Sphere of Influence (SOI) Amendments	$11,574 deposit + Actual Costs
	Out of Agency Contract for Services (OACS) Requests	$9,670 deposit + Actual Costs
	Pre-Application Meeting for district formations /city incorporations (Mandatory, preferably prior to seeking signatures on petition)	$1,562 + Actual Costs
	District Formation, Consolidation, Dissolution and City Incorporation and Dissolution	$11,481 deposit + SBE fees + Actual Costs
	Reconsideration Requests	$2,619 deposit + Actual Costs
4.	Research Fees	$173 / hour

All fees / deposits are payable at time the application is filed.

* Please make one check ($1,154) payable to LAFCO and a separate check payable to State Board of Equalization (SBE). The SBE fee must be included with the application packet. The SBE fee is based on acreage; please see the SBE schedule of fees to determine the SBE fee.

*** Deposit fees are initial payments towards actual costs of processing applications. The cost of the proceedings will be much higher than the initial deposit for incorporation proposals. Staff time spent on pre-application assistance will be counted towards the deposit. Actual costs include staff time, any consultant fees, special counsel legal services and miscellaneous costs such as noticing, copying etc. If actual costs are less than deposit, LAFCO will refund the difference to the applicant. If processing costs begin to exceed the deposit, additional fees are required. LAFCO approval will be conditional upon final payment within 35 days of LAFCO hearing date. Payment of appropriate SBE fees is required where applicable; please see SBE fee schedule.

RESOLUTION NO. 2010-02

RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF SANTA CLARA COUNTY REVISING LAFCO FEE SCHEDULE

RESOLVED by the Local Agency Formation Commission of Santa Clara County, California, that

WHEREAS, Government Code section 56383 authorizes the Commission to establish a schedule of fees for the cost of proceedings; and

WHEREAS, the schedule of fees shall not exceed the reasonable cost of providing the service for which the fee is charged;

WHEREAS, in compliance with Government Code section 66016, the Executive Officer set April 21, 2010 as the hearing date on the revised fee schedule attached hereto as Attachment A and gave the required notice of hearing; and,

WHEREAS, this Commission called the proposal for public hearing, considered the public testimony and considered the revised fee schedule and the report of the Executive Officer;

NOW THEREFORE, the Local Agency Formation Commission of Santa Clara County does hereby resolve, determine, and order as follows:

SECTION 1:
The proposed revision to the Local Agency Formation Commission fee schedule attached hereto as Attachment A and incorporated herein by reference is hereby approved and is effective April 22, 2010.

PASSED AND ADOPTED by Local Agency Formation Commission of Santa Clara County, State of California, on April 21, 2010 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
Susan Vicklund-Wilson, Chairperson
LAFCO of Santa Clara County

ATTEST:

_____
Emmanuel Abello, LAFCO Clerk

APPROVED AS TO FORM & LEGALITY:

_____
Malathy Subramanian, LAFCO Counsel

LAFCO
Local Agency Formation Commission of Santa Clara County

ITEM NO. 5

LAFCO MEETING: April 21, 2010

TO: LAFCO

FROM: Neelima Palacherla, Executive Officer

SUBJECT: Proposed Draft LAFCO Budget FY 2010-2011
Agenda Item # 5

STAFF RECOMMENDATION

1. Adopt the Draft LAFCO Budget for fiscal year 2010-2011.
2. Find that the Draft FY 2011 Budget is expected to be adequate to allow the Commission to fulfill its statutory responsibilities.
3. Authorize staff to transmit the Draft Budget adopted by the Commission including the estimated agency costs as well as a notice of public hearing on the adoption of the Fiscal Year 2011 Final Budget to each of the cities, the County and the Cities Association.

BACKGROUND

LAFCO Budget and Adoption Process

The Cortese Knox Hertzberg Local Government Reorganization Act of 2000 (CKH Act) which became effective on January 1, 2001, requires LAFCO to annually adopt a draft budget by May 1 and a final budget by June 15 at noticed public hearings. Both the draft and the final budgets are required to be transmitted to the cities and the County. Government Code §56381 establishes that at a minimum, the budget must be equal to that of the previous year unless the Commission finds that reduced staffing or program costs will nevertheless allow it to fulfill its statutory responsibilities. Any unspent funds at the end of the year may be rolled over into the next fiscal year budget. After adoption of the final budget by LAFCO, the County Auditor is required to apportion the net operating expenses of the Commission to the agencies represented on LAFCO.

Apportionment of LAFCO Costs

The CKH Act requires LAFCO costs to be split in proportion to the percentage of an agency's representation (excluding the public member) on the Commission. Since the City of San Jose has a permanent membership on LAFCO, Government Code §56381.6 requires costs to be split between the County, the City of San Jose and the remaining cities. Hence the County pays half the LAFCO cost, the City of San Jose a quarter and the remaining cities the other quarter.

The cities' share (other than San Jose's) is apportioned in proportion to each city's total revenue as reported in the most recent edition of the Cities Annual Report published by the Controller, as a percentage of the combined city revenues within a county. Government Code §56381(c) requires the County Auditor to request payment from the cities and the County no later than July 1 of each year for the amount each agency owes based on the net operating expenses of the Commission and the actual administrative costs incurred by the Auditor in apportioning costs and requesting payment.

FY 2010-2011 BUDGET TIMELINE

Dates	Staff Tasks / LAFCO Action
March 31 - April 21	Notice period, draft budget posted on LAFCO web site and available for review and comment on April 1
April 21	Public Hearing and adoption of draft budget
April 21	Draft budget along with draft apportionment amounts transmitted to agencies (cities and County) together with notice of public hearing for the final budget hearing
June 2	Public hearing and adoption of final budget
June 2 - July 1	Final budget along with final agency apportionments transmitted to agencies; Auditor requests payment from agencies

WORK PROGRAM FOR FY 2010-2011

LAFCO is mandated by the state to process jurisdictional boundary change applications submitted in accordance with the provisions in the Cortese Knox Hertzberg Act. . Associated with this mandate, LAFCO has several responsibilities / requirements including but not limited to adopting written policies and procedures, maintaining a web site, serving as a conducting authority for protest proceedings and conducting public hearings and providing adequate public notice. Other state mandates for LAFCO include preparation of service reviews and the corresponding review and update every five years, of the spheres of influence for each city and special district under LAFCO jurisdiction within the County. The LAFCO work program for FY 2010- 2011 includes:

Service Reviews LAFCO will complete a countywide fire protection service review of all agencies that provide fire and emergency medical services in the county and will update the spheres of influence for the four fire districts as required by the CKH Act. LAFCO will also conduct a countywide water service review and an update of the

spheres of influence of the five water districts and the two resource conservation districts in the County.

Application Processing LAFCO staff will respond to public inquiries regarding LAFCO policies and procedures for processing boundary change applications and will process all submitted applications. Application processing activity is expected to remain at existing levels for all types of applications from special districts and cities. We anticipate receiving reorganization proposals from the Santa Clara County Central Fire Protection District and urban service amendment applications from the City of Los Altos Hills and Morgan Hill in the next fiscal year.

Island Annexations San Jose is in the process of completing its third phase of island annexations which include populated islands. Staff will continue to assist the City with coordination of service transitions for these annexations. As follow up to the island annexations that have recently taken place, LAFCO will have to initiate dissolution of Sunol Sanitary District that no longer has any territory as a result of annexation of its territory by San Jose, thus making the district unnecessary.

Staff will also continue to assist and work with other cities processing island annexations (Los Altos Hills and Los Gatos) to review their annexation information and finalize the annexations after city council approval.

Update of Existing LAFCO Policies / Development of New Policies Staff will continue to review all LAFCO policies and update and/or develop new policies, where needed, for commission consideration and adoption. LAFCO will need to develop new policies to implement new requirements in state law. For example, Government Code section 56668 was recently amended to require LAFCO to consider adopted regional transportation plans in reviewing proposals.

Public Information/Communication Staff will continue to maintain the LAFCO web site, conduct workshops and make presentations as requested by agencies, communities or other groups regarding LAFCO programs/ policies and procedures, respond to general public inquiries, maintain and update digital boundary maps for cities and special districts, publish an updated wall map of cities in Santa Clara County, and actively participate in CALAFCO and other conferences, training and workshops.

LAFCO will recognize the 40th Anniversary of the LAFCO – County - Cities Joint Urban Development Policies and recognize those individuals that played a critical role in developing, adopting and implementing them.

Administration Staff will continue to implement LAFCO's electronic records management system and integrate the system into the various workings of the LAFCO office. Staff will update as necessary the Memorandum of Understanding between LAFCO and County for staffing and services. Other administrative work of LAFCO staff includes managing of consultant contracts, reviewing and updating LAFCO procedures as necessary, updating and maintaining the LAFCO database, managing

LAFCO records, tracking LAFCO related legislation and preparing the annual budget and preparing fee schedule revisions.

The LAFCO Annual Report which will be published at the end of the current fiscal year will document the types of applications processed and the various activities / projects that LAFCO has completed in the current fiscal year.

STATUS OF CURRENT YEAR BUDGET (FY 2010)

The LAFCO approved budget for the current year is $827,765. It is projected that there will be a savings of about $187,497 at the end of this fiscal year.

Projected Year End Savings = Projected Year End Revenue - Projected Year End Expenses

Projected Year End Savings = $894,881 - $707,384

Projected Year End Savings = $187,497

This savings amount will largely be due to the following:

1. Not having spent the amount ($100,000) allocated as reserves
2. Having a larger fund balance than anticipated from the previous fiscal year. The actual fund balance from FY 2009 was approximately $89,116 more than projected. ($334,567 - $245,451)

The estimated savings of $187,497 at the end of the current fiscal year of 2010, will be carried over to reduce the proposed FY 2011 costs for the cities and the County.

PROPOSED FISCAL YEAR 2010-2011 BUDGET

At its February 3, 2010 LAFCO meeting, the Commission appointed a Budget Subcommittee composed of Commissioners Don Gage and Pete Constant. The Commission directed the budget subcommittee to develop a draft budget for Commission consideration. The Budget Subcommittee held meetings on March 10th and April 7th to discuss issues related to the budget and to formulate the budget for FY 2011. The Budget Subcommittee discussed current and future budget related issues including the status of the current year budget, the highlights and progress on the current year work plan, the proposed work plans for the upcoming fiscal year, and other issues such as purchase of general liability insurance for LAFCO, workers compensation for commissioners, general counsel costs, LAFCO fees revisions, costs of webcasting LAFCO meetings and recommended the proposed budget.

The proposed budget for FY 2010-2011 is $809,698 which is about 2% lower than the current year budget. A detailed itemization of the budget is provided below.

Object 1. SALARIES AND BENEFITS $408,826

All three LAFCO staff positions are staffed through the County Executive's Office. There is no change in the proposed salaries for the LAFCO staff. The cost of benefits is

as determined by the County. The following is a summary of the LAFCO staff salary and benefits.

LAFCO Staff	Salary	Benefits	Total
LAFCO Executive Officer	$108,756	$52,278	$161,034
LAFCO Analyst	$96,300	$48,944	$145,244
LAFCO Clerk	$62,880	$39,668	$102,548

Object 2. SERVICES AND SUPPLIES

5258200 INTRA-COUNTY PROFESSIONAL $55,000

This amount remains the same as the current year budget and includes costs for services from the County Surveyors Office and the County Assessors' Office.

LAFCO Surveyor $50,000

The County Surveyor will continue to assist with map review and approval. It is estimated that about 400 hours of service will be required in the next fiscal year. The County Surveyor's Office charges a rate of $125 per hour.

Miscellaneous Staffing $5,000

This amount pays for the cost of reports prepared by the County Assessor's Office for LAFCO proposals. Additionally, it allows LAFCO to seek technical assistance from the County Planning Office on CEQA or other planning issues. LAFCO accesses data in the County Planning Office's GIS server. This item includes maintenance and technical assistance for GIS, if necessary.

5255800 LEGAL COUNSEL $55,000

This item covers the cost for general legal services for the fiscal year. In February 2009, the Commission retained Best Best & Krieger for legal services on a monthly retainer rate of $5,900. This retainer amount was established using an annual average of 324 hours which amounts to about 27 hours per month. However, the average numbers of hours of service required based on the last 12 months is only about 16 hours. Therefore, the contract is being amended to reduce the number of hours required to 240 hours per year, thus reducing the cost to approximately $53,000 from $70,800.

Each fiscal year, legal counsel's rates automatically increase by CPI for the previous calendar year. The FY 2011 hourly rate for legal counsel is $221. See Agenda Item #8.

5255500 CONSULTANT SERVICES $90,000

This item is allocated for hiring consultants to assist LAFCO with special projects. This year, the amount is allocated for hiring consultants to conduct a countywide water

service review and to continue to maintain LAFCO's electronic records management system.

5285700 MEAL CLAIMS $750

This item is being maintained at $750.

5220200 INSURANCE $6,033

This item is for the purpose of purchasing general liability insurance and workers' compensation coverage for LAFCO. This amount represents a significant increase from the prior year when LAFCO was provided insurance coverage by the County. LAFCO will now (upon notice by the County to obtain separate insurance) purchase general liability insurance policy from an outside insurance carrier and the estimated cost for such insurance is approximately $4,533. Additionally, LAFCO may also be required to provide workers compensation insurance to its commissioners and an amount of $1,500 is budgeted for this purpose. Worker's Compensation for LAFCO staff is currently covered by the County and is part of the payroll charge. See Agenda Item #7 also.

5250100 OFFICE EXPENSES $2,000

This item is being maintained at $2,000 and provides for purchase of books, periodicals, small equipment and supplies throughout the year.

5255650 DATA PROCESSING SERVICES $2,463

This item includes funds for support from County Information Services Department (ISD) including for active directory, enterprise print management, email support and licenses and LAN support

5225500 COMMISSIONER'S FEES $9,000

This item includes a $100 per diem amount for LAFCO Commissioners and Alternate Commissioners to attend LAFCO meetings and sub-committee meetings in the Fiscal Year 2011.

5260100 PUBLICATIONS AND LEGAL NOTICES $2,500

This is being maintained at $2,500 and will be used for publication of hearing notices for LAFCO applications and other projects/ studies, as required by state law.

5245100 MEMBERSHIP DUES $7,000

This amount provides for the membership dues to the statewide association, CALAFCO - the California Association of LAFCOs. In recent years, CALAFCO has expanded its services with the CALAFCO web site, newsletter, CALAFCO Sacramento Office, legislative representation and member publications such as directories to name a few. In addition to these services, CALAFCO has implemented other new programs such as the CALAFCO University, insurance and employee benefit options and research resources.

5250750 PRINTING AND REPRODUCTION $1,500

An amount of $1,500 is being budgeted for printing expenses for reports such as service review reports or other studies.

5285800 BUSINESS TRAVEL $12,000

This item is for both staff and commissioners to attend conferences and workshops. It would cover air travel, accommodation, conference registration and other expenses at the conferences. CALAFCO annually holds a Staff Workshop and an Annual Conference that is attended by commissioners as well as staff. In addition, this item covers the travel expenses for staff/commissioners' travel to the CALAFCO Board meetings. Commissioner Wilson is serving a fourth term on the CALAFCO Executive Board and is the current vice-president of the Board. She also serves on several committees including the CALAFCO Legislative Committee and the CALAFCO structure subcommittee. The Executive Officer serves on the CALAFCO Legislative Committee.

5285300 PRIVATE AUTOMOBILE MILEAGE $2,000

This item provides for travel to conduct site visits, attend meetings and training sessions etc.

5285200 TRANSPORTATION AND TRAVEL (for use of County car) $1,000

This item would allow for the use of a County vehicle for travel to conferences, workshops and meetings.

5281600 OVERHEAD $46,626

This is an amount established by the County Controller's Office, for service rendered by various County departments that do not directly bill LAFCO for service. This amount is slightly lower than the current year budget because the projections do not include any salary increase, although there is an increase in some benefits. The FY 2011 costs generally include three elements:

First, the overhead includes the LAFCO share of the County's FY 2011 Cost Allocation Plan which is based on actual overhead costs from FY 2009 – the most recent year for which actual costs are available and include the following charges for LAFCO.

County Executive's Office:	$26,324
Controller-Treasurer:	$9,875
Employee Services Agency:	$3,406
OBA:	$976
Procurement:	$15
Other Central Services:	$102
ISD Intergovt. Service:	$4,082
ISD	$1,061

Secondly, a "roll forward" is applied which is calculated by comparing FY 2010 Cost Plan with FY 2009 actuals. In this case, there is no significant difference between the actual and the plan costs and no amount was included in this category.

And lastly, an additional adjustment of $840 is being made in the FY 2011 Cost Plan and is meant to reflect the increase in actual PERS costs in FY 2011. By making the adjustment at this time, the County is hoping to "flatten out" the roll-forward that would be charged in 2 years, when comparing the FY 2011 Plan to the FY 2011 actuals.

5275200 COMPUTER HARDWARE $2,000

This item is being maintained at $2,000 and will be used for hardware upgrades / purchases.

5250800 COMPUTER SOFTWARE $2,000

This item is for purchases of computer software that would be required for the program and is also being maintained at $2,000.

5250250 POSTAGE $2,000

This amount is budgeted for the cost of mailing notices, agendas, agenda packets and other correspondence and is being maintained at $2,000.

5252100 TRAINING PROGRAMS $2,000

This item provides for staff development courses and seminars.

5701000 RESERVES $100,000

This item includes reserves for two purposes: litigation reserve – for use if LAFCO is involved with any litigation and contingency reserve - to be used to deal with any unexpected expenses. If used during the year, this account will be replenished in the following year. In the past 8 years, LAFCO has not had to use the reserves and the amount has been rolled over to the following year to offset the costs.

3. REVENUES

4103400 APPLICATION FEES $30,000

It is anticipated that LAFCO will earn about $30,000 in fees from processing applications. LAFCO has extended the fee waiver for island annexations, resulting in reduced revenues. The actual amount earned from fees is not within LAFCO control and depends entirely on the actual level of application activity.

4301100 INTEREST $7,000

It is estimated that LAFCO will receive an amount of about $7,000 from interest earned on LAFCO funds.

COST APPORTIONMENT TO CITIES AND COUNTY

Calculation of Net Operating Expenses

FY 2011 Net Operating Expenses = Proposed FY 2011 Expenditures – Proposed FY 2011 Fee Revenues – Projected FY 2010 Year End Savings

FY 2011 Net Operating Expenses = $809,698 - $37,000 - $187,497
FY 2011 Net Operating Expenses = $585,201

The proposed net operating expenses for FY 2011 is approximately 9% higher than that of the current year net operating expenses despite cutting expenses by 2%. The main reason for this increase is that LAFCO did not receive as much revenues as were budgeted and consequently will have a smaller fund balance than in the past years.

Therefore there is a small increase in the cost to the cities and the County from the previous year. Please note that the projected operating expense for FY 2011 is based on projected savings and expenses for the current year and are not actual figures. It is therefore to be expected that there will be revisions to the budget as we get a better indication of current year expenses towards the end of this fiscal year. This could result in changes to the proposed net operating expenses for FY 2011 which could in turn impact the costs for each of the agencies. Provided below is the draft apportionment to the agencies based on the proposed net operating expenses for FY 2011 ($585,201).

Cost to Agencies

County of Santa Clara	$292,601
City of San Jose	$146,300
Remaining 14 cities in the County	$146,300

Apportionment of the costs among the 14 cities will be based on a percentage of the cities' total revenues and will be calculated by the County Controller's Office after LAFCO adopts the final budget in June. A draft of the estimated apportionment to the cities is included as Attachment B to provide the cities a general indication of the LAFCO costs.

ATTACHMENTS

Attachment A: Proposed Draft Budget for FY 2010-2011
Attachment B: Estimated Costs to Agencies Based on the Proposed Budget

PROPOSED LAFCO BUDGET
FISCAL YEAR 2010 - 2011

ITEM NO. 5
ATTACHMENT A

ITEM #	TITLE	APPROVED FY 2009-10 BUDGET	ACTUALS Year to Date 3/8/2010	END OF FY 2010 PROJECTIONS	PROPOSED FY 2010-2011 BUDGET
EXPENDITURES					
Object 1:	Salary and Benefits	$391,198	$261,256	$405,620	$408,826
Object 2:	Services and Supplies				
5258200	Intra-County Professional	$55,000	$5,386	$40,000	$55,000
5255800	Legal Counsel	$70,800	$40,634	$70,800	$55,000
5255500	Consultant Services	$110,000	$19,138	$110,000	$90,000
5285700	Meal Claims	$750	$213	$500	$750
5220200	Insurance	$603	$550	$550	$6,033
5250100	Office Expenses	$2,000	$657	$1,200	$2,000
5255650	Data Processing Services	$3,837	$2,934	$3,837	$2,463
5225500	Commissioners' Fee	$9,000	$2,000	$5,000	$9,000
5260100	Publications and Legal Notices	$2,500	$64	$200	$2,500
5245100	Membership Dues	$7,000	$7,000	$7,000	$7,000
5250750	Printing and Reproduction	$1,500	$0	$200	$1,500
5285800	Business Travel	$13,000	$2,464	$6,000	$12,000
5285300	Private Automobile Mileage	$2,000	$646	$1,500	$2,000
5285200	Transportation&Travel (County Car Usage)	$1,500	$512	$1,500	$1,000
5281600	Overhead	$49,077	$36,808	$49,077	$46,626
5275200	Computer Hardware	$2,000	$0	$1,500	$2,000
5250800	Computer Software	$2,000	$0	$1,400	$2,000
5250250	Postage	$2,000	$127	$500	$2,000
5252100	Staff Training Programs	$2,000	$0	$1,000	$2,000
5701000	Reserves	$100,000	$0	$0	$100,000
TOTAL EXPENDITURES		**$827,765**	**$380,389**	**$707,384**	**$809,698**
REVENUES					
4103400	Application Fees	$40,000	$11,558	$20,000	$30,000
4301100	Interest: Deposits and Investments	$7,000	$3,722	$5,000	$7,000
	Total Interest / Application Fee Revenue	$47,000	**$15,281**	**$25,000**	$37,000
4600100	Cities (Revenue from other Agencies)	$267,657	$267,657	$267,657	
5440200	County	$267,657	$267,657	$267,657	
	Savings/Fund Balance from previous FY	$245,451	$334,567	$334,567	**$187,497**
TOTAL REVENUE		**$827,765**	**$885,162**	**$894,881**	
NET LAFCO OPERATING EXPENSES		**$535,314**			**$585,201**
COSTS TO AGENCIES					
	County	$267,657	$267,657	$267,656.79	$292,601
	City of San Jose	$133,829	$133,829	$133,828	$146,300
	Other Cities	$133,829	$133,829	$133,829	$146,300

ITEM NO. 5
ATTACHMENT B

2010/2011 LAFCO COST APPORTIONMENT

Estimated Costs to Agencies Based on the Proposed Budget

LAFCO Net Operating Expenses for 2010/2011 **$585,201**

Jurisdictions	Revenue per 2006/2007 Report	Percentage of Total Revenue	Allocation Percentages	Allocated Costs
County	N/A	N/A	50.0000000%	$292,600.50
San Jose	N/A	N/A	25.0000000%	$146,300.25
Campbell	$37,893,677	2.2163276%	0.5540819%	$3,242.49
Cupertino	$55,692,872	3.2573679%	0.8143420%	$4,765.54
Gilroy	$85,648,532	5.0094163%	1.2523541%	$7,328.79
Los Altos	$35,396,719	2.0702853%	0.5175713%	$3,028.83
Los Altos Hills	$9,035,211	0.5284519%	0.1321130%	$773.13
Los Gatos	$34,668,904	2.0277169%	0.5069292%	$2,966.55
Milpitas	$116,952,583	6.8403294%	1.7100824%	$10,007.42
Monte Sereno	$2,652,541	0.1551420%	0.0387855%	$226.97
Morgan Hill	$67,173,041	3.9288207%	0.9822052%	$5,747.87
Mountain View	$156,866,835	9.1748365%	2.2937091%	$13,422.81
Palo Alto	$367,475,000	21.4928990%	5.3732247%	$31,444.16
Santa Clara	$472,938,700	27.6612660%	6.9153165%	$40,468.50
Saratoga	$19,106,625	1.1175094%	0.2793773%	$1,634.92
Sunnyvale	$248,249,502	14.5196312%	3.6299078%	$21,242.26
Total	$1,709,750,742	100.0000000%	100.0000000%	$585,200.99

Total Cities (minus San Jose) **$146,302.24**

LAFCO
Local Agency Formation Commission of Santa Clara County

ITEM NO. 6

LAFCO MEETING: April 21, 2010

TO: LAFCO

FROM: Neelima Palacherla, Executive Officer
Mala Subramanian, LAFCO Counsel

SUBJECT: Adoption of LAFCO's Conflict of Interest Code
Agenda Item # 6

STAFF RECOMMENDATION

1. Approve resolution adopting the Conflict of Interest Code for LAFCO. Please see Attachments A and B for the Code and resolution.
2. Direct LAFCO Executive Officer to transmit an executed copy of the adopting resolution and a copy of the adopted Conflict of Interest Code to the Board of Supervisors of Santa Clara County for its review and approval.

BACKGROUND

The Political Reform Act (Government Code Sections 81000, et seq.) requires all local agencies to adopt a Conflict of Interest Code. The Conflict of Interest Code for each local agency must designate a list of positions for which economic interest disclosures must be filed and must formulate disclosure categories.

After LAFCO has adopted the proposed Code, it must be approved by LAFCO's "code-reviewing body." The code-reviewing body for LAFCO is the Board of Supervisors of the County of Santa Clara. Therefore an executed copy of the adopting resolution and a copy of the Code must be sent to the County Board of Supervisors for its review and approval after LAFCO adoption. The effective date of the Code will be 30 days after the date the Board of Supervisors approves it.

ATTACHMENTS

Attachment A: Resolution adopting Conflict of Interest Code

Attachment B: Proposed Conflict of Interest Code including Appendix

RESOLUTION NO. 2010 - 03

RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF SANTA CLARA COUNTY ADOPTING ITS CONFLICT OF INTEREST CODE PURSUANT TO THE POLITICAL REFORM ACT OF 1974

WHEREAS, the Legislature of the State of California enacted the Political Reform Act of 1974, Government Code Section 81000, *et seq.* (the "Act"), which contains provisions relating to conflicts of interest, which potentially affect all officers, employees and consultants of the Local Agency Formation Commission of Santa Clara County ("LAFCO"), and requires all public agencies to adopt and promulgate a Conflict of Interest Code;

WHEREAS, LAFCO is authorized by Section 18730 of Title 2 of the California Code of Regulations, promulgated pursuant to the Act, to incorporate the terms of that Section by reference, and deem it, along with the Appendix that identifies LAFCO's designated employees and formulates disclosure categories in accordance with that Section, as LAFCO's Conflict of Interest Code within the meaning of the Act;

WHEREAS, the potential penalties for violation of the provisions of the Act are substantial and may include criminal and civil liability, as well as equitable relief which could result in LAFCO being restrained or prevented from acting in cases where the provisions of the Act may have been violated;

WHEREAS, notice of the time and place of a public meeting on, and of consideration by LAFCO of, the proposed Conflict of Interest Code was provided to each affected designated employee and made available for review at the offices of LAFCO; and

WHEREAS, a public meeting was held upon the proposed Conflict of Interest Code at a regular meeting of LAFCO on April 21, 2010, at which all present were given an opportunity to be heard on the proposed Conflict of Interest Code.

NOW, THEREFORE, the Local Agency Formation Commission of Santa Clara County, does hereby resolve, determine and order as follows:

SECTION 1: LAFCO does hereby adopt the proposed Conflict of Interest Code of the Local Agency Formation Commission of Santa Clara County, a copy of which is attached to this Resolution, and shall remain on file in the LAFCO office for inspection and copying by the public during regular business hours;

SECTION 2: LAFCO directs the LAFCO Clerk to submit the adopted Conflict of Interest Code to the Board of Supervisors of the County of Santa Clara for approval,

and the Code shall become effective 30 days after the Board of Supervisors approves it as submitted.

PASSED AND ADOPTED by the Local Agency Formation Commission of Santa Clara County, State of California, on this 21st day of April, 2010, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Susan Vicklund-Wilson, Chairperson
LAFCO of Santa Clara County

ATTEST:

Emmanuel Abello, LAFCO Clerk

APPROVED AS TO FORM AND LEGALITY:

Malathy Subramanian, LAFCO Counsel

CONFLICT OF INTEREST CODE OF THE LOCAL AGENCY FORMATION COMMISSION OF SANTA CLARA COUNTY

The Political Reform Act, California Government Code Sections 81000, *et seq.* (the "Act"), requires each state and local government agency to adopt and promulgate a conflict of interest code. The Fair Political Practices Commission has adopted a regulation, set forth in 2 California Code of Regulations Section 18730, that contains the terms of a standard conflict of interest code, which state and local government agencies can incorporate by reference into their conflict of interest codes. After public notice and hearing it may be amended by the Fair Political Practices Commission to conform to amendments to the Act.

Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference into the Local Agency Formation Commission of Santa Clara's ("LAFCO") Conflict of Interest Code. This incorporation page, Regulation 18730, and the attached Appendix designating officials and employees and establishing disclosure categories, shall collectively constitute LAFCO's Conflict of Interest Code (the "Code"). The requirements of the Code are in addition to other requirements of the Act and to other state or local laws pertaining to conflicts of interest. (Gov. Code § 81002(c); 2 Cal. Code of Regs. § 18730(a).)

All Officials and Designated Employees required to submit a statement of economic interests pursuant to this Conflict of Interest Code shall file their statements with the LAFCO Clerk, as LAFCO's Filing Officer. The Filing Officer shall make and retain a copy of all statements filed by Members of the Commission and the Executive Officer, and forward the originals of such statements to the Clerk of the Board of Supervisors of Santa Clara County. The Filing Officer shall retain the originals of the statements of all other Designated Employees. The Filing Officer will make all retained statements available for public inspection and reproduction, pursuant to California Government Code Section 81008.

Adopted by LAFCO Resolution #: _____ Date: _____
Approved by the County of Santa Clara Board of Supervisors Date: _____
Effective: _____

APPENDIX
CONFLICT OF INTEREST CODE OF THE LOCAL AGENCY FORMATION COMMISSION OF SANTA CLARA COUNTY

OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

LAFCO Officials who manage public investments, as defined by 2 California Code of Regulations Section 18701(b), are NOT subject to LAFCO's Code, but are subject to the disclosure requirements of the Political Reform Act. (Gov. Code § 87200, *et seq.*; 2 Cal. Code Regs. § 18730(b)(3).)

LAFCO currently has no officials who manage public investments.

DESIGNATED POSITIONS

Designated Employees' Title Or Function	Disclosure Categories Assigned
Members of the Commission and Alternates	1,2
Executive Officer	1,2
General Counsel	1,2
Assistant Executive Officer/Analyst	1,2
Consultant*	

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* Consultants shall be included in the list of Designated Employees and shall disclose pursuant to the broadest disclosure category in this Conflict of Interest Code subject to the following limitation:

The Executive Officer may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that are limited in scope and thus is not required to fully comply with the disclosure requirements described in this Section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Executive Officer's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

DISCLOSURE CATEGORIES

The disclosure categories listed below identify the types of investments, business entities, sources of income, including gifts, loans or travel payments, or real property which the Designated Employee must disclose for each disclosure category to which he or she is assigned.

Category 1: All investments and business positions in business entities, and sources of income, including gifts, loans or travel payments, located in, that do business in or own real property within the jurisdiction of LAFCO.

Category 2: All interests in real property which is located in whole or in part within, or not more than two (2) miles outside, the jurisdiction of LAFCO.

Category 3: All investments and business positions in business entities, and sources of income, including gifts, loans or travel payments, that are engaged in land development, construction or the acquisition or sale of real property within the jurisdiction of LAFCO.

Category 4: All investments and business positions in business entities, and sources of income, including gifts, loans or travel payments, that are banking, savings and loan, or other financial institutions.

Category 5: All investments and business positions in business entities, and sources of income, including gifts, loans or travel payments, that provide services, supplies, materials, machinery, vehicles or equipment of a type purchased or leased by LAFCO.

Category 6: All investments and business positions in business entities, and sources of income, including gifts, loans or travel payments, that provide services, supplies, materials, machinery, vehicles or equipment of a type purchased or leased by the Designated Employee's Department.

LAFCO
Local Agency Formation Commission of Santa Clara County

ITEM NO. 7

LAFCO MEETING: April 21, 2010

TO: LAFCO

FROM: Neelima Palacherla, Executive Officer

SUBJECT: General Liability Insurance Coverage
Agenda Item # 7

STAFF RECOMMENDATION

1. Obtain general liability insurance coverage from the Special District Risk Management Authority (SDRMA), a non-profit agency associated with the California Special Districts Association (CSDA). The following actions are needed in order to obtain SDRMA coverage:
   a. Adopt the attached Resolution approving the form of and authorizing the execution of the sixth amended joint powers agreement and authorizing participation in the SDRMA property / liability program.
   b. Direct the Chairperson to execute the Sixth Amended Joint Powers Agreement relating to SDRMA.
   c. Direct LAFCO Executive Officer to apply for membership in the CSDA and pay its annual membership dues of $776 and make the annual payments for property / general liability coverage for $3,757. Based on the policy effective date, the invoice will be pro-rated.
2. After the SDRMA policy becomes effective, cancel the existing general liability insurance coverage provided by the County of Santa Clara.

BACKGROUND

Pursuant to the current Memorandum of Understanding between LAFCO and the County of Santa Clara that sets forth terms and conditions under which the County will provide staffing, facilities and support services to LAFCO, the County is required to provide general and auto liability insurance coverage to LAFCO. Therefore, LAFCO is covered under the County's policy which includes self insurance for the first $2 million and excess coverage provided by California State Association of Counties -Excess Insurance Authority (CSAC EIA). LAFCO's makes a payment of $600 to the County as annual premium for this coverage.

Early this year, the County's Risk Management Office notified LAFCO staff that LAFCO should obtain its own general liability insurance coverage separate from the County. The County believes that since LAFCO is not a County agency or department but rather an independent agency that is funded by multiple public agencies, it is not a good risk management practice for the County to assume sole responsibility for LAFCO's potential liabilities especially since the County is primarily self-insured and the first $2

million would be paid directly from County funds. Additionally, this self- funded arrangement could result in a potential conflict if a situation arose whereby the County and LAFCO are on opposite sides in litigation or other legal action.

COMPARISON OF INSURANCE POLICIES

LAFCO staff submitted applications and obtained quotes from two insurance carriers Alliant and SDRMA that provide coverage to a number of LAFCOs statewide. The quotes from Alliant and SDRMA (See attachment C) have been reviewed by Counsel and a summary comparison of the two policies is included below.

	ALLIANT		**SDRMA**	
Cost	$3,341.53		$3,757 +$776 (CSDA Membership)= $4,533	
	Limits	Deductible	Limits	Deductible
General Liability	$ 1 Million per occurrence	$1,000	$2.5 Million per occurrence	None for bodily injury, $500 for property damage per occurrence
Auto Liability (to serve as secondary policy to personal auto liability coverage)	$1 Million per occurrence	$1,000	$2.5 Million per occurrence	None for bodily injury, $1,000 for property damage per occurrence
Public Officials Errors and Omissions	$1 Million per occurrence annual aggregate	$1,000	$2.5 Million per occurrence annual aggregate	none
Employment Practices Liability	$1 Million per occurrence annual aggregate	$10,000	$2.5 Million per occurrence annual aggregate	none
Elected Officials Personal Liability Protection	_	_	$500,000 per official per year; annual aggregate;	$500 per claim
Employee Benefits Liability	_	_	$2.5 million per occurrence; annual aggregate	none
Employee and Officials Fidelity Blanket Bond	_	_	$400,000	none
Property Coverage	$1 million	$1,000	$1B; Replacement cost (without depreciation)	$2,000 per occurrence

A comparison of these policies with LAFCO's current policy with the County is complicated because the County is self insured for up to $2 million and a reinsurance layer of $15,000,000 per occurrence in excess of the retention limit. Although we were unable to obtain the specific terms and conditions of coverage to LAFCO within the self insured portion, most claims within the first $2 million are likely covered by the County and claims beyond that are subject to CSAC EIA's terms and conditions. The types of coverage offered by SDRMA is comparable to that provided by CSAC EIA.

Neither the SDRMA nor Alliant insurance policies include injunctive / declaratory relief coverage (coverage for LAFCO's legal costs of defending itself against lawsuits that seek to set aside LAFCO decisions as opposed to those making monetary claims or seeking to recover damages). SDRMA declined to provide LAFCO injunctive relief coverage due to our recent litigation history related to the San Martin Incorporation proposal. However, this issue is partially addressed (as it relates to potential litigation by a third party) with LAFCO's recently adopted indemnification policy. Other major exclusions contained in the two policies that might be applicable to LAFCO include contractual, workers compensation, and possibly inverse condemnation, among others. The County currently provides workers compensation coverage for LAFCO staff through payroll. The LAFCO Budget Sub Committee is in the process of discussing the issue of whether or not LAFCO Commissioners should be provided workers compensation separate from that provided by their appointing agencies. Following further research and discussion with Counsel, a recommendation will be brought forward to the full commission regarding this issue at the next meeting.

The Budget Sub Committee, at its meeting on April 7th, reviewed the quotes provided by Alliant and SDRMA and recommended that LAFCO obtain coverage from SDRMA, which although more costly, offers more comprehensive coverage, higher limits, lower deductibles and is more comparable to LAFCO's current coverage through CSAC EIA.

NEXT STEPS

Upon LAFCO's approval of insurance purchase from SDRMA, staff will prepare the necessary paperwork and obtain insurance coverage. Additionally, in cooperation with County staff, LAFCO staff will revise the Memorandum of Understanding between the County and LAFCO and seek approval from LAFCO and the County Board of Supervisors. Additionally, staff will bring forward a recommendation on the issue relating to Workers Compensation coverage for LAFCO commissioners at the June meeting.

ATTACHMENTS

Attachment A: Resolution authorizing the execution of the sixth amended joint powers agreement and authorizing participation in the SDRMA program

Attachment B: Sixth Amended Joint Powers Agreement relating to SDRMA

Attachment C: General Liability Insurance Proposals from Alliant and SDRMA

ITEM NO. 7
ATTACHMENT A

RESOLUTION NO. 2010-04

A RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF SANTA CLARA COUNTY (LAFCO) APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION OF A SIXTH AMENDED JOINT POWERS AGREEMENT AND AUTHORIZING PARTICIPATION IN THE SPECIAL DISTRICT RISK MANAGEMENT AUTHORITY PROPERTY /LIABILITY PROGRAM

WHEREAS, LAFCO, duly organized and existing under and by virtue of the laws of the State of California (the "Agency"), has determined that it is in the best interest and to the advantage of the Agency to participate for at least three full years in the property/liability program offered by the Special District Risk Management Authority (the "Authority"); and

WHEREAS, California Government Code Section 6500 *et seq.*, provides that two or more public agencies may by agreement jointly exercise any power common to the contracting parties; and

WHEREAS, Special District Risk Management Authority was formed in 1986 in accordance with the provisions of California Government Code 6500 *et seq.*, for the purpose of providing its members with risk financing and risk management programs; and

WHEREAS, California Government Code Section 990.4 provides that a local public entity may self-insure, purchase insurance through an authorized carrier, or purchase insurance through a surplus lines broker, or any combination of these; and

WHEREAS, participation in Special District Risk Management Authority programs requires the Agency to execute and enter into a Sixth Amended Joint Powers Agreement (the "Amended JPA Agreement"); which states the purpose and powers of the Authority; and

WHEREAS, all acts, conditions and things required by the laws of the State of California to exist, to have happened and to have been performed precedent to and in connection with the consummation of the transactions authorized hereby do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the Agency is now duly authorized and empowered, pursuant to each and every requirement of law, to consummate such transactions for the purpose, in the manner and upon the terms herein provided.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE AGENCY AS FOLLOWS:

Section 1. Findings. The Agency Board of Directors hereby specifically finds and determines that the actions authorized hereby relate to the public affairs of the Agency.

Section 2. Sixth Amended JPA Agreement. The Amended JPA Agreement, proposed to be executed and entered into by and between the Agency and members of the Special District Risk Management Authority, in the form presented at this meeting and on file with the Agency Secretary, is hereby approved. The Agency Board and/or Authorized Officers ("The Authorized Officers") are hereby authorized and directed, for and in the name and on behalf of the Agency, to execute and deliver to the Authority the Amended JPA Agreement in substantially said form, with such changes therein as such officers may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 3. Program Participation. The Agency Board of Directors approves participating for three full program years in Special District Risk Management Authority Property/Liability Program.

Section 4. Other Actions. The Authorized Officers of the Agency are each hereby authorized and directed to execute and deliver any and all documents which is

necessary in order to consummate the transactions authorized hereby and all such actions heretofore taken by such officers are hereby ratified, confirmed and approved.

Section 5. Effective Date. This resolution shall take effect immediately upon its passage.

PASSED AND ADOPTED this _____ day of _____, 20____ by the following vote:

AYES: _____

NOES: _____

ABSENT: _____

_____
Susan Vicklund-Wilson, Chairperson
LAFCO of Santa Clara County

ATTEST:

_____
Emmanuel Abello, LAFCO Clerk

APPROVED AS TO FORM & LEGALITY:

_____
Malathy Subramanian, LAFCO Counsel

SIXTH AMENDED
JOINT POWERS AGREEMENT

RELATING TO THE

SPECIAL DISTRICT RISK MANAGEMENT AUTHORITY

Adopted	August 1, 1986
1st Amended	February 5, 1988
2nd Amended	March 31, 1990
3rd Amended	July 1, 1993
4th Amended	February 9, 1998
5th Amended and Restated	
- Approved	March 24, 2003
- Effective	July 1, 2003
6th Amended	October 2, 2007

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SIXTH AMENDED JOINT POWERS AGREEMENT
RELATING TO THE
SPECIAL DISTRICT RISK MANAGEMENT AUTHORITY

THIS SIXTH AMENDED JOINT POWERS AGREEMENT (the "Agreement") is made and entered into by and among the public agencies (the "Members") organized and existing under the laws of the State of California, which are signatories to this Agreement.

RECITALS

WHEREAS, California Government Code Section 6500 *et seq.* (the "Act") provides that two or more public agencies may by agreement jointly exercise any power common to the contracting parties; and

WHEREAS, California Labor Code Section 3700(c) permits pooling by public agencies of self insurance for Workers' Compensation liability; and

WHEREAS, California Government Code Section 990.4 provides that a local public entity may self-insure, purchase insurance through an authorized carrier, purchase insurance through a surplus line broker, or any combination of these; and

WHEREAS, California Government Code Section 990.8 provides that two or more local entities may, by a joint powers agreement, provide insurance for any purpose by any one or more of the methods specified in Government Code Section 990.4; and

WHEREAS, the parties to this Agreement desire to join together for the purposes set forth in Article 2 hereof, including establishing pools for self-insured losses and purchasing Excess or Re-Insurance and administrative services in connection with joint protection programs (the "Programs") for members of the California Special Districts Association ("CSDA"); and

WHEREAS, it appears economically feasible and practical for the parties to this Agreement to do so; and

WHEREAS, the Members have previously executed that certain Fifth Amended and Restated Joint Powers Agreement (the "Original JPA"), which Original JPA the Members desire to amend and restate by this Agreement; provided that such amendment and restatement shall not affect the existence of the Authority; and

WHEREAS, CSDA exists to assist and promote special districts, and has been responsible for the original creation of the Special District Risk Management Authority ("Authority") and Special District Workers Compensation Authority ("SDWCA"), and determined the consolidation of SDWCA and the Authority on July 1, 2003 was in the best interests of special districts and other public agencies throughout the State.

NOW THEREFORE, for and in consideration of all of the mutual benefits, covenants and agreements contained herein, the parties hereto agree as follows:

Article 1. Definitions. The following definitions shall apply to the provisions of this agreement:

"Act" means Articles 1 through 4 (commencing with Section 6500) of Chapter 5, Division 7, Title 1 of the California Government Code, as amended or supplemented.

"Alliance Executive Council" means the council organized pursuant to the MOU.

"Assessment" means an additional amount, in addition to the Member's or Former Member's original contribution, which the Board of Directors determines in accordance herewith and/or with the Bylaws that a Member or Former Member owes on account of its participation in a Program for a given Program year.

"Authority" shall mean the Special District Risk Management Authority created by the original version of this Agreement.

"Board of Directors" or "Board" shall mean the governing body of the Authority.

"Bylaws" means the Bylaws of the Authority adopted by the Board of Directors, as they may be amended from time to time.

"Chief Executive Officer" shall mean that employee of the Authority who is so appointed by the Board of Directors.

"Claim" shall mean a demand made by or against a Member or Former Member which is or may be covered by one of the Programs approved by the Board of Directors.

"Contribution" means the amount determined by the Board of Directors to be the appropriate sum which a Member should pay at the commencement of or during the Program Year in exchange for the benefits provided by the Program.

"Coverage Documents" shall mean the Declarations, Memorandum of Coverages, Coverage Agreements, Endorsements, Policies of Insurance or any other documents that provide the terms, conditions, limits and exclusions of coverage afforded by a Program.

"CSDA" means the California Special Districts Association.

"District" shall mean a special district, public agency or public entity within the State of California which is both a Member of the CSDA and a signatory to this Agreement.

"Duly Constituted Board Meeting" shall mean any Board of Directors meeting noticed and held in the required manner and at which a Quorum was determined to be present at the beginning of the meeting.

"Estimated Contribution" means the amount which the Board of Directors estimates will be the appropriate contribution for a Member's participation in a Program for a Program Year.

"Excess or Re-Insurance" shall mean that insurance which may be purchased on behalf of the Authority and/or the Members to protect the funds of the Members or Former Members against catastrophic losses or an unusual frequency of losses during a single year in excess of the self-insurance retention maintained by the Authority.

"Fiscal Year" shall mean that period of twelve months which is established as the fiscal year of the Authority.

"Former Member" shall mean a District which was a signatory to the Agreement but which has withdrawn from, or been involuntarily terminated from participating in, the Authority.

"Joint Protection Program" means a Program offered by the Authority, separate and distinct from other Programs, wherein Members will jointly pool their losses and claims, jointly purchase Excess or Re-Insurance and administrative and other services, including claims adjusting, data processing, risk management consulting, loss prevention, legal and related services.

"Member" shall mean a signatory to this Agreement, which is qualified as a Member under the provisions of this Agreement and the Bylaws.

"MOU" means the Memorandum of Understanding - Alliance Executive Council, dated as of September 20, 2001, among the Authority, CSDA, the CSDA Finance Corporation and SDWCA.

"Program" or "Programs" means the specific type of protection plan as set forth in the terms, conditions and exclusions of the Coverage Documents for self-insured losses, and the purchasing of Excess or Re-Insurance and administrative services.

"Program Year" shall mean a period of time, usually 12 months, determined by the Board of Directors, in which a Program is in effect.

"Retained Earnings," as used herein, shall mean an equity account reflecting the accumulated earnings of a Joint Protection Program.

"SDWCA" means the Special Districts Workers Compensation Authority, and its successors or assigns.

Article 2. Purposes. This Agreement is entered into by the Members pursuant to the provisions of California Government Code section 990, 990.4, 990.8 and 6500 *et seq.* in order to provide, subject to the provisions of the Coverage Documents, economical public liability and workers' compensation coverage, or coverage for other risks which the Board of Directors may determine.

Additional purposes are to reduce the amount and frequency of losses, and to decrease the cost incurred by Members in the handling and litigation of claims. These purposes shall be

accomplished through the exercise of the powers of such Members jointly in the creation of a separate entity, the Special District Risk Management Authority (the "Authority"), to establish and administer Programs as set forth herein and in the Bylaws.

It is also the purpose of this Agreement to provide, to the extent permitted by law, for the inclusion, at a subsequent date, and subject to approval by the Board of Directors, of such additional Members organized and existing under the laws of the State of California as may desire to become parties to the Agreement and Members of the Authority.

Article 3. Parties to Agreement. Each party to this Agreement certifies that it intends to and does contract with all other parties who are signatories to this Agreement and, in addition, with such other parties as may later be added as parties to and signatories of this Agreement pursuant to Article 18. Each party to this Agreement also certifies that the withdrawal from or cancellation of membership by any Member, pursuant to Articles 19 and 20 or otherwise, shall not affect this Agreement nor such party's intent, as described above, to contract with the other remaining parties to the Agreement.

Article 4. Term of Agreement. This Agreement shall become effective as to existing Members of the Authority as set forth in Article 33 hereof. This Agreement shall continue thereafter until terminated as hereinafter provided. This Agreement shall become effective as to each new Member upon: (i) approval of its membership by the Board of Directors, (ii) the execution of this Agreement by the Member, and (iii) upon payment by the Member of its initial Contribution for a Program. Any subsequent amendments to the Agreement shall be in accordance with Article 27 of this Agreement.

Article 5. Creation of Authority. Pursuant to the Act, there is hereby created a public entity separate and apart from the parties hereto, to be known as the Special District Risk Management Authority. Pursuant to Section 6508.1 of the Act, the debts, liabilities and obligations of the Authority, including but not limited to, debts, liabilities and obligations of any of the Programs shall not constitute debts, liabilities or obligations of any party to this Agreement or to any Member or Former Member.

The Authority is not an insurer, and the coverage programs offered by the Authority do not provide insurance, but instead provide for pooled joint protection programs among the members of the Authority. The Joint Protection Programs offered by the Authority constitute negotiated agreements among the Members which are to be interpreted according to the principles of contract law, giving full effect to the intent of the Members, acting through the Board of Directors in establishing the Programs.

Article 6. Powers of Authority. (a) The Authority shall have all of the powers common to Members and is hereby authorized to do all acts necessary for the exercise of said common powers, including, but not limited to, any or all of the following:

(1) to make and enter into contracts, including the power to accept the assignment of contracts or other obligations which relate to the purposes of the Authority, or which were entered into by a Member or Former

Member prior to joining the Authority, and to make claims, acquire assets and incur liabilities;

(2) to accept an assignment from SDWCA of all its assets, obligations and liabilities prior to the dissolution of SDWCA (including claims and contracts in existence prior to such dissolution) in order to benefit the Members or Former Members participating in the SDWCA workers compensation program; provided, that except for the fair and equitable allocation of administrative and overhead expenses, funds from such assignment shall not be co-mingled and shall be separately accounted for as provided for in this Agreement and the Bylaws.

(3) to incur debts, liabilities, or other obligations, including those which are not debts, liabilities or obligations of the Members or Former Members, or any of them;

(4) to charge and collect Contributions and Assessments from Members or Former Members for participation in Programs;

(5) to receive grants and donations of property, funds, services and other forms of assistance from persons, firms, corporations and governmental entities;

(6) to acquire, hold, lease or dispose of property, contributions and donations of property and other forms of assistance from persons, firms, corporations and governmental entities

(7) to acquire, hold or dispose of funds, services, donations and other forms of assistance from persons, firms, corporations and governmental entities;

(8) to employ agents and employees, and/or to contract for such services;

(9) to incur debts, liabilities or other obligations to finance the Programs and any other powers available to the Authority under Article 2 or Article 4 of the Act;

(10) to enter into agreements for the creation of separate public entities and agencies pursuant to the Act;

(11) to sue and be sued in its own name;

(12) to exercise all powers necessary and proper to carry out the terms and provisions of this Agreement (including the provision of all other appropriate ancillary coverages for the benefit of the Members or Former Members), or otherwise authorized by law or the Act; and

(13) to exercise all powers and perform all acts as otherwise provided for in the Bylaws.

(b) Said powers shall be exercised pursuant to the terms hereof, in the manner provided by law and in accordance with Section 6509 of the Act. The foregoing powers shall be subject to the restrictions upon the manner of exercising such powers pertaining to the Member or Former Member designated in the Bylaws.

Article 7. Board of Directors. Subject to the limitations of this Agreement and the laws of the State of California, the powers of this Authority shall be vested in and exercised by, and its property controlled and its affairs conducted by, the Board of the Authority, which is hereby established and designated as the agency to administer this Agreement pursuant to Section 6506 of the Act. The powers of the Authority shall be exercised through the Board of Directors, who may, from time to time, adopt and modify Bylaws and other rules and regulations for that purpose and for the conduct of its meetings as it may deem proper. The officers of the Board shall be as set forth in the Bylaws.

So long as the MOU has not been terminated or the Authority has not withdrawn from the MOU, the Board of Directors shall be composed of seven (7) directors elected by the Member entities who have executed the current operative Agreement and are participating in a Joint Protection Program. The terms of directors, procedures for election of directors, procedures for meetings and provisions for reimbursement of Director expenses shall be as set forth in the Bylaws. Each Member of the Board of Directors shall have one vote. Each Member of the Board shall serve as set forth in the Bylaws.

So long as the Authority is a participant in the MOU, the Board of Directors of the Authority shall appoint three (3) members of its board to serve as members of the Alliance Executive Council. No member of the Board of Directors of the Authority shall serve as a director on any other board of directors of an entity or organization that is a signatory to the MOU during the term of the MOU. In the event a director is elected to such a board, that director shall immediately resign from the Board of Directors of the Authority.

In the event SDRMA withdraws from the MOU, the Board of Directors of the Authority shall consist of those seven (7) Directors who hold seats on the Authority's Board of Directors at the time of the withdrawal and who were duly appointed by the Board, or elected or re-elected by the Member entities of SDRMA plus the additional directors appointed by CSDA as provided in Article 25.

Article 8. Compliance with the Brown Act. All meetings of the Board, including, without limitation, regular, adjourned regular and special meetings, shall be called, noticed, held and conducted in accordance with the provisions of the Ralph M. Brown Act, California Government Code Section 54950 *et seq.*

Article 9. Powers of the Board of Directors. The Board of Directors shall have such powers and functions as provided for pursuant to this Agreement and the Bylaws and such additional powers as necessary or appropriate to fulfill the purposes of this Agreement and the Bylaws, including, but not limited to, the following:

(a) to determine details of and select the Program or Programs to be offered, from time to time, by the Authority;

(b) to determine and select all insurance, including Excess or Re-insurance, necessary to carry out the programs of the Authority;

(c) to contract for, develop or provide through its own employees various services for the Authority;

(d) to prepare or cause to be prepared the operating budget of the Authority for each fiscal year;

(e) to receive and act upon reports of committees and from the Chief Executive Officer;

(f) to appoint staff, including a Chief Executive Officer, and employ such persons as the Board of Directors deems necessary for the administration of this Authority;

(g) to direct, subject to the terms and conditions of the Coverage Documents, the payment, adjustment, and defense of all claims involving a Member during their period of membership in and coverage under a Program;

(h) to fix and collect Contributions and Assessments for participation in the Programs;

(i) to expend funds of the Authority for the purpose of carrying out the provisions of the Agreement and the Bylaws as they now exist or may be hereafter amended;

(j) to purchase excess insurance, liability insurance, stop loss insurance, officers and directors liability insurance, and such other insurance as the Authority may deem necessary or proper to protect the Program, employees of the Authority and employees of the Members;

(k) to defend, pay, compromise, adjust and settle all claims as provided for in the Coverage Documents;

(l) to obtain a fidelity bond in such amount as the Board of Directors may determine for any person or persons who have charge of or the authority to expend funds for the Authority;

(m) to establish policies and procedures for the operation of the Authority and the Programs;

(n) to engage, retain, and discharge agents, representatives, firms, or other organizations as the Board of Directors deems necessary for the administration of the Authority;

(o) to enter into any and all contracts or agreements necessary or appropriate to carry out the purposes and functions of the Authority;

(p) to acquire, hold, lease, manage and dispose of, as provided by law, any and all property necessary or appropriate to carry out the purposes and functions of the Authority;

(q) to transact any other business which is within the powers of the Board of Directors;

(r) to invest funds on hand in a manner authorized by law, the Agreement and the Bylaws;

(s) to provide financial administration, claims management services, legal representations, safety engineering, actuarial services, and other services necessary or proper to carry out the purposes of the Authority either through its own employees or contracts with one or more third parties;

(t) to exercise general supervisory and policy control over the Chief Executive Officer;

(u) to establish committees and sub-committees as it deems necessary to best serve the interests of the Authority; and

(v) to have such other powers and functions as are provided for pursuant to the Act, this Agreement or necessary or appropriate to fulfill the purpose of this Agreement and the Bylaws.

Article 10. Officers of the Authority. The officers of the Authority shall be as set forth in the Bylaws. The Board may elect or authorize the appointment of such other officers than those described in the Bylaws as the business of the Authority may require, each of whom shall hold office for such period, have such authority and perform such duties as are provided in this Agreement, or as the Board, from time to time, may authorize or determine.

Any officer may be removed, either with or without cause, by a majority of the directors of the Board at any regular or special meeting of the Board. Should a vacancy occur in any office as a result of death, resignation, removal, disqualification or any other cause, the Board may delegate the powers and duties of such office to any officers or to any Members of the Board until such time as a successor for said office has been appointed.

Article 11. Provision for Bylaws. The Board shall promulgate Bylaws to govern the day-to-day operations of the Authority. The Board may amend the Bylaws from time to time as it deems necessary, and as provided in the Bylaws. Each Member shall receive a copy of any Bylaws and agrees to be bound by and to comply with all of the terms and conditions of the Bylaws as they exist or as they may be modified. The Bylaws shall be consistent with the terms of this Agreement. In the event any provision of the bylaws conflicts with a provision of this Agreement, the provision contained in this Agreement shall control.

Article 12. [Reserved].

Article 13. Coverage Programs.

(a) The Authority shall maintain such types and levels of coverage for Programs as determined by the Board of Directors. Such coverage may provide for binding arbitration before an independent arbitration panel of any disputes concerning coverage between the Authority and a Member.

(b) The coverage afforded under one or more Programs may include protection for general liability, auto liability, property, boiler and machinery, public officials errors and omissions, employment practices, employee benefits liability coverage, employee dishonesty coverage, public officials personal liability coverage and workers' compensation, as well as coverage for other risks which the Board of Directors may determine to be advisable. More than one type of coverage may be afforded under a single Program.

(c) The Board of Directors may arrange for group policies to be issued for Members, their board members and employees interested in obtaining additional coverage, at an appropriate additional cost to those participating Members.

(d) The Board of Directors may arrange for the purchase of Excess or Re-Insurance. The Authority shall not be liable to any Member or to any other person or organization if such excess or reinsurance policies are terminated, canceled or non-renewed without prior notice to one or more Members, or if there is a reduction in the type of coverage afforded under a program by reason of any change in coverage in a succeeding excess or reinsurance policy, even if such reduction occurs without prior notice to one or more Members.

Article 14. Implementation of the Programs. The Board of Directors shall establish the coverage afforded by each Program, the amount of Contributions and Assessments, the precise cost allocation plans and formulas, provide for the handling of claims, and specify the amounts and types of Excess or Re-Insurance to be procured. The Contributions and Assessments for each Program shall be determined by the Board of Directors as set forth herein, in the Bylaws or in the operating policies established for a Program.

Article 15. Accounts And Records.

(a) **Annual Budget.** The Authority shall, pursuant to the Bylaws, annually adopt an operating budget, including budgets for each Joint Protection Program.

(b) **Funds and Accounts.** The Authority shall establish and maintain such funds and accounts as required by the Board of Directors and as required by generally accepted accounting principles, including separate funds and accounts for each Program, including Joint Protection Programs. Books and records of the Authority shall be open to any inspection at all reasonable times by authorized representatives of Members, or as otherwise required by law.

(c) **Investments.** Subject to the applicable provisions of any indenture or resolution providing for the investment of moneys held thereunder, the Authority shall have the power to invest any money in the treasury that is not required for the immediate necessities of the Authority, as the Board determines is advisable, in the same manner as local agencies pursuant to

California Government Code Sections 53601 *et seq.* (as such provisions may be amended or supplemented).

(d) **No Commingling.** The funds, reserves and accounts of each Program shall not be commingled and shall be accounted for separately; provided, however, that administration and overhead expenses of the Authority not related to a specific Program or Programs may be fairly and equitably allocated among Programs as determined by the Board of Directors. Investments and cash accounts may be combined for administrative convenience, but a separate accounting shall be made for balances of individual funds and Program revenues and expenses.

(e) **Annual Audit.** The Board shall provide for a certified, annual audit of the accounts and records of the Authority, in the manner set forth in the Bylaws.

Article 16. Services Provided by the Authority. The Authority may provide, at the sole discretion of the Board of Directors, the following services in connection with this Agreement:

(a) to provide or procure coverage, including but not limited to self-insurance funds and commercial insurance, as well as excess coverage, re-insurance and umbrella insurance, by negotiation or bid, and purchase;

(b) to assist Members in obtaining insurance coverage for risks not included within the coverage of the Authority;

(c) to assist risk managers with the implementation of risk management functions as it relates to risks covered by the Programs in which the Member participates;

(d) to provide loss prevention and safety consulting services to Members;

(e) to provide claims adjusting and subrogation services for Claims covered by the Programs;

(f) to provide loss analysis and control by the use of statistical analysis, data processing, and record and file keeping services, in order to identify high exposure operations and to evaluate proper levels of self-retention and deductibles;

(g) to review Member contracts to determine sufficiency of indemnity and insurance provisions when requested;

(h) to conduct risk management audits relating to the participation of Members in the Programs; and

(i) to provide such other services as deemed appropriate by the Board of Directors.

Article 17. Responsibilities of Members. Members or Former Members shall have the following responsibilities, which shall survive the withdrawal from, or involuntary termination of participation in, this Agreement:

(a) Each Member shall designate a person to be responsible for the risk management function within that Member and to serve as a liaison between the Member and the Authority as to risk management.

(b) Each Member shall maintain an active safety officer and/or committee, and shall consider all recommendations of the Authority concerning unsafe practices and/or hazard mitigation.

(c) Each Member shall maintain its own set of records, including a loss log, in all categories of risk covered by each Program in which it participates to insure accuracy of the Authority's loss reporting system, unless it is no longer deemed necessary by the Board of Directors.

(d) Each Member shall pay its Contribution, and any adjustments thereto, and any Assessments within the specified period set forth in the invoice, or as otherwise may be set forth herein or in the Bylaws. After withdrawal or termination, each Former Member or its successor shall pay promptly to the Authority its share of any additional Contribution, adjustments or Assessments, if any, as required of it by the Board of Directors under Article 21 or 22 of this Agreement or the Bylaws.

(e) Each Member or Former Member shall provide the Authority with such other information or assistance as may be necessary for the Authority to carry out the Programs under this Agreement in which the Member or Former Member participates or has participated.

(f) Each Member or Former Member shall in any and all ways cooperate with and assist the Authority and any insurer of the Authority, in all matters relating to this Agreement and covered claims.

(g) Each Member or Former Member will comply with all Bylaws, rules and regulations adopted by the Board of Directors.

(h) Each Member shall remain a member in good standing of CSDA.

Article 18. New Members. The Authority shall allow entry into its Programs of new Members only upon approval of the Board, with any conditions or limitations as the Board deems appropriate. In order to become a Member and remain a Member, any District must be a member in good standing of CSDA, shall participate in at least one (1) Joint Protection Program and shall be authorized to exercise the common powers set forth in this Agreement.

Article 19. Withdrawal.

(A) Any Member may voluntarily withdraw from this Agreement only at the end of any applicable Program Year and only if:

(i) The Member has been a signatory to this Agreement for not less than three (3) full Program Years as of the date of the proposed withdrawal;

(ii) The Member submits a written withdrawal notification in accordance with the Bylaws;

(iii) In order to withdraw from the agreement the member must have completed the three (3) full program year participation requirement for each Joint Protection Program the member participated in at the time of withdrawal.

(B) Any Member may voluntarily withdraw from any particular Joint Protection Program; and

(i) It has participated in such Joint Protection Program for at least three (3) full Program Years;

(ii) it is a participant in another Joint Protection Program; and

(iii) the Member submits a written withdrawal notification in accordance with the Bylaws.

(C) In the event that the three year participation requirement as required by (A)(i) or (B)(i) as to any such Joint Protection Program above has not been met, for each Program the withdrawing Member participated in at the time of its withdrawal, for less than three years such withdrawing member shall be obligated to pay all Contributions and Assessments as if that Member had remained in each such Program for the full three years from the inception of its membership in the Authority.

(D) In the event that the notice is not provided as required by (A)(ii) or (B)(iii) above, any such withdrawing Member shall, with respect to each Program the Member participated in, be obligated to pay any and all Contributions and Assessments for the next full Program Year.

(E) A Member may withdraw from any Program (other than a Joint Protection Program) as provided by the Coverage Documents relating to such Program.

(F) Withdrawal of one or more Members shall not serve to terminate this Agreement.

(G) A Member may not withdraw as a party to this Agreement until it has withdrawn, as provided in the Bylaws from all of the Programs of the Authority.

Article 20. Involuntary Termination.

(a) Notwithstanding the provisions of Article 19, the Authority shall have the right to involuntarily terminate any Member's participation in any Program, or terminate membership in the Authority, as provided in the Bylaws.

(b) Notwithstanding any other provisions of this Agreement, the participation of any Member of the Authority, including participation in any of the Authority's Programs, may be involuntarily terminated at the discretion of the Board of Directors whenever such Member is dissolved, consolidated, merged or annexed. A reasonable time shall be afforded, in the

discretion of the Board of Directors, to place coverage elsewhere. Any such involuntary termination shall not relieve the Member or Former Member of its responsibilities as provided for in Articles 17 or 21.

Article 21. Effect of Withdrawal or Involuntary Termination. The withdrawal from or involuntary termination of any Member from this Agreement shall not terminate this Agreement, and such Member, by withdrawing or being involuntarily terminated, shall not be entitled to payment, return or refund of any Contribution, Assessment, consideration, or other property paid, or donated by the Member to the Authority, or to any return of any loss reserve contribution, or to any distribution of assets (except payment of any Retained Earnings, as set forth in the following paragraph).

The withdrawal from or involuntary termination of any Member after the effective date of any Program shall not terminate its responsibility to pay its unpaid Contribution adjustments, or Assessments to such Program. The Board of Directors shall determine the final amount due from the Member or Former Member by way of contribution or assessments, if any, or any credit due on account thereof, to the Member or Former Member for the period of its participation. Such determination shall not be made by the Board of Directors until all Claims, or other unpaid liabilities, have been finally resolved. In connection with this determination, the Board of Directors may exercise similar powers to those provided for in Article 22(b) of this Agreement, or as otherwise set forth in the Bylaws. Upon such withdrawal from or cancellation of participation in any Program by any Member, said Member shall be entitled to receive its pro rata share of any Retained Earnings declared by the Board of Directors after the date of said Member withdraws or is involuntarily terminated.

Article 22. Termination and Distribution; Assignment.

(a) This Agreement may be terminated any time with the written consent of two-thirds of the voting Members; provided, however, that this Agreement and the Authority shall continue to exist for the purpose of disposing of all claims, distribution of net assets and all other functions necessary to wind up the affairs of the Authority.

(b) The Board of Directors is vested with all powers of the Authority for the purpose of winding up and dissolving the business affairs of the Authority. These powers shall include the power to require Members or Former Members, including those which were signatory hereto at the time the subject Claims arose or was/were incurred, to pay any Assessment in accordance with loss allocation formulas for final disposition of all Claims and losses covered by this Agreement or the Bylaws. A Member or Former Member's Assessment shall be determined as set forth in the Bylaws or the applicable Coverage Documents.

(c) Upon termination of a Program, all net assets of such Program other than Retained Earnings shall be distributed only among the Members that are participating in such Program at the time of termination, in accordance with and proportionate to their cash payments (including Contributions, adjustments, Assessments and other property at market value when received) made during the term of this Agreement for such Program. The Board of Directors shall determine such distribution within six (6) months after disposal of the last pending Claim or loss covered by such Program, or as otherwise set forth in the Bylaws.

(d) Upon termination of this Agreement all net assets of the Authority, other than of any Program distributed pursuant to (c) above, shall be distributed only among the Members in good standing at the time of such termination in accordance with and proportionate to their cash contributions and property at market value when received. The Board of Directors shall determine such distribution within six (6) months after disposal of the last pending Claim or loss covered by this Agreement, or as otherwise set forth in the Bylaws.

(e) In the event the Board of Directors is no longer able to assemble a quorum, the Chief Executive Officer shall exercise all powers and authority under this Article. The decision of the Board of Directors or Chief Executive Officer under this Article shall be final.

(f) In lieu of terminating this Agreement, the Board, with the written consent of two-thirds of the voting Members, may elect to assign and transfer all of the Authority's rights, assets, liabilities and obligations to a successor joint powers authority created under the Act.

Article 23. Enforcement. The Authority is hereby granted authority to enforce this Agreement. In the event action is instituted to enforce the terms of this Agreement, the Bylaws and/or any policies and/or procedures of the Board of Directors and the nondefaulting party(s) should employ attorneys or incur other expenses for the collection of moneys or the enforcement or performance or observance of any obligation or agreement on the part of the defaulting party(s) herein contained, the defaulting party agrees that it will on demand therefore pay to the nondefaulting party(s) the reasonable fees of such attorneys and such other expenses so incurred by the nondefaulting party(s).

Article 24. Nonliability of Directors, Officers and Employees. The Board of Directors, and the officers and employees of the Authority, including former directors, officers and employees, shall not be liable to the Authority, to any Member or Former Member, or to any other person, for actual or alleged breach of duty, mistake of judgment, neglect, error, misstatement, misleading statement, or any other act or omission in the performance of their duties hereunder; for any action taken or omitted by any employee or independent contractor; for loss incurred through the investment or failure to invest funds; or for loss attributable to any failure or omission to procure or maintain insurance; except in the event of fraud, gross negligence, or intentional misconduct of such director, officer or employee. No director, officer or employee, including former directors, officers and employees, shall be liable for any action taken or omitted by any other director, officer or employee. The Authority shall defend and shall indemnify and hold harmless its directors, officers and employees, including former directors, officers and employees, from any and all claims, demands, causes of action, and damages arising out of their performance of their duties as such directors, officers or employees of the Authority except in the event of fraud, gross negligence, corruption, malice or intentional misconduct, and the funds of the Authority shall be used for such purpose. The Authority may purchase conventional insurance to protect the Authority, and its participating Members or Former Members, against any such acts or omissions by its directors, officers and employees, including former directors, officers and employees.

Article 25. Provisions Relating to CSDA. It is agreed and understood the mandatory membership in CSDA provision in Article 18 is in consideration of CSDA's exclusive endorsement of SDRMA's programs as they exist or may be modified. CSDA and the Authority

may from time to time exchange services or enter into separate service agreements pursuant to Section 6505 of the Act, including, but not limited to, services relating to educational programs, marketing, web-site graphics and conferences.

So long as the Authority is a participant in the MOU, the Board of the Authority shall appoint three members of the Board to serve as members of the Alliance Executive Council. In the event the MOU has been terminated or the Authority has withdrawn from the MOU, the composition of the Authority Board of Directors shall be increased by two (2) additional directors to be appointed by CSDA. CSDA appointees shall be a director serving on the CSDA Board of Directors and said director(s) shall be a member of an agency who is a signatory to the current SDRMA Joint Powers Agreement.

CSDA shall be a third party beneficiary to Sections 18, 25, 27 of this Agreement.

Article 26. Notices. Notices to Members or Former Members hereunder shall be sufficient if delivered to the principal office of the respective Member or Former Member.

Article 27. Amendment. This Agreement may be amended at any time by a two-thirds vote of the Members; provided, that any amendment to Article 18, Article 25, or Article 27 shall require the prior written consent of CSDA. The Bylaws may be amended as provided therein. Upon the effective date of any validly approved amendment to this Agreement, such amendment shall be binding on all Members.

Article 28. Prohibition Against Assignment. No person or organization shall be entitled to assert the rights, either direct or derivative, of any Member or Former Member under any coverage agreement or memorandum. No Member or Former Member may assign any right, claim or interest it may have under this Agreement, and no creditor, assignee or third party beneficiary of any Member or Former Member shall have any right, claim or title or any part, share, interest, fund, contribution or asset of the Authority.

Article 29. Agreement Complete. The foregoing constitutes the full and complete Agreement of the parties. There are no oral understandings or agreements not set forth in writing herein. This Agreement supersedes and replaces the Fifth Amended Joint Powers Amendment.

Article 30. Counterparts. This Agreement may be executed in one or more counterparts and shall be as fully effective as though executed in one document.

Article 31. California Law. This Agreement shall be governed by the laws of the State of California.

Article 32. Severability. Should any part, term or provisions of this Agreement be determined by any court of component jurisdiction to be illegal or in conflict with any law of the State of California or otherwise be rendered unenforceable or ineffectual, the validity of the remaining portions or provisions shall not be affected thereby.

Article 33. Effective Date. This Agreement shall become effective as to existing Members of the Authority on the date on which the last of two-thirds of such Members have executed this Agreement.

IN WITNESS WHEREOF, the parties hereto have first executed this Agreement by authorized officials thereof on the date indicated below:

Acknowledgement:

Ken Sonksen, President
Board of Directors
SPECIAL DISTRICT RISK MANAGEMENT AUTHORITY

Oct 2, 2007
Date

I hereby certify this Amended Joint Powers Agreement has also received the required approval of not less than two-thirds of the Member entities then parties to the Fifth Amended Joint Powers Agreement.

James W. Towns, Chief Executive Officer
SPECIAL DISTRICT RISK MANAGEMENT AUTHORITY

OCT. 2, 2007
Date

EXECUTION BY MEMBER

The Amended and Restated Joint Powers Agreement of the Special District Risk Management Authority, has been approved by the Board of Directors of the Member listed below, on the date shown, and said Member agrees to be subject to all of the terms and conditions set forth in said Agreement.

Entity Name:_____

By:_____ President

By:_____ Clerk

Date:_____

EXECUTION BY AUTHORITY

The Special District Risk Management Authority (the "Authority"), operating and functioning pursuant to this Sixth Amended Joint Powers Agreement, hereby accepts the entity named above as a participating member in the Authority, subject to all of the terms and conditions set forth in this Sixth Amended Joint Powers Agreement and in the Bylaws, effective as of

_____.

SPECIAL DISTRICT RISK MANAGEMENT AUTHORITY

By:_____
David Aranda, President
Board of Directors

Date:_____

ITEM NO. 7
ATTACHMENT C

Alliant

DRIVER SPECIALTY GROUP

SPECIAL LIABILITY INSURANCE PROGRAM (SLIP)
PROPOSAL
SEPTEMBER 29, 2009 TO SEPTEMBER 29, 2010

NAMED INSURED:	**Local Agency Formation Commission of Santa Clara (LAFCO)**
PROGRAM TERM:	9/29/09 – 9/29/10
INSURANCE COMPANY:	Allied World National Assurance Company
A.M. BEST RATING:*	A, Excellent; Financial Size Category XV; ($2 Billion or Greater) as of 7/15/09
STANDARD & POOR RATING:*	A- (Stable) pulled as of 9/11/09
CALIFORNIA STATUS:	Non-Admitted
POLICY NUMBER:	TBD
COVERAGE:	Manuscript Liability Form on an Occurrence Basis. Coverage included for:

(Coverage applies only where checked)	LIMIT
Maximum Per Occurrence Limit for all Coverages Combined	$1,000,000

		LIMIT	DED/SIR
X	Personal Injury (Including Bodily Injury and Property Damage)	$1,000,000	$1,000
	Broadcasters Liability		

	Owned Automobile Liability		
	Uninsured Motorist Coverage		
X	Non-Owned and Hired Automobile Liability	$1,000,000	$1,000

	Nonprofit Directors and Officers Liability			
X	Public Officials Errors and Omissions		$1,000,000	$1,000
	Educators Legal Liability			
X	Employment Practices Liability		$1,000,000	$ 10,000
	Nose Coverage	Retro Date:		

	Annual Aggregate Limits	LIMIT
X	Products / Completed Operations	$1,000,000
X	Public Officials Errors and Omissions	$1,000,000
X	Employment Practices Liability	$1,000,000

**See last page for additional information.*

SUBLIMITS:

(Coverage applies only where checked)		LIMIT	DED/SIR
X	Fire Damage Liability (Sublimit of Personal Injury/property Damage Coverage Limit)	$1,000,000	$1,000

- Limits are exhausted by Indemnity and Defense Cost.
- Limits are Per Occurrence.
- There is no General Aggregate.
- If selected, Nose Coverage is applicable to Public Officials Error and Omissions, Non-Profit Directors and Officers Liability and/or Employment Practices Liability, whichever is checked.
- Limits apply to each entity in the program.

ANNUAL PREMIUM:
* Taxes, surplus lines fee and brokerage fees are included.

Premium:	$2,900.00
Taxes:	$87.00
Stamp Fee:	$6.53
Broker Fee:	$333.50
SHR Fee:	$14.50
Total Cost:	**$3,341.53**

TRIA OPTION: 5% of premium plus applicable taxes and fees.

MINIMUM EARNED: 25% of the annual premium

SUBJECT TO AUDIT: NO

MAJOR EXCLUSIONS:

- Workers' Compensation
- Asbestos
- Auto Liability (unless Owned Auto coverage provided)
- Uninsured Motorist coverage except if Auto Liability marked X'd above, or unless coverage specifically requested and in file
- Failure to Supply
- Pollution Except for Hostile Fire and Vehicle Upset / Overturn coverage
- Inverse Condemnation / Eminent Domain
- Care, Custody, and Control
- Medical Payment Coverage
- Dam Liability
- All Aircraft; Watercraft over 51 feet in length
- Airports
- Medical Malpractice (except incidental)
- Subsidence
- Nuclear Material
- ERISA
- Fungi or Bacteria
- War or Terrorism
- Securities and Financial Interest
- Mold
- Public Officials Errors & Omissions (if Directors & Officers applies)
- Directors & Officers (if Public Officials Errors & Omissions applies)
- Montrose Exclusion – Prior knowledge of incident or loss
- Abuse & Molestation (Coverage can be added at an additional cost)
- Residential Construction
- Athletic Participants
- Transit Operations
- Bodily Injury of Tenants or Guests of Tenants for Habitational Risks
- Insurance Agent/Claims Administration/Mortgage Broker
- Lead

CLAIMS REPORTING: Please contact Alliant to report claims. Program and Deductible loss adjustment will be provided by Carl Warren and Co.

PROPOSAL DATE: February 17, 2010

BROKER: **ALLIANT INSURANCE SERVICES, INC. • NEWPORT BEACH, CA**

Gordon B. DesCombes, Senior Vice President
Rick Steddom, Vice President
Christine Tobin, Vice President
John Peterson, Account Manager
Sheryl Fitzgerald, Account Manager

SUBJECT TO POLICY TERMS, CONDITIONS AND EXCLUSIONS

✧ ✧ ✧ ✧ ✧

This proposal is for information purposes only and does not amend, extend or alter the policy in any way. Please refer to the policy form for completed coverage and exclusion information.

Alliant embraces a policy of transparency with respect to its compensation from insurance transactions. Details on our compensation policy, including the types of income that Alliant may earn on a placement, are available on our website at www.alliantinsurance.com. For a copy of our policy or for any inquiries regarding compensation issues pertaining to your account you may also contact us at: Alliant Insurance Services, Inc., Attention: General Counsel, 701 B Street, 6th Floor, San Diego, CA 92101.

**Analyzing insurers' over-all performance and financial strength is a task that requires specialized skills and in-depth technical understanding of all aspects of insurance company finances and operations. Insurance brokerages such as Alliant Insurance typically rely upon rating agencies for this type of market analysis. Both A.M. Best and Standard and Poor's have been industry leaders in this area for many decades, utilizing a combination of quantitative and qualitative analysis of the information available in formulating their ratings.*

A.M. Best has an extensive database of nearly 6,000 Life/Health, Property Casualty and International companies. You can visit them at www.ambest.com. For additional information regarding insurer financial strength ratings visit Standard and Poor's website at www.standardandpoors.com.

To learn more about companies doing business in California, visit the California Department of Insurance website at www.insurance.ca.gov.

Special District Risk
Management Authority

Maximizing Protection.
Minimizing Risk.

1112 I Street, Suite 300
Sacramento, California 95814-2865
T 916.231.4141
F 916.231.4111
Toll-free 800.537.7790
www.sdrma.org

SDRMA

February 25, 2010

Ms. Neelima Palacherla
Executive Officer
Santa Clara County Local Agency Formation Commission
70 West Hedding Street
San Jose, California 95110

Dear Ms. Palacherla:

Thank you for the opportunity to provide Santa Clara County Local Agency Formation Commission with this 2009-2010 Property and Liability Package Program quotation. Established in 1986, the Special District Risk Management Authority has had a proven reputation for competitive rates, actuarially based fiscal management, and sound underwriting practices. We are confident that our Property and Liability Program offers the highest level of protection at the lowest possible rate.

Valid for sixty (60) days from the date of this letter, the following quotation represents twelve (12) months of coverage and is subject to verification and final underwriting review. Santa Clara County Local Agency Formation Commission's quotation is as follows:

SPECIAL DISTRICT RISK MANAGEMENT AUTHORITY PROPERTY AND LIABILITY PROGRAM
Coverage Limits: $2.5 Million (July 1, 2009 through June 30, 2010) $3,757

COVERAGE	TOTAL INSURED VALUE	DESCRIPTION
Property Inventory	$3,000	1 scheduled building contents only
Vehicle Inventory	$0	0 scheduled vehicles
Comp and Collision	$0	0 scheduled vehicles
Mobile Floater Equipment	$0	0 mobile equipment items
Trailer Inventory	$0	0 scheduled trailers

Members can reduce their future year premiums through Special District Risk Management Authority's Credit Incentive Program (CIP). Credit incentives of up to 15% of the risk management contribution can be earned for completion of approved risk management and training programs.

Please be advised that coverage may be bound upon:

- Adoption of a Resolution by the Santa Clara County Local Agency Formation Commission Board of Commissioners approving the form and authorizing the Execution of the Sixth Amended Joint Powers Agreement and approving membership in the Special District Risk Management Authority Property and Liability Package Program.
- Execution of the Sixth Amended Joint Powers Agreement Related to the Special District Risk Management Authority.
- Submission of six (6) years of Property and Liability loss history.
- Completion of the Great American Crime Policy application.
- Annual Membership in California Special Districts Association is required and separate from this quotation. Based on the 2009 Operating Budget for Santa Clara County Local Agency Formation Commission the dues will be $776.

- Approval of Santa Clara County Local Agency Formation Commission's membership by Special District Risk Management Authority's Board of Commissioners.
- Upon receipt of all membership documents, SDRMA will forward a pro-rated invoice for the annualized Property and Liability package program contribution.

All necessary membership documents will be sent to you upon the District's decision to proceed with membership in the program.

Neelima, we look forward to Santa Clara County Local Agency Formation Commission's participation in the Special District Risk Management Authority Property and Liability Program. Should you have any questions, or if we can provide any additional information, please do not hesitate to contact me toll-free at 800.537.7790.

On behalf of our risk management team, we look forward to serving Santa Clara County Local Agency Formation Commission.

Sincerely,
Special District Risk Management Authority

Ellen Mirabal Doughty
SR. Member Services Representative

Property and Liability Program

Special District Risk Management Authority (SDRMA) offers a straightforward, uncomplicated program for special districts and other public agencies. Coverage documents are broad form manuscript policies written on an "occurrence form" to ensure the highest level of coverage and maximum protection of assets for governmental entities providing municipal services. Established in 1986, this program has a proven reputation for stable, competitive rates, actuarially based fiscal management, and sound underwriting practices.

COVERAGE

- General Liability Limits $2.5 Million - $10 Million Per Occurrence (Higher limits available upon request)
- Property Limits $1,000,000,000 Per Occurrence
- Ancillary coverages are offered on a member-by-member basis
- SDRMA maintains a Self-Insured Retention that is periodically adjusted based on market conditions

CLAIMS MANAGEMENT PROGRAM

SDRMA recognizes that claims management is a critical component and serves as the strength of our risk management program. Under the supervision of Chief Risk Officer Dennis Timoney, property and liability claims are processed, managed and adjusted "in-house". Our primary objective is to prevent employee injuries and positively impact the overall cost of property and liability coverages, as well as provide employees and employers fair and equitable claims management and resolution. SDRMA uses state-of-the-art claims management software to provide an accurate up-to-date status of each claim, loss run reports and financial information. Moreover, SDRMA's role is not to be adversarial, but to create a partnership with its members.

LOSS CONTROL AND PREVENTION PROGRAM

SDRMA believes the key to a successful loss control and prevention program is quality, relevant education. Our members are provided with a variety of loss prevention programs, at no additional cost, including an online certified safety training program, a minimum of three training seminars annually, on-site educational programs (upon request) and access to a library containing more than 241 training videotapes & DVD's.

MEMBERPLUS SERVICES

Members participate in a complimentary safety management program including:

- Personalized On-line Member Resources – MemberPlus Online™
- State-of-the-Art On-line Safety Training - PreventionLink™
- Identify Theft Protection for Individuals - Lifelock™
- On-Site Loss Control Visits and Risk Analysis
- Training Workshops (safety, loss prevention)
- Safety, Claims Handling and Risk Reduction Training
- Comprehensive Safety & Risk Management Video Library
- Premium-reduction Credit Incentive Program (CIP)
- Occupational Safety & Health Program
- Hazard Identification Survey Manual
- Safety & Claims Policy Manual
- Monthly Review of Claims Loss Reports
- Monthly Safety Management Meeting Materials
- Ergonomic Evaluations of Work Areas
- Contract Review and Transfer of Risk Analysis
- DMV Record Review
- Special Events Liability Assistance

RISK MANAGEMENT SERVICES

Property and liability coverage protection is just one component of SDRMA's overall risk management program. Our risk management program includes risk assessment, risk analysis, risk protection (insurance coverage) and loss control. Asset protection for Agency exposures, assisting in preventing future losses, educating Agency staff, monitoring the Agency's regulatory environment and providing the Agency with access to a risk manager are all elements of the overall risk management program.

ELIGIBILITY REQUIREMENTS
SDRMA's eligibility requirements provide that member agencies:

- Must be a public agency formed under the California Government Code
- Execute the SDRMA Joint Powers Agreement
- Commit to an initial three-year member enrollment (thereafter coverage may be renewed annually)
- Maintain annual membership in California Special Districts Association (CSDA)

Please do not hesitate to call Special District Risk Management Authority at 800.537.7790, should you have any questions.

Property and Liability Package Coverage Description

GENERAL LIABILITY
General liability coverage provides protection for claims and losses arising from third-party personal injury, bodily injury and property damages. Coverage includes: subsidence (associated with main leaks and breaks), sudden and accidental release of chlorine, water and wastewater as a completed product (not pollution), failure to supply, sewer overflow/backups, hazardous material loading/unloading, volunteers/employees and inverse condemnation and dam failure liability (by endorsement). There are no general liability policy sub-limits. Defense costs are outside policy limits. Limit: $2,500,000 per occurrence; no annual aggregate. Deductible: None; $500 (property damage only) per occurrence.

AUTO LIABILITY
Auto liability coverage protects members from lawsuits for bodily injury and property damages to the public arising out of ownership, maintenance or use of a covered vehicle. Coverage includes: owned vehicles, non-owned and hired vehicles and uninsured motorists. Limit: $2,500,000 per occurrence; no annual aggregate. Deductible: None (bodily injury); $1,000 (property damage) per occurrence.

AUTO PHYSICAL DAMAGE
Auto physical damage (comprehensive and collision) provides protection for damage or loss to a member's owned vehicle. Comprehensive coverage includes: fire, theft, vandalism, windstorm, hail, flood, glass breakage, damage caused by riot or civil commotion and damage from hitting or being hit by birds and animals. Collision coverage provides coverage for repair or replacement for like kind, type and condition based on actual cash value. Valuation: Actual Cash Value (ACV) or agreed upon value. Deductible: Member selectable $250 comprehensive/$500 collision or $500 comprehensive/$1,000 collision per occurrence.

ELECTED OFFICIALS PERSONAL LIABILITY PROTECTION (OUTSIDE COURSE AND SCOPE)
This highly specialized, unique coverage protects elected/appointed officials from claims and settlements arising outside the course and scope of their duties. Coverage includes: invasion of privacy, libel, slander, defamation of character, discrimination, false arrest and malicious prosecution. Limit: $500,000 per official per year; annual aggregate. Deductible: $500 per claim.

EMPLOYMENT PRACTICES LIABILITY
Employment practices liability provides coverage for claims and losses arising from "wrongful" employment practices. Coverage includes: wrongful termination, sexual harassment and discrimination. Limit: $2,500,000 per occurrence; annual aggregate. Deductible: None.

EMPLOYEE BENEFITS LIABILITY
Employee benefits liability coverage for claims and settlements resulting from the negligent administration of employee benefit plans. Limit: $2,500,000 per occurrence; annual aggregate. Deductible: None.

EMPLOYEE AND OFFICIALS FIDELITY BLANKET BOND
Employee and officials fidelity blanket bond provides coverage protection for member losses resulting from fraudulent or dishonest acts committed by employees, volunteers or board members. Coverage includes: larceny, theft, embezzlement, forgery and wrongful misappropriation. Limit: $400,000. Deductible: None.

PUBLIC OFFICIALS ERRORS AND OMISSIONS
Public officials errors and omissions coverage for public officials' and director's "wrongful acts", alleged or actual negligence, errors or omissions, breach of duty, misfeasance, malfeasance and nonfeasance, and defamation. Limit: $2,500,000 per occurrence; annual aggregate. Deductible: None.

PROPERTY COVERAGE (INCLUDING FLOOD AND MOBILE EQUIPMENT)
Property coverage provided for the replacement cost value of building and contents. Additional extensions provided for accounts receivable, builders risk, business interruption, commandeered property, cost of construction, debris removal, electronic data processing (items not scheduled) extra expense, fine arts (appraised value), flood coverage (annual aggregate), pollution clean-up (related to property loss), personal property of others and valuable papers. Valuation: replacement cost (without depreciation). Limit: $1,000,000,000, no annual aggregate. Deductible: $2,000 per occurrence.

BOILER AND MACHINERY
Boiler and machinery coverage provides coverage for the "sudden and accidental" breakdown of mechanical and electrical machinery. Coverage includes: expediting expenses, business income, extra expense, spoilage, water damage, ammonia contamination, hazardous substances, error in description and newly acquired property. Limit: $100,000,000 repair/replacement. Deductible: $1,000 per occurrence.

ANCILLARY COVERAGES
Ancillary coverages are available on a member-by-member basis (such as: pollution liability and earthquake).

CREDIT INCENTIVE PROGRAM
Members are able to reduce their auto and general liability net premiums through Special District Risk Management Authority Property/Liability Credit Incentive Program. Credit incentives up to 15% of the auto and general liability net premium contribution can be earned for completion of approved program guidelines.

This information is provided as a general description only, and is not intended to supercede specific policy documents. In the event of a conflict in language, the policy(ies) will be the controlling document.

CONTACT INFORMATION:

Ellen Doughty
SR. Member Services Representative
Special District Risk Management Authority
1112 "I" Street, Suite 300
Sacramento, California 95814
Toll-free: 800.537.7790
Direct: 916.231.4141
Fax: 916.231.4111
Email: edoughty@sdrma.org

Wendy Tucker
Member Services Representative
Special District Risk Management Authority
1112 "I" Street, Suite 300
Sacramento, California 95814
Toll-free: 800.537.7790
Direct: 916.231.4141
Fax: 916.231.4111
Email: wtucker@sdrma.org

LAFCO
Local Agency Formation Commission of Santa Clara County

ITEM NO. 8

LAFCO Meeting: **April 21, 2010**

TO: LAFCO

FROM: Neelima Palacherla, Executive Officer

SUBJECT: **First Amendment to Agreement for Legal Services between LAFCO and Best Best & Krieger**

Agenda Item # 8

RECOMMENDATION

Consider staff report and approve first amendment (see Attachment A) to agreement for legal services between LAFCO and Best Best & Krieger.

BACKGROUND

In February 2009, the Commission retained Best Best & Krieger for legal services on a monthly retainer rate of $5,900. This retainer amount was established using an annual average of 324 hours which is about 27 hours per month. However, the average number of hours of service required based on the last 12 months is only about 16 hours. Therefore, the LAFCO Budget Subcommittee is recommending that LAFCO amend its contract with Best Best & Krieger in order to reduce the number of hours to 240 per year, thus reducing the annual cost. The proposed amendment with the reduced monthly retainer of $4,370 will be effective as of May 1, 2010. The proposed amendment caps the number of hours at 240 hours per year.

Each fiscal year, legal counsel's rates automatically increase by CPI for the previous calendar year. The FY 2011 hourly rate for legal counsel is $221 and the monthly retainer will be approximately $4,420.

FIRST AMENDMENT TO AGREEMENT FOR LEGAL SERVICES

This First Amendment to the Agreement for Legal Services ('First Amendment") is entered into by and between the Local Agency Formation Commission of Santa Clara County, hereinafter referred to as "LAFCO", and the law firm of Best Best & Krieger LLP, hereinafter referred to as "Counsel".

RECITALS

A. WHEREAS, LAFCO and Counsel entered into that certain Agreement for Legal Services dated February 21, 2009 to retain Counsel to provide legal services ("Agreement").

B. WHEREAS, LAFCO and Counsel desire to amend the Agreement to revise compensation.

NOW, THEREFORE, LAFCO and Counsel, for the consideration hereinafter named, agree as follows:

1. **Compensation**

Section 4.1 of the Agreement is hereby amended in its entirety to read as follows:

> "LAFCO shall pay Counsel a monthly retainer of $4370 for all general counsel legal services effective May 1, 2010, which shall be capped at 240 hours per year. General counsel legal services shall include all legal services that may be required by LAFCO that are not specifically defined in Section 4.2 as special counsel legal services. Travel time shall be included in the retainer. LAFCO shall pay Counsel $219 per hour (blended rate for partners and associates) and $130 per hour (blended rate for paralegals and clerks) for all general counsel services that exceed the yearly cap of 240 hours."

2. **Remaining Provisions of Agreement**

Except as otherwise specifically set forth in this First Amendment, the remaining provisions of the Agreement shall remain in full force and effect.

Dated this _____ day of _____ 2010.

LOCAL AGENCY FORMATION COMMISSION OF SANTA CLARA COUNTY

By:_____ Date:_____
Susan Vicklund-Wilson

BEST BEST & KRIEGER LLP

By:_____ Date:_____
Malathy Subramanian

LAFCO
Local Agency Formation Commission of Santa Clara County

ITEM NO. 9

LAFCO Meeting: **April 21, 2010**

TO: LAFCO

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

SUBJECT: **Update on Countywide Fire Service Review**

Agenda Item # 9

STAFF RECOMMENDATION

Accept report and provide direction to staff, as necessary.

BACKGROUND

Management Partners, selected through a RFP process, has been retained by LAFCO as the consultant to conduct the Fire Service Review. A newsletter (see Attachment A) outlining the project scope, process and schedule was provided to all affected agencies, interested parties and LAFCO Commissioners in early March. Management Partners is in the process of gathering data from the affected agencies and organizations and interviewing the various Fire Chiefs and Managers involved in fire protection service and emergency medical service, including those involved in communications and dispatching. The Technical Advisory Committee will hold a second meeting on April 23rd to obtain an update on the data collection process and discuss pertinent issues.

LAFCO staff will continue to update the Commission on this project as it progresses.

LAFCO's 2010 Countywide Fire Protection Service Review is Now Underway!

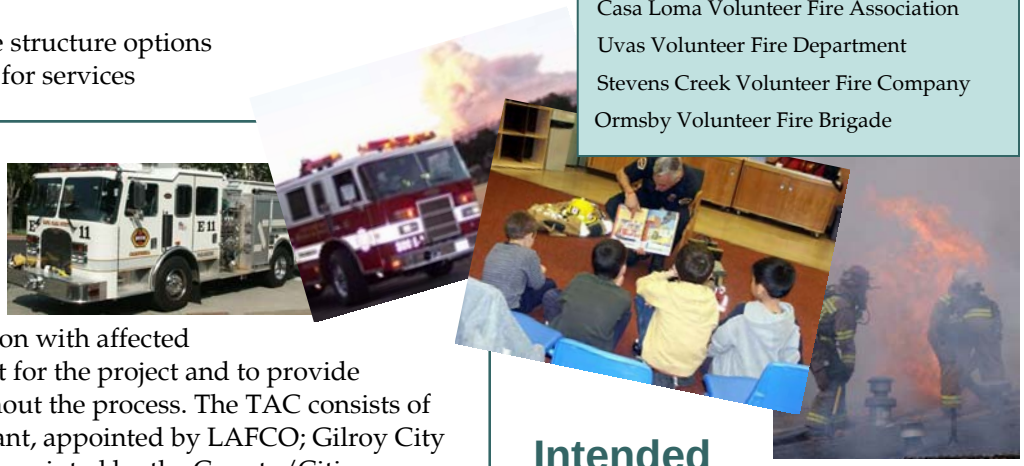
March 2010

The Fire Service Review will involve a comprehensive review of fire protection service and emergency medical service provision in Santa Clara County. The Service Review Report will provide an overview of all the agencies that provide fire protection and emergency medical services in the County, evaluate the provision of these services, and recommend actions to promote efficient service delivery. The Report will include sphere of influence recommendations for each of the four fire districts. In addition to including the required analysis and written statement of service review determinations, the Report will identify fire service issues and provide a brief analysis of potential options for addressing the issues. The following fire-related issues will be addressed in the Report:

- Options for funding and providing services to the unprotected and underserved areas of the County
- Best practices for definition of roles and oversight for volunteer fire companies such that they can be leveraged with other available resources
- Potential for and financial analysis of options for regional fire service delivery in South County
- Relevance of and governance structure options for fire districts that contract for services

Agencies that will be Studied

Santa Clara County Central Fire District
South Santa Clara County Fire District
Los Altos Hills County Fire District
Saratoga Fire Protection District
City of Milpitas Fire Department
City of Santa Clara Fire Department
City of San Jose Fire Department
City of Sunnyvale Fire Department
City of Gilroy Fire Department
City of Palo Alto Fire Department
City of Mountain View Fire Department
California Department of Forestry
NASA Ames Fire Department
County of Santa Clara
Spring Valley Volunteer Fire Department
Casa Loma Volunteer Fire Association
Uvas Volunteer Fire Department
Stevens Creek Volunteer Fire Company
Ormsby Volunteer Fire Brigade



Service Review Process / Schedule

As a first step, LAFCO has established a technical advisory committee (TAC) to serve as a liaison with affected agencies, to help select a consultant for the project and to provide technical expertise/advice throughout the process. The TAC consists of LAFCO Commissioner Pete Constant, appointed by LAFCO; Gilroy City Administrator Thomas Haglund, appointed by the County/Cities Managers' Association; and three representatives appointed by the Fire Chiefs' Association including Dale Foster, Gilroy City Fire Chief; Ken Waldvogel, Fire Chief, Santa Clara County Central Fire Protection District; and Steven Woodill, Fire Chief, South Santa Clara County Fire Protection District.

Management Partners, selected through an RFP process, has been retained by LAFCO as consultant to conduct the service review. They will be contacting service providers within the next few weeks to set up interviews and begin data collection. The key steps in the project schedule are as follows:

- Start project, establish TAC, select consultant (February 2010)
- Data collection and verification of data by agencies (March & April)
- Data analysis, preliminary findings, analysis and preparation of Draft Service Review Report (May – August)
- Release Draft Report for public review and comment (September)
- LAFCO public hearing on Draft Report (October 20)
- Release Final Report for public review and comment (November)
- LAFCO public hearing on Final Report (December 15, 2010)

Intended Use of the Service Review Report

The Service Review Report will serve as an information resource on fire and emergency response services in Santa Clara County for LAFCO, local agencies and the public. Service providers may use the Report to pursue service delivery changes or to further assess the options identified in the Report for providing more efficient services. LAFCO may use the information in the Report when reviewing future proposals for jurisdictional boundary changes. LAFCO, local agencies or the public may use the Report together with additional analysis where necessary, to pursue changes in jurisdictional boundaries or spheres of influence of cities / districts.

Opportunities for Input

In addition to direct communication with fire service providers, the service review process will include periodic updates to the Fire Chiefs' and City Managers' Associations and to LAFCO. Members of the public, interested groups or affected agencies are encouraged to contact LAFCO staff to provide input, to discuss / request that a fire-related issue be addressed in the report or to obtain more information on the project. More information on the project and LAFCO is also available on the LAFCO website at **www.santaclara.lafco.ca.gov**.

Neelima Palacherla, LAFCO Executive Officer
Tel: 408.299.5127
neelima.palacherla@ceo.sccgov.org

Dunia Noel, LAFCO Analyst
Tel: 408.299.5148
dunia.noel@ceo.sccgov.org

LAFCO's Service Review Responsibilities

State law mandates that each LAFCO conduct service reviews prior to or in conjunction with the spheres of influence updates for districts and cities which must be conducted once every 5 years. The Service Review must include an analysis and written statement of determination regarding each of the following six categories:

- Growth and population projections for the affected area.
- Present and planned capacity of public facilities and adequacy of public services, including infrastructure needs or deficiencies.
- Financial ability of agencies to provide services.
- Status of and opportunities for, shared facilities.
- Accountability for community service needs, including governmental structure and operational efficiencies.
- Any other matter related to effective or efficient service delivery, as required by commission

The Countywide Fire Service Review is the first of four service reviews that will be completed by LAFCO within the next three years. Following this review of fire services, LAFCO will conduct a countywide water service review, a south county service review and a north county service review - each of which will include a review of all services (except water and fire) provided by cities and special districts in the region.

LAFCO
Local Agency Formation Commission of Santa Clara County
70 West Hedding Street, 11th Floor
San Jose, CA 95110

Countywide Fire Service Review

LAFCO
Local Agency Formation Commission of Santa Clara County

ITEM NO. 10

LAFCO Meeting: **April 21, 2010**

TO: LAFCO

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

SUBJECT: **Executive Officer's Report**

Agenda Item # 10

10.1 Update on Implementation of LAFCO's Electronic Document Management System

For Information Only

Peelle Technologies, selected through a RFP process, has completed scanning all of the LAFCO records that were in off-site storage and is now in the process of scanning its fourth and final batch of city-conducted annexation files. Once these files are scanned and loaded onto the LAFCO server, Peelle will begin scanning the remaining files, including USA amendments, SOI amendments, OACS requests, special district annexations, etc. Staff estimates that Peelle is more than half-way through the scanning portion of the project and staff continues to load the scanned records onto the LAFCO server, verify the quality of those scans, and to become more familiar with the LaserFische software.

10.2 Update on Amendment to the Memorandum of Understanding between LAFCO and the County of Santa Clara

For Information Only

Staff anticipates bringing a revised MOU for the Commission's consideration in June or August of 2009. The current MOU was approved by the Santa Clara County Board of Supervisors and the Local Agency Formation Commission of Santa Clara County (LAFCO) on June 5, 2001 and has been effective since July 1, 2001. Since that time, there have been several changes in the way that LAFCO operates, including but not limited to staffing, general liability insurance, and potentially workers compensation.

10.3 LAFCO Comment Letters to the City of Morgan Hill on its South East Quadrant Project

For Information Only

LAFCO staff has provided the City of Morgan Hill with two comment letters concerning the City's proposed South East Quadrant (SEQ) Project. The first comment letter (Attachment A) dated February 17, 2010 provided general comments and concerns regarding the proposed project as described in the City's Notice of Public

Workshop on the SEQ Project. A second letter (Attachment B) dated April 6, 2010, provided more detailed comments on the City's annexation and urban service area amendment proposals and on the City's proposed plans for agricultural mitigation in the south east quadrant area. These comments were based on information (about the project) obtained at the City's February 18th Public Workshop and from a meeting on March 25th with City staff. LAFCO's letter was included in the packet for the April 7th City Council meeting which was scheduled to allow the Council to consider a "refined project description for SEQ Agricultural Policies General Plan Amendment Environmental Impact Report, including assumptions for land uses and proposed agricultural mitigation and preservation."

At its meeting, the Morgan Hill City Council directed City staff to move forward with the preparation of an Environmental Impact Report and the development of an agricultural mitigation program indicating that the issues raised by LAFCO and others could be considered as the project moves forward.

In its role as a Responsible Agency, LAFCO will continue to provide comments to the City concerning the environmental analysis and documentation of the south east quadrant project. Staff will continue to provide updates to the Commission on the status of this project.

LAFCO
Local Agency Formation Commission of Santa Clara County

February 17, 2010

Kathy Molloy Previsich, Community Development Director
Community Development Department
City of Morgan Hill
17555 Peak Avenue
Morgan Hill, CA 95037-4128

RE: SOUTH EAST QUADRANT (SEQ) PROJECT

Dear Ms. Previsich:

Thank you for advising LAFCO about the City's public workshop on the South East Quadrant (SEQ) Project. The SEQ Project area consists of unincorporated lands that are located outside of the City of Morgan Hill's Urban Service Area (USA) boundary. As you are aware, the City of Morgan Hill must seek and obtain LAFCO approval to expand its USA boundary prior to annexing any lands within the SEQ Project area. As part of the USA amendment, LAFCO would consider whether the project is consistent with LAFCO's four primary objectives. These objectives are as follows:

- Encourage the orderly formation of local governmental agencies
- Preserve agricultural land and open space resources
- Discourage urban sprawl
- Encourage the efficient provision of services

LAFCO has adopted local policies based on these objectives. Specifically applicable to the SEQ Project are LAFCO's policies relating to USA amendments, annexation requests, and agricultural mitigation (See Attachments B, C & D). Pursuant to these policies, some of the key issues that the City must consider prior to proposing an USA expansion relate to the need and timeliness of an USA amendment/annexation request, availability of lands within existing city boundaries that could accommodate the proposed growth, the ability of the city to extend and finance urban services to the growth area without detracting from current service levels to residents within the city, premature conversion of agricultural lands and open space lands, other environmental impacts, and the fiscal impacts on local agencies and service providers.

In general, the purpose of including lands within a city's USA is to allow the city to annex and provide urban services to those lands in order to allow development. It is our understanding that the SEQ Project Area includes a substantial amount of agricultural land. State law and LAFCO policies discourage USA expansions that prematurely include or result in the conversion of agricultural land to non-agricultural uses.

LAFCO policies call for the development of existing vacant and underutilized sites that are located within a city's existing boundaries before expanding into agricultural lands. Development of existing vacant and underutilized sites that are located within the city's existing boundaries typically would not impact agricultural land and open space resources, would be a more efficient and effective use of existing city infrastructure, and would result in a more efficient provision of city services which is particularly important in these times as public agencies struggle financially to maintain existing service levels.

The inclusion of the SEQ Project area within the City's USA for Sports-Recreation-Leisure and Public Facility land uses would result in the conversion of agricultural lands to non-agricultural uses. If the City decides to move forward with the SEQ USA expansion, the City must address agricultural mitigation issues in a manner consistent with LAFCO's Agricultural Mitigation Policies. Additionally, we encourage the City to consider LAFCO's policies as a point of reference as the City develops its own agricultural mitigation program.

Based on the information provided in the City's notice, LAFCO would be a "Responsible Agency" for the SEQ Project under the California Environmental Quality Act (CEQA). As a Responsible Agency, LAFCO expects to use the City's environmental documents when considering any associated LAFCO applications. Therefore, please ensure that LAFCO's potential role in the project is adequately described in the project scope and that LAFCO Policies are adequately addressed during the City's environmental review process. We will provide further comments upon receipt of the City's Notice of Preparation for the Environmental Impact Report.

Please notify LAFCO about any future public workshops, Planning Commission or City Council meetings related to this Project. If you have any questions regarding these comments, you can reach me at (408) 299-5127. Thank you.

Sincerely,

Neelima Palacherla, LAFCO Executive Officer
LAFCO of Santa Clara County

Cc: LAFCO Members
Morgan Hill City Council Members
Jody Hall Esser, Director, County of Santa Clara Department of Planning and Development
Michele Beasley, Greenbelt Alliance

Attachments:

A. City of Morgan Hill's Notice of Public Workshop
B. LAFCO Urban Service Area (USA) Policies
C. LAFCO Policies on Annexation/Reorganization for Cities and Special Districts
D. LAFCO Agricultural Mitigation Policies

LAFCO
Local Agency Formation Commission of Santa Clara County

April 6, 2010

Steve Piasecki, Community Development Director
Community Development Department
City of Morgan Hill
17555 Peak Avenue
Morgan Hill, CA 95037-4128

Re: South East Quadrant (SEQ) Project

Dear Mr. Piasecki:

Thank you for meeting with us on March 25th and for providing us with an overview of the South East Quadrant Project. As we indicated to you at the meeting, the proposed project presents several issues of concern to LAFCO. The following is a summary of our concerns based on our initial understanding of the Project.

Annexation of Lands Outside of a City's Urban Service Area is Not Supported by LAFCO's Policies

It is our understanding that as part of the Southeast Quadrant Project, the City intends to request annexation of lands outside of its Urban Service Area (USA). LAFCO Policies strongly discourage such annexations until inclusion into the Urban Service Area is appropriate because the general purpose for a city to annex lands is to provide them with urban services in order to allow their development. As you know, LAFCO has no authority over lands once they are annexed into a city. Upon annexation, these lands are under the city's authority for land use and development decisions and a city can amend the zoning and general plan designations for these lands and develop them.

LAFCO would only consider annexations outside of the USA if it is to promote the preservation of open space and/or agricultural land. If it is the City's intent to annex lands outside its USA for open space/agricultural purposes, LAFCO will require the City to sufficiently demonstrate that the affected lands will be permanently preserved for agricultural/open space purposes, and not developed or provided with urban services. One potential way in which permanent preservation can be demonstrated is by dedicating such lands to a qualified agricultural/open space conservation entity that has a clear preservation program and has the legal and technical ability to hold and manage conservation easements or lands for the purpose of maintaining them in open space or agriculture. Absent these measures, such a request to annex lands outside of a City's USA Boundary is not supported by LAFCO's Policies. Please see LAFCO's *"Policies Relative to Annexation / Reorganizations for Cities and Special District" (B)(1).*

LAFCO Policies and State Law Encourage Cities to Pursue the Development of Vacant and Underutilized Incorporated Lands before Seeking to Annex Agricultural Lands

The City is also seeking to expand its USA and annex portions of the SEQ Area. We understand that the SEQ Area consists of largely prime agricultural land - land that the City wants to include in its USA even as the City has substantial amounts of land within its current boundaries that are vacant or underutilized. State law and LAFCO policies discourage the conversion of agricultural land to non-agricultural uses and require that development be guided away from existing prime agricultural lands. Please see LAFCO's *"Policies Relative to Annexations / Reorganizations for Cities and Special Districts" (A)(3) and (B)(3) and Government Code Section 56377 (a) & (b).*

The statutes and policies call for a city to exhaust existing vacant or underutilized lands within its boundaries before expanding into agricultural lands because developing lands which are already within a city's boundaries would allow for more effective use of existing city infrastructure, would result in more efficient provision of city services, would discourage premature and unnecessary conversion of irreplaceable agricultural land to urban uses, and would encourage compact development that would be more consistent with recent greenhouse gas reduction regulations and goals. Therefore we encourage the City to conduct a comprehensive review of its large inventory of vacant or underutilized lands to consider how best to provide opportunities for its development and maximize its use prior to expanding outwards into agricultural lands.

LAFCO Policies and State Law Require Consideration of many Factors, Including whether the City has the Ability to Provide Urban Services to the Expansion Area without Detracting from Current Service Levels

In addition to considering the impacts on agricultural lands and evaluating the need and timeliness of expanding the City's boundaries to accommodate growth, the City must also evaluate whether or not it has the financial ability to extend and provide services to the new area without detracting from current service levels to existing residents within the city. This is a particularly important issue in these economic times when many cities are struggling to provide and maintain acceptable service levels for services such as public safety (emergency medical, fire and police), libraries and schools. Other factors that LAFCO would consider in evaluating such proposals are contained in LAFCO's USA policies and include among other things, environmental impacts of the proposed development, availability of adequate water supply for the proposed development, and fiscal impacts to other affected agencies.

City is Encouraged to Adopt Agricultural Mitigation Policies/Program that are Consistent with LAFCO's Agricultural Mitigation Policies

We understand that the City is in the process of developing its agricultural mitigation program and that the specifics of the program are yet to be finalized by the City. However, we believe it is timely to let the City know that many of the key recommendations that are being discussed and considered by the City are not

consistent with LAFCO's Policies. Please see LAFCO's *"Agricultural Mitigation Policies" (Policies #1 & #2).* As you may know, in 2007, LAFCO adopted Agricultural Mitigation Policies in order 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. LAFCO encourages cities with potential LAFCO applications involving or impacting agricultural lands to adopt citywide agricultural mitigation policies and programs that are consistent with LAFCO's Agricultural Mitigation Policies.

Proposed Agricultural Mitigation for SEQ Project is not Consistent with LAFCO's Agricultural Mitigation Policies and is Problematic

If the City decides to move forward with the SEQ Urban Service Area expansion request, the City must address agricultural mitigation issues in a manner consistent with LAFCO's Agricultural Mitigation Policies. Please see the table below for a summary of the key differences between the City's Proposed Agricultural Mitigation and LAFCO's Agricultural Mitigation Policies. If these inconsistencies are not addressed, LAFCO would be unable to consider the proposed mitigation as effective.

COMPARISON OF CITY'S RECOMMENDED AGRICULTURAL MITIGATION PROGRAM AND LAFCO'S AGRICULTURAL MITIGATION POLICIES AS THEY RELATE TO THE SOUTH EAST QUADRANT		
	CITY'S RECOMMENDED AGRICULTURAL MITIGATION *(based on information provided at the February 18th Workshop)*	**LAFCO'S AGRICULTURAL MITIGATION POLICIES**
Lands Subject to Agricultural Mitigation	Uses Important Farmland Map and modified LESA model to determine if mitigation is required. No mitigation required for development during first year of City's Agricultural Mitigation Program.	Mitigation recommended for LAFCO proposals resulting in the conversion of any and all lands that meet LAFCO's definition for "Prime agricultural land." *(Policies #1 & #6)*
Exemption from Mitigation for Converting Agricultural Lands to Certain Land Uses	Consider potential exemptions and/or reduced mitigation fees for certain types of land uses such as less intensive sports, recreational, and leisure uses or for economic development uses.	Mitigation recommended for all projects resulting in the conversion of "Prime agricultural land" irrespective of the type of proposed land use or development. *(Policies #1 & #6)*

Mitigation Ratio	Less than 1:1 Mitigation Ratio.	1: 1 Mitigation Ratio recommended. *(Policy #7)*
Future Use of Lands Preserved as Agricultural Mitigation	Consider allowing low intensity sports, recreational and leisure uses on agricultural preservation areas.	Areas preserved as agricultural mitigation are intended in perpetuity for the purpose of agriculture. *(Policy #7)*

City Should Consider and Address these Major Concerns and Re-Evaluate the Scope and Need for the SEQ Project

The City's USA expansion and annexation proposals for the SEQ area in their present form are contrary to LAFCO objectives of preventing urban sprawl and preventing premature conversion of agricultural lands and are inconsistent with LAFCO policies and provisions in state law. The proposed agricultural mitigation program under consideration varies significantly from what is recommended in recently adopted LAFCO policies and is inadequate for providing effective mitigation. We urge the City to fully consider and address the issues presented before proceeding further and spending time and resources on the Environmental Impact Report for the SEQ Project.

If you have any questions regarding these comments, please contact me at (408) 299-5127. Thank you again for providing us with the opportunity to comment on this significant project.

Sincerely,

Neelima Palacherla,
LAFCO Executive Officer

Cc: LAFCO Members
Morgan Hill City Council Members
Jody Hall Esser, Director, County of Santa Clara Department of Planning and Development
Michele Beasley, Greenbelt Alliance

Attachment A: LAFCO's February 17, 2010 Comment Letter Re: Southeast Quadrant, including LAFCO's Urban Service Area Policies, Annexation Policies, and Agricultural Mitigation Policies.

PROVIDED DURING THE MEETING Item # 10.3

Palacherla, Neelima

From: Mark Grzan [mark.grzan@sjsu.edu]
Sent: Wednesday, April 21, 2010 8:36 AM
To: Palacherla, Neelima
Subject: RE: 1200 Acre Morgan Hill Annexation Project

Dear Ms Palacherla:

Thank you for the reply. It is much appreciated. While I understand the present limitations of the Board, it would be a good idea to continue to remind all those involved regarding the County policies on such issues which I am sure you have done. You have taken the extra step to inform the Morgan Hill City Council but I do not believe the residents are. The City's annexation proposal is directly before the City Council and only before the Council. It has not been before the Planning Commission or any other appointed body within the City. Therefore I believe only the Council and those self interests who would benefit economically from this project are aware. I believe the environmental community and there are many are also not fully aware other than perhaps the Green Belt Alliance. There is others who must be involved and aware.

So I will do my best to get the word out but I believe as I stand alone I will fall short, even though I have written one letter to our local newspaper and have openly opposed the project while sitting on the Council. This project has been in the process for years and it receives continued support from local developers and land owners under the guise that it will protect our open space, farmland and return revenue to the City. I have yet to hear any one resident from Morgan Hill in favor other than the five member Council and any of the projections verified.

I have a follow up letter to the community newspaper supporting LAFCO and asking the City to reconsider the proposed $500,000 EIR, since the City has an overwhelming deficit and can't maintain what they have, let alone this or other projects. I will ask the Council to bring the issue before the residents and consider of a vote. It is due process to do so.

Please pass along my concerns to LAFCO Board members if you will. I am sorry I cannot attend the meeting today but please keep me on any mailing or information listing. Please use grzan.fam@verizon.net as a contact link.

Thank you kindly for adhering to the principals, policies and guidelines that make Santa Clara County one of the best places to live.

Many thanks

Mark Grzan
680 Alamo Drive
Morgan Hill, CA 95037
H 408.778.7816
C 408.840.1550
grzan.fam@verizon.net

From: Palacherla, Neelima [mailto:Neelima.Palacherla@ceo.sccgov.org]
Sent: Tuesday, April 20, 2010 1:25 PM
To: mark.grzan@sjsu.edu
Subject: RE: 1200 Acre Morgan Hill Annexation Project

Dear Mr. Grzan:
Thank you for your email. As you are probably aware, LAFCO sent two letters to the City of Morgan Hill regarding the South East Quadrant project. The purpose of the letters is to inform the City of LAFCO's concerns and policies at this

early stage, so that the City will have an opportunity to take them into consideration and address them before moving ahead. The item (Item #10.3) on the April 21st LAFCO meeting agenda is an update to the Commission and is for information purposes only. LAFCO has not yet received an application from the City and therefore LAFCO cannot make a decision on the issue at this time. In fact, an application to LAFCO must be accompanied by a city council resolution. Once LAFCO receives an application, staff will process it, prepare a staff report with a recommendation, provide notice of public hearing and LAFCO will hold a public hearing and only then make a decision on the project. Please let me know if you would like to receive notice of any potential LAFCO public hearings on this issue and we will add you to the e-mail list. Thanks again. Neelima.

Neelima Palacherla
Executive Officer
LAFCO of Santa Clara County
70 West Hedding Street San Jose CA 95110
Ph: (408) 299-5127 Fax: (408) 295-1613
www.santaclara.lafco.ca.gov

From: Mark Grzan [mailto:mark.grzan@sjsu.edu]
Sent: Monday, April 19, 2010 2:32 PM
To: Palacherla, Neelima
Cc: Gibbs, John; Gage, Don; Cortese, Dave; Kniss, Liz; queta.herrera@bos.sccgov.or; Yeager, Ken
Subject: 1200 Acre Morgan Hill Annexation Project

Dear Ms. Palacherla:

As a former City Councilmember and Vice Mayor of the City of Morgan Hill, I am opposed to the planned annexation of County land for the inclusion into the City limits. The project for which you are aware in the southeast quadrant as considered is not needed. There is no shortage of residential, industrial and commercial land within the community. There is no measureable justification to proceed. However, there is an immeasurable need to preserve prime farmland and prevent urban sprawl. This project not only violates County policies but also City policies as embedded throughout our general plan. It also violates our slow-growth policies and principals that the voters of Morgan Hill have overwhelming supported for the last several decades.

The approval of the 1200 acre project by Local Agency Formation Commission (LAFCO) would be a serious precedent and place all County open space and farmland at risk. Therefore, please be informed that I am opposed to this project, will actively support environmental groups in opposition and actively inform and advise my community to do the same.

The preservation of prime agricultural land and open space is of great value and importance to the residents of Santa Clara County. Please urge the LAFCO Board not to consider this project nor to ever approve it. To adhere to your governing principals and your mission to preserve and protect would be to deny this proposed application.

Sincerely,

Mark Grzan
680 Alamo Drive
Morgan Hill, CA
grzan.fam@verizon.net
H 408.778.7816
C 408.840.1550

Journal of the California Association of Local Agency Formation Commissions

The Sphere

February, 2010

Moving Government Closer to the People of California

By Bob Hertzberg and Thomas McKernan, Co-Chairs, California Forward

The only time most Californians think about the arcane subject of plate tectonics is right after an earthquake.

When the ground stops shaking, a seismologist from CalTech or Berkeley will calmly explain how normal it is for the giant segments of the earth's crust to push against each other for years, only to move suddenly and disconcertingly in opposite directions.

> "It's time to rethink the relationship between the state and local government, with a strong preference for government that's closer to people."

So it is with California's government. When things are quiet, we don't give much thought to the great fault lines running between our state and local governments. We Californians are busy people, and few of us find the daily machinations of government a fascinating topic.

Besides, part of the genius of our system is that it should be self-correcting. Our founders created these distinct and separate centers of power - designed them to push against one another to keep things working.

But it's no secret that California's government seems to have lost its ability to respond and right itself when things go wrong.

At California Forward, we've spent the last 18 months on the equivalent of a geologic study of our state. We've found that the very core of the way we govern ourselves - those tectonic plates of power - have seriously eroded over time.

We believe there's tremendous opportunity for work to be done at the structural level - the complex relationship between state and local government.

The Community Funding Protection and Accountability Act, shifts power away from Sacramento and gives more responsibility to local government - your own county, city and town and your own local school board.

It reduces the tendency for Sacramento to take tax dollars from our counties, cities and schools to balance the state budget. The plan also gives cities, counties and schools new incentives to work together, eliminate overlapping programs and become more efficient.

The California Forward plan gives us the tools to fix what's broken in our state. It means less partisan posturing and more problem-solving, less finger-pointing and more accountability. And ultimately, it means more stable, long-term funding for what matters most: our schools and universities, our police and firefighters and the roads and highways we need for the future.

CAforward

Co-Chairs Bob Hertzberg and Thomas McKernan

The plan recognizes that most services are best delivered at the local level, and gives communities the freedom to get out from under the Sacramento bureaucracy to solve their own problems and meet their own needs.

The tendency over the last 30 years has been just the opposite, with revenues and decision-making increasingly concentrated at the state level. The result? No one's accountable.

It's time to rethink the relationship between the state and local government, with a strong preference for government that's closer to people - and that fosters the kind of collaboration that lets communities capitalize on their strengths.

Editor's Note: This article follows up on the popular session by *CalForward* at the CALAFCO conference. Bob Hertzberg is former Speaker of the Assembly and author of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000

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CALAFCO
California Association of Local Agency Formation Commissions

The Sphere

CALAFCO Journal

February, 2010

The Sphere is a quarterly publication of the California Association of Local Agency Formation Commissions.

To submit articles, event announcements, comments or other materials noteworthy to LAFCo commissioners and staff, please contact the Editor at 916-442-6536 or info@calafco.org.

The contents of this newsletter do not necessarily represent the views of CALAFCO, its members, or their professional or official affiliations.

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FROM THE CHAIR

LAFCos Will Soon Vote on Changing How Board Members are Chosen

Roger Anderson
Chair, CALAFCO
Board of Directors

As I write this article, the CALAFCO Board is about to send to all LAFCos proposed bylaw changes. When the CALAFCO membership approves these changes, future Board members will be chosen from four regions in the state. As presently constituted these regions correspond approximately to Southern, Central and North Coast, Northern Inland, and Central Inland counties. The Board unanimously supported these bylaw changes at its January 2010 meeting, because we were convinced that this change in Board membership promotes the best interest of the Association and each LAFCo.

The change in the Board election procedures will not affect the educational and legislative activities of CALAFCO, but it will assure that there will be geographical diversity on the Board. The change in Board composition will add little if any costs to the CALAFCO organization. The bylaw changes do not require any regional meetings except for a caucus of the regions at the annual conference.

The reorganization of the Board will not require any collaboration or sharing of resources amongst LAFCos within a region, but we hope that a more regional emphasis on the Board will promote educational and policy discussions among LAFCos. My belief is that the proposed bylaw amendments will result in a stronger Board and Association to continue and promote the work of CALAFCO in helping individual LAFCos deal with their individual responsibilities.

Readers of *The Sphere* will realize that the present regional proposal is different from the proposal discussed at the 2009 Annual Conference. At that time we asked the membership to consider regions to foster communication among LAFCos. However the Board learned from members both at and after the conference that there was little support for regional meetings. We heard from LAFCos that they already had communications with adjacent counties, and that more extensive regional contact was not going to be useful.

However in late 2009 five Southern California LAFCos expressed their intentions to withdraw from the Association effective June 30, 2010; the key issue being under representation of Southern California on the CALAFCO Board. Today there is just one out of 15 Board positions from Southern California. The Board was quick to realize the deleterious consequences of five large LAFCos leaving the Association:

a. Loss of revenue, leading to lower levels of training and other activities of the Association that support individual LAFCos

b. Loss of political influence at the state capitol

c. Loss of contributions of knowledge, expertise and participation in CALAFCO committees and Board.

As a result of the lukewarm reception to regional organization and the withdrawal of important members, the CALAFCO Board reached consensus to abandon the concept of setting up regions to

foster regional coordination, and to propose a bylaws amendment that would provide for the Board to consist of 16 members with four Board members (county, city, district, and public) being elected by each region. The regions would be used solely for electing Board members. This regional election of board members was a concept that was developed and recommended in 2009 by a committee of two southern and two northern California Board members.

I believe that several events must happen to maintain the effectiveness of CALAFCO:

a. The membership needs to vote for the bylaws amendment in a mail ballot this spring.

b. The Southern California LAFCos need to decide that the bylaws amendment constitutes a sufficient sign that the Association values them as critical members, and that they will therefore stay in the Association.

c. The revised Board that is elected at the Annual Business Meeting in October needs to work in a cooperate manner to improve the services that the Association provides to its members.

On behalf of the Board, I urge each LAFCo to vote for the bylaws revisions in the ballot that you will soon receive, and to support the other actions needed to keep CALAFCO together and improve the Association.

FROM THE EXECUTIVE DIRECTOR

Finding Common Ground

It's easier to disagree than agree

Bill Chiat
Executive Director

Public service often places elected officials and staff at the crossroads of complex intersecting interests and positions. Finding balance in reaching decisions and finding common ground is difficult. When people find it, the feeling of reward is incredible. Getting there can be a long and circuitous route.

Is it worth the effort? It depends. It can be time intensive, emotionally demanding, fun, frustrating, rewarding and a rollercoaster.

Experience has taught me that when you are able to find common ground, when you can find a solution by collaboration, it tends to be a decision that is sustainable over time and is owned by all the participants – regardless of whether the ultimate decision was one they initially supported. A collaborative solution, while following a chaotic path, can be a better decision than one reached by other methods.

For the last 30 years I have facilitated community, organizational and intergovernmental groups trying to find common ground on a myriad of multifarious issues. In most cases the root cause had simmered for years, resulting in a toxic drain on the organization. In one case a dispute between two departments within an agency 25 years earlier had resulted in an amazingly inefficient structure simply to avoid the possibility of the two department executives interacting directly.

Here are a few of the things I've learned about helping groups find common ground. Perhaps they will be of value as LAFCos work on complex issues.

Guiding Principles Are a Touchstone. At the end of the day what does the group want to accomplish? I ask groups to identify four or five big ideas they want to accomplish through the process. These become interests they can keep going back to throughout the process to remind everyone why they came together.

Ground Rules Help. Sounds childish, but we all work better together when there are basic rules and expectations on how we will behave with each other. For many groups this is the first opportunity to find common ground. Don't interrupt; come prepared; no personal attacks; stick to the agenda; be on time; listen. All are examples. They form a foundation of accountability and trust on how members will treat each other.

80/20 Rule: Find the 80% First. I find most groups – even those deep in conflict – have more areas where they agree than disagree. But because they have been focused on the disagreements, they've lost sight on where they agree. The Italian economist Vilfredo Pareto once made the observation that 80% of Italy's wealth was owned by 20% of the population. Since then the 80/20 rule (Pareto Principle) has been applied to many circumstances. I find it is generally true here too: groups agree on 80% of the issues (or more!) but get caught up on the 20% where they disagree. Find the 80% first. Groups have much more success in finding common ground when they realize how much they already can agree upon.

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REPORT FROM THE CALAFCO BOARD OF DIRECTORS

New Members Elected to the Board

At the annual membership meeting two new members were elected to the Board of Directors and five Board members were re-elected. Joining the CALAFCO Board as new members are:

Bill Connelly, Butte LAFCo Commissioner and County Supervisor, 1st District

Stephen Souza, Yolo LAFCo Commissioner and a member of the Davis City Council

Board members re-elected include: **Kay Hosmer** (Colusa LAFCo - city), **George Lange** (Ventura LAFCo – special district), **Ted Novelli** (Amador LAFCo – county), **Cathy Schlottmann** (Santa Barbara LAFCo – special district), **Susan Vicklund Wilson** (Santa Clara LAFCo – public).

Two members concluded their terms and were thanked by the Board for their service to both the Association and LAFCos across the state: **Cheryl Brothers** (Orange LAFCo – city) and **Simón Salinas** (Monterey LAFCo – county).

Board Re-Elects Officers and Appoints Committee Chairs

At its first meeting following the annual conference, the 2010 Board elected its officers for the year. It has been the tradition of the CALAFCO Board to elect its officers to serve two-year terms. On 30 October 2009 the Board reelected its four officers to the second year of their terms:

Roger Anderson (Santa Cruz LAFCo), Chair

Susan Vicklund Wilson (Santa Clara LAFCo), Vice Chair

Jerry Gladbach (Los Angeles LAFCo), Treasurer

Sepi Richardson (San Mateo LAFCo), Secretary

Committee chairs were also appointed. Board Chair Roger Anderson appointed **George Lange** to serve as Chair of the 2010 Conference Committee, **Ted Novelli** to continue service as the Chair of the Awards Committee, and **Susan Vicklund Wilson** as Chair of the Recruitment Committee.

Board Revisits Regional Proposal

Takes New Approach With Regional Elections

At its January 15, 2010 meeting the CALAFCO Board devoted most of the time to revisiting the regional proposal presented at the annual meeting last October. That proposal would have created regions for the purpose of enhancing regional communications among LAFCos, sharing ideas and resources, and providing the Board with input from members. The Board carefully reviewed the comments and feedback from members, results from the 'clicker session' at the conference, and the staff reports and comments. Feedback suggested that members did not want the additional burden and costs of regional meetings, or to feel required to collaborate within the regions. In addition, five LAFCos indicated that they would leave CALAFCO if another path was not found. These five commissions indicated they don't believe the interests of their region are currently represented within the Association.

Proposal to Create Regions Radically Modified

The Board held a thoughtful discussion on how to proceed. Paramount in its consideration was the best interest of CALAFCO and the critical importance of preserving the membership of all LAFCos. The Board recognized that without the current 57 members, CALAFCO would no longer carry the influence that it currently enjoys with state decision-makers and would face severe budget deficiencies. It would also lose the expertise and involvement of members who have made significant contributions to CALAFCO and member LAFCos over the past 38 years.

As a direct result of this new information, the Board moved for a change in direction.

The Board chose not to proceed with the proposal that was presented to the membership at Tenaya Lodge last October. That approach was to established regions for the purpose of meeting, sharing ideas or sharing resources. It recognized that those relationships were already happening where appropriate and the Board did not want to create the need for additional meetings or for LAFCos to incur additional costs. More important, the October proposal did not address the fundamental concern about lack of balanced representation on the CALAFCO Board of Directors.

Modified Recommendation Focused Only on Board Elections by Region

Instead, the Board reconsidered and approved a variation of a committee recommendation it had reviewed last May to elect Board Members by region rather than statewide, as currently done. The Board recognized that by spreading the seats around the state, the result is a Board that better represents the diversity of interests and perspectives across the state. It recognized that under the current system the Board can become unbalanced in that representation. Board members acknowledged that the key value will be to permanently ensure that the Board of Directors is balanced and representative of the broad range of LAFCo interests: rural-urban-suburban; north-south; coastal-mountain-valley; city-county-special district-public. It is in that balance that the Board believes CALAFCO finds its foundation of credibility and objectiveness with state decision makers.

The proposal the Board will be recommending to the membership this spring creates regions within the state solely for the purpose of electing representatives to the CALAFCO Board. The proposal does not require regions to meet or collaborate outside of elections at the conference. It is not expected to add any significant cost to Association operations, and does not require any additional travel or costs for member LAFCos. The only required meeting of regions will be a caucus during the CALAFCO annual conference to elect its members to the Board of Directors.

Key Components of Recommendation

The components are briefly described below. Member LAFCos will receive detailed information in May.

1. Four regions would be established within CALAFCO (northern, coastal, central and southern). The regions would be established in the Bylaws; however, the specific counties in each region would be established by policy so they can be changed by the Board in the future, if requested by members.
2. Each region would have one city, one county, one special district and one public member, increasing the Board from 15 to 16 voting members.
3. Each region would elect its own four members. Elections would be done in caucus by each region during the CALAFCO annual conference.
4. Regional elections would commence at the Palm Springs conference in October 2010. This will require a change in the Bylaws this spring. The Board directed staff to prepare a mailed ballot for members in late May so that the final results are known in early July for Board nominations and dues notices.
5. The Board agreed to a "fresh start" election in October. All 16 seats will be up for election; eight for a one-year term and eight for a two-year term.

What Happens Next

In order to implement the regional elections, the membership must approve changes to the CALAFCO Bylaws prior to the annual conference in October 2010. The Board will be distributing a detailed information package along with a mail-in ballot to each member LAFCo for consideration. There is a 54-day voting period to accommodate the various commission meeting dates. Key dates in the process include:

- 16 April – Discussion at staff workshop
- Early May – Distribution of information packets to member LAFCos
- 17 May – Initiation of mail ballot voting period
- 9 July – Deadline for ballots and announcement of results
- 9 July – Board Nominations Open
- 1 September – Deadline for paying 2010-2011 CALAFCO dues
- 3 September – Deadline for submission of Board nominations
- 7 October – Annual CALAFCO Business Meeting in Palm Springs

Watch for more information. In the meantime, please contact any Board Member or CALAFCO staff with your questions and feedback. Board members and staff (Bill Chiat, SR Jones, Kate McKenna, Lou Ann Texeira) are also happy to attend commission meetings to answer questions about the proposal and the Board's recommendation. The Board looks forward to the support of each member to achieve this balanced and representative approach to electing the CALAFCO Board of Directors.

Finding Common Ground

Continued from page 3

Focus on Interests; Set Aside Positions. Interests are what motivates people, what they want to accomplish. Positions are their solutions; how they would like to satisfy those interests. All too often groups progress right through interests and become stuck arguing over positions. And it seems the sooner groups talk about positions, the more stubbornly people cling to their solution. Never lose sight of the interests. That's where the "guiding principles" become valuable. These are the interests of the group. Americans have a tendency to "solution jump." We want to solve problems quickly. And it creates trouble with finding common ground. Help groups keep their focus on interests as they work through the problem. Don't focus on solutions (positions) too early.

Consensus Does Not Mean Satisfaction. Groups mistake consensus to mean every individual must believe the group's solution is the best. Finding common ground is not always about an agreement everyone likes. It is about a decision participants can live with and support. This is more than nuance. When people understand they only have to live with and support a decision, not necessarily like it, it allows people to step away from long-held positions and support an idea which may be in the best interest of the whole. When I find a group is close to finding common ground, I will often ask those who are objecting whether they could live with the decision. It makes a difference. Also, check to make sure no one opposes the decision.

Can't Rush - Patience and Persistence Are Required. Finding common ground takes time and patience. It cannot be rushed. Allow time for individuals to feel heard and to process ideas and information. It's like a home remodeling project. Whatever the estimate, plan on at least doubling the time! On the other hand, sometimes you have to drive a group to a conclusion. Creating a reasonable deadline that is difficult to move can be helpful. For example, schedule a hearing at a commission to hear from the group.

Shadow of the Future. What is the likelihood that group members will encounter each other or the problem again? If the answer is highly likely, then how the people work together to find solutions in this situation will set the stage for future interactions. The shadow of the future can be quite long. How do you want to be remembered?

Leadership is Dangerous. Finding common ground through collaborative approaches is hard, dangerous leadership work. It's easy for those who disagree to try and thwart or discredit the work. Collaborative leadership practices require a focus on principles, to push people out of their comfort zones, to help people deal with loss, and to help people cope with ambiguity. Leadership is not about having the right – or any – answers. It's about getting people to work together to find their collective common ground.

I once saw a sign in the dentist's office. It was on the ceiling so I could see it at she drilled away at my head. It said:

THE FIVE WORST WORDS IN THE ENGLISH LANGUAGE
Maybe it will go away

Toothaches don't get better with time, and neither do conflicts. Finding common ground is difficult. It's much easier to delay, hope it will go away or be "overcome by events." Sometimes it works. Sometimes it doesn't.

That's when leadership in finding common ground and building consensus pays off. The results are invigorating!

MARK YOUR CALENDARS

Upcoming CALAFCO Events

CALAFCO U: *The Metamorphosis of Fire Protection Districts*. Tuesday, 13 April 2010 in Santa Rosa.

Staff Workshop: "*Touching All Bases*" 14-16 April 2010 in Santa Rosa

Visit www.calafco.org for information and registration.

Former ACWA Executive Director Steve Hall Passes Away

Respected Leader Played Key Role in Bringing Diverse Water Interests Together

Stephen K. Hall, a respected water leader who played a central role in some of the biggest achievements in recent California water policy, died after a lengthy battle with Lou Gehrig's disease. He was 58.

Hall served as ACWA's executive director from 1993 until his retirement in 2007. During his 30-year career in water, he worked to bring diverse interests together and advance policies to address the state's water supply challenges.

A consensus builder who was at the forefront of the water community's work to find solutions, Hall is credited with helping to break long-running gridlock and forge agreements that laid the groundwork for the landmark Bay-Delta Accord signed in 2004. He played a primary role in the negotiations that led to the creation of the CALFED Bay-Delta Program. Hall also led a year-long effort to develop ACWA's recent water policy document, "*No Time to Waste: A Blueprint for California Water*."

Steve's leadership also led to a strong relationship between ACWA and CALAFCO. He will be missed.

2009 CALAFCO ACHIEVEMENT AWARD RECIPIENTS

OUTSTANDING CALAFCO MEMBER
Susan Vicklund Wilson
CALAFCO Vice-Chair

OUTSTANDING CALAFCO MEMBER
Jerry Gladbach
CALAFCO Treasurer

DISTINGUISHED SERVICE AWARD
William Zumwalt
Kings LAFCo

GOVERNMENT LEADERSHIP AWARD
Cities of Amador City, Jackson, Ione, Plymouth & Sutter Creek; Amador County; Amador Water Agency; Pine Grove CSD
County-wide MSR Project

MIKE GOTCH COURAGE & INNOVATION IN LOCAL GOVERNMENT LEADERSHIP AWARD
Paul Hood
San Luis Obispo LAFCo

MOST EFFECTIVE COMMISSION
Napa LAFCo

OUTSTANDING COMMISSIONER
Larry M. Fortune
Fresno LAFCo

OUTSTANDING LAFCO CLERK
Emmanuel Abello
Santa Clara LAFCo

OUTSTANDING LAFCO PROFESSIONAL
Patrick McCormick
Santa Cruz LAFCo

PROJECT OF THE YEAR
Orange LAFCo
Boundary Report

LEGISLATOR OF THE YEAR
Assembly Member Jim Silva

Achievement Awards Presented at Annual Conference

CALAFCO Awards Committee Chair Ted Novelli (Amador LAFCo) announced the 2009 CALAFCO Achievement Awards at the annual conference in October. The awards were presented during the western-themed awards banquet on 29 October 2009 at Tenaya Lodge near Yosemite.

Commissioner Novelli praised all of the nominees for the awards this year. He was impressed by the exceptional work on LAFCo issues being done by individuals and commissions statewide. Novelli commented that the quality of work and nominations and made the Committee's selection process very difficult.

Committee members included Novelli, Sepi Richardson (San Mateo LAFCo), Cathy Schlottmann (Santa Barbara LAFCo) and Jerry Gladbach (Los Angeles LAFCo). Roseanne Chamberlain (Amador LAFCo) provided the staff support.

Outstanding CALAFCO Members Susan Wilson and Jerry Gladbach

Outstanding LAFCo Professional Pat McCormick

Paul Hood receiving the first Mike Gotch Leadership Award

Outstanding LAFCo Clerk Emmanuel Abello

Carolyn Emery Accepting Orange LAFCo Project of the Year

Outstanding Commissioner Larry Fortune

Commission on State Mandates Approves Cost Reimbursement for MSRs

By Peter Brundage, Executive Officer, Sacramento LAFCo

The Commission on State Mandates finds that certain independent special districts may be eligible for reimbursement for costs related to the preparation of Municipal Service Reviews.

On May 29, 2003, the Sacramento Metropolitan Fire District filed a claim with the Commission on State Mandates for reimbursement of costs related to preparation of a MSR.

On September 27, 2007, the Commission on State Mandates adopted a Statement of Decision finding that the test claim legislation imposes a partially reimbursable state mandated program upon certain independent special districts as defined by Government Code Section 17514 and Article XIII B, Section 6 of the California Constitution.

On September 25, 2009 the Commission on State Mandates adopted Parameters and Guidelines for filing claims. In addition, the Commission has prepared Draft Claiming Instructions. Both of these documents are rather technical, at least for non-accountant types. However, the claim form appears to be relatively straight forward and standard.

The following summarizes the basic process and procedures for filing claims:

Eligible Claimants

Any independent special district participating in LAFCo which is subject to the tax and spending limitations of Article XIII A and Article XIII B of the California Constitution and incurs increased costs as a result of this state mandated program, is eligible to claim reimbursement of these costs. ***Note:*** *The Commission specifically clarified that LAFCos are not eligible claimants.*

Claiming Period

Costs incurred pursuant to Government Code §56425 are reimbursable after July 1, 2001.

Actual costs for one fiscal year shall be included in each claim. All claims for reimbursement of initial fiscal year costs shall be submitted to the State Controller within 120 days of the issuance date for the claiming instructions.

Claim Amount

Each claim must exceed $1,000 to be eligible for reimbursement; however, the county may submit a combined claim on behalf of special districts if the combined claim exceeds $1,000, even if the individual claims do not each exceed $1,000.

Reimbursable Activities

Only actual costs may be claimed. These costs must be traceable and supported by source documents that show the validity of each cost. Actual costs may include salaries and benefits, materials and supplies, contracted services, fixed assets and equipment, and travel. In addition, indirect costs may be included subject to the Office of Management and Budget (OMB) Circular A-87 or an optional allocation methodology provided.

Claim for Payment Form

Form FAM-27 should be used to file the claim.

Address for filing claims

Office of the State Controller
Local Reimbursement Section Division of Accounting and Reporting
P.O. Box 942850
Sacramento, CA 94259

P.S. Remember to sign the form in ***"Blue ink."***

The Parameters and Guidelines, draft Claiming Instructions and Form FAM-27 may be accessed through the CALAFCO website at: www.calafco.org.

Silva Named Legislator of the Year

CALAFCO named Assemblyman Jim Silva (R-Huntington Beach) Legislator of the Year for his successful work establishing financial disclosure reporting requirements for campaigns associated with local boundary changes. The award was presented at the CALAFCO annual conference at Tenaya Lodge.

"As a former county supervisor and LAFCo Member, I appreciate all that LAFCos do to ensure that any changes in the boundaries of special districts and municipal government are open, orderly and fair. It has been a privilege to have been a part of assisting LAFCo in making these processes even more transparent and efficient," said Silva.

Mr. Silva's leadership was instrumental in the passage of three financial disclosure bills important to LAFCos and voters statewide. Signed in 2007, AB 747 requires political contributions and expenditures related to local boundary changes to be reportable as any other local initiative. His companion bills, AB 1998 in 2008 and AB 528 of 2009 further implemented and clarified this disclosure process.

Assemblyman Jim Silva represents the 67th Assembly District in Orange County. He previously served as an Orange County Supervisor and LAFCo Commissioner.

Annexation Policy Triggers Civil Rights Liability

By Yvette Abich Garcia, Esq.

The 9th Circuit recently ruled that an organization representing residents of an unincorporated Latino neighborhood can sue the City of Modesto and Stanislaus County for discrimination in the provision of municipal services under the federal Fair Housing Act (FHA) in *Committee Concerning Community Improvement (CCCI) v. City of Modesto* for failing to annex the community into the City, where a higher level of municipal services was alleged to be available.

CCCI alleged unincorporated neighborhoods within the City's sphere of influence were underserved "islands" with inadequate street lighting, sidewalk and street maintenance, refuse removal and police, fire and ambulance services. It further alleged that City and County policies facilitated annexation of non-Latino communities to the City, but excluded heavily Latino neighborhoods, and that these policies violated federal civil rights laws. In particular, the City and County had a standard property-tax sharing agreement that applied to most areas in the City's sphere of influence, but specifically excluded the neighborhoods in question.

CCCI sued under a FHA provision which prohibits "failing or delaying maintenance or repairs of sale or rental dwellings" or "limiting the use or privileges, services, or facilities associated with the dwelling" because of discrimination.

Judge O'Neill of the U.S. District Court in Fresno dismissed CCCI's claims, holding that the FHA provision is limited to discrimination in the provision of services in connection with the acquisition of housing and does not reach the provision of services to homeowners and renters after they acquire housing. Reversing, well-respected federal Judge Louis Pollak of Philadelphia, writing for himself and 9th Circuit Judges Mary Schroeder and Stephen Reinhardt, held that the FHA provides protection to homeowners and renters in their right to quiet enjoyment of their dwellings even after housing has been acquired, as well as against discrimination in the maintenance, repair and necessary services associated with occupancy of a dwelling. The 9th Circuit however, only reinstated plaintiff's FHA claim as it relates to the timely delivery of law enforcement services to the plaintiff's neighborhoods, finding that other claims under the FHA were barred by prior agreements between the parties or were not supported by the evidence before to the Court.

The case now returns to Judge O'Neill in Fresno to see if the CCCI is able to prove its claims against Modesto and Stanislaus County. Although the case has been to the appellate court and back, it is still at an early stage and evidence has yet to be developed to prove or disprove the allegations of the complaint.

Unincorporated areas developed to lower standards of public works infrastructure than prevail in nearby cities are common throughout California, and much attention has been given to the persistence of these areas as unincorporated islands. In addition to litigation of the type represented by the Modesto case, two bills are pending in the State Legislature to make it easier for unincorporated, underserved areas to annex to neighboring cities:

Assembly Bill 853 (Arambula, I-Fresno County) would require a County to initiate annexation to a city of an unincorporated community near or surrounded by the city, if 25% of the registered voters or landowners in the area petition the County to do so and the area:

(1) meets the definition of an "island" (is surrounded by the city, and county boundaries or the Pacific Ocean) or an "unincorporated fringe community" (is within the City's sphere) that lacks wastewater, drinking water services, storm drainage, paved streets, sidewalks or streetlights or there exists a serious infrastructure-related health hazard; and,

(2) constitutes a "disadvantaged community."

Senate Bill 196 (Florez, D-Fresno & Kern Counties) would require, among other things, that cities and counties receiving certain state grants (including community development block grants, safe routes to schools grants, and water pollution small community grants) identify in

their general plans disadvantaged islands and fringe communities and analyze the feasibility of annexing them.

Both bills have drawn substantial comments from the League of California Cities, the California State Association of Counties and the California Association of LAFCos (CALAFCO). Whether or not these bills move forward, the Modesto suit suggests LAFCos, cities and counties with underserved County areas should consider whether and how to address the social concerns expressed by this litigation and legislation.

Yvette M. Abich Garcia *is Senior Counsel for Colantuono & Levin. She serves as City Attorney and Redevelopment Agency Counsel for the City of Barstow and Assistant City Attorney for the cities of Sierra Madre and Los Alamitos. Colantuono & Levin is a CALAFCO Associate Member.*

LAFCO OF NAPA COUNTY Setting an Example of Responsible and Sustainable Government

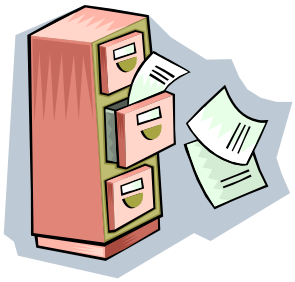
By Hedy Aref, President, Incrementum Document Solutions

Napa County is known for possessing several unique and renowned traits. Above all, this includes fine wines, fabulous cuisine, and lush landscapes. While these traits are recognized worldwide, an emerging trend recognized among locals involves a concerted effort on the part of LAFCO of Napa County to become more proactive and efficient in fulfilling its planning and regulatory duties.

As part of this effort, LAFCo recently decided to review how information was being preserved and managed internally. Like many entities dealing with the conventional paper-based filing system, Napa LAFCo found inefficiencies in several areas:

- Constant accumulation of records requiring onsite and offsite storage in filing cabinets and boxes – **not the best use of space**.
- Aging records – **paper-based documents degrade with time and need to be preserved.**
- Lost or missing records – **paper-based documents are often mishandled with respect to filing and can easily become unaccounted for.**
- Inability to have immediate access to records – **paper-based documents are not content searchable across the filing system, so often it would take some time to find a specific record or page in the file folder(s). This situation worsens if a page or document is misfiled and not in its designated folder.**
- Duplication of documents for distribution purposes – **constant repetitive copying and printing is wasteful.**
- Records at risk in case of a disaster – **paper-based documents are not recoverable if destroyed, heavily impacting historical records and documentation that must be kept in perpetuity for legal purposes.**

Taking into consideration all of the above inefficiencies and risks, LAFCo decided to modernize its record retention practices by implementing an electronic document management solution.



Initiating the project in July, 2009 after a formal solicitation process, LAFCo contracted with Incrementum to design and develop a standardized electronic document management system. Based on a uniform folder structure, well-designed templates for indexing, and smart document naming conventions, LAFCo is well on its way to improved information management. Staff has also managed to cut down on its paper consumption by directly importing searchable electronic documents into its system – bypassing the printing process. LAFCO is currently scanning its legacy records, but as described above is also going digital moving forward.

Ultimately, Napa LAFCo will be able to reclaim its precious office space, preserve the integrity of its archives through digitization, have immediate access to all its documents, and protect its records in case of a disaster through digital back-up. As for what the future holds, LAFCo is considering seamless web-based posting of public documents for its constituents and government agencies.

Future staff and commissioners will also benefit from this investment by positioning LAFCo to continually internalize and improve record retention efficiencies through its electronic document management system.

Incrementum Document Solutions *is a CALAFCO Associate Member.*

Government Closer to the People

Continued from cover

Taken as a whole, the plan would go a long way toward restoring the checks and balances that are meant to be the key of our system of government - reinvigorating the natural tensions between the centers of power - and producing better results for us all.

For most people, the topic of government reform is about as appealing as a serving of steamed spinach. These issues just don't have of the political pizzazz of building new schools, expanding highways or opening a new health clinic - until you consider what's at stake.

California has always led the way - in jobs and technology, education and quality of life - but our role as a national leader is in jeopardy.

California Forward has outlined these proposals to the Governor and members of the Legislature. They have the power to place the entire plan before the voters as a comprehensive reform - a constitutional revision - and we have asked them to consider doing so.

If that effort fails, we're also proposing a series of separate amendments to our state's Constitution in November of 2010.

Sitting on different sides of the fault that separates the state's centers of power, the Governor and Legislature should be the first to sense the weaknesses that have crept into our system over the years.

It seems increasingly clear that if the current warnings are not enough to cause bold action, the earthquake that could follow will certainly demand action - perhaps too late.

Inside the state Capitol and out, among legislators, lobbyists and consultants, the big players in California's ongoing initiative wars are once again preparing to shake up the political system.

The depth of the economic downturn, and the unprecedented depth and breadth of cuts to state and local services, has raised the stakes for everyone involved. For those with the means, the temptation is to go on offense - using the 2010 ballot box to achieve long-cherished goals.

As a result, the nature of the proposals being considered has changed dramatically in size and scale. Business may get behind reducing the Legislature to part-time status. Public employees may push to do away with the 2/3rds majority vote requirement for raising taxes. Local governments - and perhaps others - may try to win back what they lost in the budget process.

But there are risks involved. Historically, most initiatives fail at the polls, especially once organized and funded opposition emerges. The most likely result? Everyone shoots for the moon, spends money by the truckload, draws fire from their adversaries, and comes up short on Election Day.

When the dust settles, everyone limps back to their respective corner. Nothing changes.

But that's just not acceptable this time around. Not with our state struggling to deliver basic services and our budget perpetually mired in red ink. Not in a competitive global marketplace where other states and nations are poised to take advantage of our weakness.

Candidly, the California Forward plan isn't perfect, or without risks.

It also won't make great fodder for the typical initiative wars we've come to expect with every campaign season. And it doesn't give any of the big players in California's initiative wars the kind of victory they may be hoping for.

Then again, it wasn't designed to do either of those things.

But it was created to dramatically change things for the better.

Thomas McKernan and Bob Hertzberg are Co-Chairs of California Forward. Find out more at www.caforward.org.

Ventura LAFCo Commissioner Lotts Dies

William E. Lotts, 85, passed away peacefully after a short illness on Saturday, Jan. 2, 2010.

"Bill" was born in La Jolla, Calif. on March 21, 1924, served in the U.S. Navy during WWII as a Radio Officer where he received training in electronics and continued his endeavor after the war at Point Mugu Missile Test Range (PTMC), Targets Directorate for 28 years until retiring in 1976, he was then self employed as an electrical contractor until his retirement at the age of 84.

Bill moved to the Ojai Valley in 1948. He was elected to the board of directors of the Ojai Valley Sanitation District. He served as a special district commissioner on the Ventura LAFCo for many years. He was a passionate volunteer in the community of Ojai and spent many hours supporting Help of Ojai and many other projects. Bill's favorite place to go was his Pine Mountain cabin that he himself built, but more than anything he loved his family, friends and community.

The CALAFCO Board of Directors adjourned its January 15 Board Meeting in honor of Commissioner Lotts.

The Sphere

CALAFCO Journal

CALIFORNIA ASSOCIATION OF LOCAL AGENCY FORMATION COMMISSIONS

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CALAFCO provides educational, information sharing and technical support for its members by serving as a resource for, and collaborating with, the public, the legislative and executive branches of state government, and other organizations for the purpose of discouraging urban sprawl, preserving open-space and prime agricultural lands, and encouraging orderly growth and development of local agencies.

Sharing Information and Resources

Highlights from the 2009 CALAFCO Annual Conference

Tenaya Lodge Provides Setting for Late October Meeting

CALAFCO Executive Assistant Jamie Szutowicz and Conference Chair Chris Tooker welcome participants

Participants engaged in general sessions

'John Muir' shares the history of Yosemite with participants

Robert Shibatani speaks at water issues general session

Annual Wine & Beer Competition provides valuable networking time, and some pretty good California wine and beer too!

Peter Detwiler provides a summary of 2009 legislative actions

CALAFCO Board Members Jerry Gladbach (c) and George Lange (r) share ideas

Nevada LAFCo Commissioner Josh Susman wins 'best dressed cowboy' at western-themed awards banquet

CALAFCO Board Chair Roger Anderson (r) and Executive Director Bill Chiat (c) thank Fresno LAFCo executive officer and host committee chair Rick Ballantyne

A New Deal or A House of Cards?
CALAFCO 2009 Annual Conference